

M.COM. – FIRST YEAR

(II SEMESTER)

Paper: Corporate Laws And Governance

UNIT -I : The Insolvency and bankruptcy Code, 2016

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Definition of Insolvency and Bankruptcy

Black's law dictionary defines the following:

- **Insolvency**

The condition of a person who is insolvent; inability to pay one's debts; lack of means to pay one's debts. Such a relative condition of a man's assets and liabilities that the former, if all made immediately available, would not be sufficient to discharge the latter. Or the condition of a person who is unable to pay his debts as they fall due, or in the usual course of trade and business.

- **Bankruptcy**

The state or condition of one who is a bankrupt; amenability to the bankruptcy laws; the condition of one who has committed an act of bankruptcy, and is liable to be proceeded against by his creditors therefore, or of one whose circumstances are such that he is entitled, on his voluntary application, to take the benefit of the bankruptcy laws.

IBBI or Insolvency and Bankruptcy Board of India came into existence on 1st of Oct 2016 to regulate and counter various bad loan cases reported by various creditors, which especially involved banks in India. The IBBI falls under Insolvency and Bankruptcy Code, 2016 and regulates the profession as well processes related to insolvency and bankruptcy.

It plays the role of governing body for all Insolvency Resolution Professionals, Insolvency Professional Agencies and Information Utilities. It enacts rules as well enforce them to resolve the corporate insolvency, corporate liquidation, individual insolvency and individual bankruptcy as per Insolvency and Bankruptcy Code, 2016. It helps to implement the provision of the IBC and acts to amend any law under it to suite the current challenges. It works towards resolving any insolvency for corporates, individuals and partnership firms in a time bound fashion to maximize the value of insolvent entity and give back the due amount to the creditors.

Powers and Functions of Insolvency and Bankruptcy Board of India

IBBI is entrusted to administer the insolvency and bankruptcy regime in the country. It perform tasks like registration of insolvency professional's agencies, and certify and monitor insolvency resolution

professionals. IBBI is also responsible to create information utilities and renew them as and when the case be. IBBI forms rules for minimum eligibility requirements for agencies to register themselves as insolvency professional agencies or professionals to get certified as insolvency resolution professionals. It also levy fee or other charges from these agencies and professionals. It specifies the regulations for their functioning in proper and law abided manner

IBBI also ensures and enforces that any Insolvency and Bankruptcy Code, 2016 is levied in minimum time available to get maximum gain from debtor's assets to pay off the creditors. They are responsible to carry out the audits and inspections on debtor's assets and creditor's claims. They also specify the regulations for collecting and storing data by various information utilities and provide proper access to the various stakeholders to such data as and when appropriate. They also form communities as may be required in a case to disseminate the information related to it. They are headed to promote transparency amongst the stakeholders while the case is running until it is resolved.

Information Utility under the Insolvency and Bankruptcy

Insolvency and Bankruptcy Code, 2016, was enacted with the objective of reorganization and resolution in a time-bound manner. The biggest challenge during insolvency proceedings is to gather and consolidate information on the financial transactions of the lender.

information to establish the facts as to what are the assets, who are the claimants and what contracts are in the force.

The Information Utility under IBC is aimed at bridging that gap. The information utility provides information on the financial transactions of the lender in one place, accessible to all.

The importance of information utility can only be understood after having the fair idea of the Insolvency and Bankruptcy Code.

