Journal of Advanced Zoology
ISSN: 0253-7214
Volume 45 Issue S-2 Year 2024 Page 419-424

Role Of "Insolvency And Bankruptcy Code 2016" In Managing NPA

Shubham Srivastava[1*], (Prof.) Dr. Reena Jaiswal[2], Anupama Singh, LL.M[3],(Prof.)Dr.S.P Mishra[4]

[1*]Research Scholar, Invertis university , Bareilly, shubhsri30@gmail.com
[2]Dean, Invertis university , Bareilly, reena.jaiswal@invertis.ac.in
[3]Amity University, Manesar, anupamasingh2108@gmail.com
[4] HoD,Chhatrapati Shivaji Maharaj University,Mumbai,hodlaw@csmu.ac.in

***Corresponding Author:** Shubham Srivastava*
**Research Scholar, Invertis university , Bareilly, shubhsri30@gmail.com*

Article History

Received date – 28-02-2024,
Published date – 16-03-2024.

Abstract:

In the process of extending credit, the unwanted by products generated are considered as NPA (Umar and Sun, 2018). The banks consider a loan or advance, an NPA if its interest or principal amount remains due for more than 90 days. NPA is continuously increasing since 2011, post financial crisis and reached at an alarming stage in 2015, after implementation of AQR Mechanism by RBI. Banks have adopted a lot of strategies to handle NPA, but lack of strong bankruptcy code always remained a hurdle in the way of banks. So, in 2016, Insolvency and Bankruptcy Code came into practice to solve the issues concerning the insolvency and bankruptcy in India.

Keywords: NPA Insolvency and bankruptcy, RBI

Introduction

According to RBI Master Circular, dated 1st July 2015, "An asset including a leased asset becomes non-performing when it ceases to generate income for the bank". Banks haveseveral options to handle NPA and recover the dues that include one-time settlement, lok adalats, debt recovery tribunals, corporate debt restructuring, SARFAESI act, assetreconstruction companies but NPA continues to increaseafter 2011, post financial crisis of 2008, and the level of NPA reached an alarming stage in 2015-16 after implementation of Asset Quality Review Mechanism in 2015 by RBI. Insolvency and Bankruptcy Code is introduced in 2016 by the government for easy resolution of NPA as earlier their was no proper bankruptcy code in India.

Insolvency and Bankruptcy Code 2016

When the debt owed to the creditors cannot be repaid then the legal status of such a person or an entity is termed as bankruptcy. Mainly, the debtors initiate it. It is crucial to consider that bankruptcy is not akin to insolvency. Bankruptcy is entirely for individual in countries like UK, However, insolvency proceeding like liquidation are suitable for entities and companies. The insolvency and bankruptcy code, 2016 looks for combining the existingstructure by making a single law for insolvency and bankruptcy.

Objectives of IBC

1. To unify and revise all existing insolvency laws ofIndia.

2. To clarify and quicken India's insolvency and bankruptcy proceedings.
3. To resuscitate the company in the time frame.
4. Defending the creditors' interest including company's stakeholders.
5. To encourage entrepreneurship.
6. To get the required ease to creditors leading to theimproved credit supply in the economy.
7. To plan a fresh and timely recovery procedure that can be acquired by individuals, banks and other financial institutions.

ProcedureInitiation

The resolution process may be started off by the debtor or creditor once the default occurs. The decision concerningthe future of the outstanding debt owed to creditors will be taken by a committee comprising of the financial creditors. They might have a choice to either resuscitate the debt owedto them or they might sell the debtors' assets in order to repay the debt owed to them. The assets of the debtor can beliquidated in case the decision is not taken in 180 days.

Liquidation

The liquidation process is handled by an insolvencyprofessional in case the debtor goes into liquidation. The proceeds generated from selling of the assets of the debtors are given out in the already established order.

Table 1: List of amount recovered as percentage of amount involved through IBC

Year	IBC		
	Percentage of total amount involved	**Percentage of total amount recovered**	**amount recovered as percent of amount involved**
2017-18	3.7	12.2	49.6
2018-19	20.4	56.2	45.7
2019-20	31.3	61.3	45.5

Source: RBI Reports

For NPA resolution, IBC has been proved to be most momentous reform. Since its inception it has recovered largest percentage of amount involved. In 2019-20, the percentage was as high as 45.5 percent, which is way larger than other recovery channels.

Recent steps taken by the government to handle NPA

Apart from the insolvency and bankruptcy code 2016,enacted for immediate insolvency esolution of corporations, a lot of recent efforts were taken by banks to reduce NPA and re-capitalize the banks. Indradhanushascheme which has seven components symbolic of arainbow, is planned by the government following the measures suggested by PJ Nayak Committee to overcome the challenges faced by public sector banks in 2015(Ministry of Finance, 14th Aug, 2015). The components are: Appointments: For the smooth functioning of public sectorbanks and to keep a check on excessive powerconcentration, the post of the managing director and chiefexecutive officer were separated.

- **Bank Boards Bureau:** Bank Boards Bureau (BBB) had replaced the public sector banks appointment board. BBB gives banks advice on acquisitions, mergers, and on raising funds. BBB act as middlemen and separate the functioning of public sector banks from the government.
- **Capitalisation:** Government planned to induce a capital of 70,000 by 2018-19 due to high NPA.
- **De-stressing:** Asset reconstruction companies were strengthened to check the stressed assets due to issuesin the infrastructure sector.
- **Empowerment:** Greater autonomy was provided in hiring manpower in public sector banks.
- **Accountability:** Banks assessment will be based on few qualitative and quantitative performance indicators that include NPA management, initiatives for human resources, asset quality improvements, financial inclusion growth, and diversification, etc.
- **Governance reform:** For resolving issues among government officials and bankers related to the bankingsector, banker's retreat or the Gyan Sangam conferences were organized.

RBI also launched scheme for Sustainable Structuring of Stressed Assets (S4A) in 2016, to handle the enormous amount of stressed assets in the corporate sector. The main aims of the scheme are:

1. Reinstate the credit flow to the important sectors of the economy along with reinstating the infrastructure.
2. An opportunity for the reworking of financial structure was provided to restore the real state issues.
3. The focus of the scheme is to offer financial restructuring for large debt projects through allowing the acquiring the stressed project equity to banks lender.

National Asset Reconstruction Co Ltd (NARCL) is established by the government as a bad bank to resolve the non-performing assets and to reduce stress from the bank's balance sheets (PIB, Ministry of Finance, 16th September 2021). NARCL is established for banks to remain focused on their key activities and to prevent bank resources to be invested in failed loans. AMCs can dispose of assets efficiently when it is aptly funded and have highly trained and professional people in the management (Klingebiel, 2000). The operations of NARCL should be transparentand independent. Proper accountability should also be ensured by the Government. Although the institution is owned by the government, but for managerial efficiency,the staff should be outsourced.

Types of Non- Performing Assets

1. Gross NPAs
2. Net NPAs

Gross NPAs: Gross nonperforming assets (NPAs) are the total loan assets categorised as nonperforming assets (NPAs) as of the Balance Sheet date, according to RBI criteria. The amount of gross nonperforming assets (NPA) represents the quality of bank loans. All nonstandard assets, such as substandard, dubious, and loss assets, are included in this category. The following ratio can be used to compute it: (RBI, Reserve Bank of India, n.d.)

Gross NPAs Ratio = Gross NPA
Gross Advances

Net NPAs: Net nonperforming assets (NPAs) are those for which the bank has made the deduction of the provision for NPAs. The net nonperforming assets (NPA) figure depicts the banks' true financial burden because bank balance sheets in India contain a large number of nonperforming assets (NPAs). Moreover, the process of decreasing and wiping off loans takes time. The provisions that banks must make providing for NPAs under RBI standards are enormous. As a result, the gap between gross NPAs and net NPAs is fairly large.

The RBI states the following procedure for computation of net NPAs:
Net NPA = Gross NPA - (Balance in Interest Suspense account
+ ECGC/DICGC claims received and held pending adjustment
+ Payment received in part and kept in suspense account + Total provisions held)
The Net NPAs Ratio can be calculated as follows: (RBI, Reserve Bank of India, n.d.)

Insolvency and Bankruptcy Code, 2016 (IBC)

In 2016, the **Insolvency and Bankruptcy Code (IBC)** was enacted which aims to resolve nonperforming assets (NPAs) caused by corporate debtors.

When a corporate debtor fails on payments, the procedure of corporate insolvency resolution can be started by a financial or operational creditor or the corporate debtor itself, according to Section 6 of the code. To initiate a corporate Insolvency Resolution Process (IRP), an application is filed gainst a corporate debtor is filed with the National Company Law Tribunal (NCLT). The NCLT determines if there is a default within 14 days of receiving the application, and if there is, the NCLT admits the application. The NCLT must present a resolution plan within one hundred eighty days from the date on which application is submitted. This time limit can be extended to a maximum of 90 days to guarantee a timely settlement, but not beyond that. The NCLT, through its resolution professionals, works to defend and maintain the value of the corporate debtor's property. In addition, in 2019, the code was revised, and a proviso was added to Section 12 requiring the settlement procedure to be completed within 330 days. To avoid undue delays in the insolvency resolution process, this change ensures that all stakeholders are on the same page. The delinquent firm's liquidation will occur if no settlement plan is established within 330 days after the application's admission.

RBI's guidelines for implementing the IBC on nonperforming assets (NPAs):
There was a lot of contention in the past, and the RBI released one circular in 2018. If the bank fails to implement a resolution plan within a period of 180 days of the default, the RBI has mandated that all banks and financial institutions with a loan exposure of more than Rs. 2000 Cr. launch a corporate insolvency resolution plan against the defaulting entity. The circular required banks to recognize and classify nonperforming assets as special mention accounts immediately, and institutions were required to inform RBI and undertake the resolution plan even if they missed a single payment. The current mechanisms, such as corporate debt restructuring and strategic debt reduction, have been withdrawn as a result of this circular.

Petition filed in response to the RBI's 2018 circular
A serious problem was recognized with the single day default norm as stated in the circular. As a result, complaints have been registered by the textile industry, the power industry, and others, alleging that it is unreasonable and inequitable since it failed to meet a few conditions, such as framing a schedule of one hundred eighteen days without considering the challenges encountered in other industrial zones. Furthermore, no prior approval was obtained from the Central Government, as required by Section 35AA of the Banking Regulation Act. In the event of a failure, the RBI can order any financial company to start an IRP under Section 35AA of the Banking Regulation Act. Before releasing a circular under section 35AA, however, it had to obtain permission from the central government. Consequently, this circular was found to be in violation of section 35AA of the Banking Regulation Act by Supreme Court.

RBI's New Circular
Two months after the Supreme Court rescinded the RBI 2018 Circular, which mandatorily required the Bank to start the IRP even if there was a single day default. A revised circular was issued by the RBI in 2019 for resolving nonperforming assets, giving financial institutions a thirty day period to categorise an account as a nonperforming asset. Lenders will have complete authority to create and implement resolution solutions under the new circular. It might begin the IBC procedure with a default of 30 days. The lenders must sign the inter-creditor agreement, which establishes a majority decision-making criterion. The RBI also upped the creditor approval percentage to 100%. Any decision reached by a lender representing 75% of the entire outstanding credit facility's value and 60% of the total number of lenders must be binding on all other lenders.

VIII. Summary of Findings

From the above regression results, it can be concluded that providing advances to borrowers has had a significant impact on the NPAs. Two models were considered in this study. The results of Model 1 showed that the Advances being given to borrowers has a significant impact on increase in NPAs in private. However, PSBs have not shown a significant impact due to government policies. Model 2 showed that NPA have significantly affected the profitability ratios.

There is a negative correlation between NPA and the profitability ratios which indicates that reduction in NPAs will cause an increase in the profitability ratios. PSBs however did not show as much impact as the private sector banks. From the above data and graphs, it can be clearly seen that NPAs were growing at a fast rate due to the improper laws and the longer time period required to recover the assets before the introduction of IBC and prompt corrective action taken by the government. Before the introduction of IBC, NPA increased from Rs 6900 Cr in 2012 to 25000 Cr in 2016. This implied a need for the insolvency and bankruptcy code passed in May 2016. Profitability of the banks measured using ratios such as ROA, ROE, and NIM showed the same negative trend as the NPAs

.
The years following the introduction of IBC, Banks PSB took a hard hit in the last quarter of 2017-2018. PSBs reported a loss of Rs 62000 Cr and increase in the NPA of around Rs 1.2 Lk Cr. This was due to the higher requirement of provisions for the stressed asset. In the Fy 2018-19, the initiatives taken by the government led to the change in trend in the NPAs. Public sector banks were the first to show a change in trend. In the last quarters, GNPAs decreased from Rs 42500 Cr to Rs 41000 Cr which was a ray of light and the start to a better economy. IBC resulted in bad loans of PSBs declining by over Rs 23000 Cr from Rs 9.62 lk Cr in March 2018. The profitability ratios also showed a slight increase of about 0.1% between 2016-2018.

This study mainly focused on the impact of the insolvency and bankruptcy code of 2016 on the banking industry of India especially the public and the private sector banks. Its objectives included the effects on the banks pre and post era of IBC. It can be concluded that the introduction of IBC initially led to a shock in the industry and caused a opposite impact than what it was aimed for. But the last financial year has seen a change in trend due to the introduction of IBC. Also due to this the long-term effects are expected to show the much-awaited results of the reduction of NPA levels in both public and private sector banks and increase in the profitability of the banks. Hence IBC has had a positive impact and will continue to have it on the banking sector of Indian and in turn the Indian Economy. Also, during the study, a few points of problem were identified. These are that the rivals can purchase companies for a very small amount and in the absence of a healthy competition, it can be a point of depression for the economy. Haircuts are still big, and banks need money to cover these. Also, there is no guarantee that banks will have no build up for bad loans as there is no mechanism in place to prevent it. A change in the policies to address these issues can make a huge difference and can improve the quality of the code

References

1. Basu, Shubhabrata V, Moovendhan, Were Public Sector Banks Victimised through AQR? A Strategic Orientation Perspective (March 25, 2017) Economic & Political Weekly, 2017, 52(12), March 2017, Available at SSRN: https://ssrn.com/abstract=3160893
2. Batra V, Batra N. Trends and Differences in NPAs across Bank Groups in India. Global Journal of Finance and Management,2020:12(1):1–17. Retrieved from https://www.ripublication.com/gjfm20/gjfmv12n1_01.pdf
3. Bhagwati J, Shuheb Khan M, Bogathi RR. "*Can Asset Reconstruction Companies (ARCs) be Part Solution to the Indian Debt Problem?",* ICRIER Working Paper, 2017, 338. http://hdl.handle.net/11540/7029
4. Bhaskaran R, Bhalla L, Sarin V, Kaur S, Rahman A, Singh G, *et al*. Non-performing assets of public andprivate sector banks in India - a comparative study. International Journal of Services and OperationsManagement,25(2):155. https://doi.org/10.1504/ijsom.2016.078891
5. Brahmaiah B. Why Non-Performing Assets Are Morein Public Sector Banks in India?. *Theoretical Economics Letters*,2019:9:75-82. doi:10.4236/tel.2019.91007
6. Jain D, Saini RK. Non-Performing Assets Recovery Channel: An Assessment of Securitization Act-2002.International Journal of Trade and Commerce,2015:4(2):358–365.
7. K.S., Venkateswara Kumar, Kalvakolanu, Sripathi, & Sama, Hanumantha Rao. A Study on Role of Statutory Bodies in Handling NPAs. International Journal of Applied Business and EconomicResearch,2017:15(5):107–115.
8. https://doi.org/10.5281/zenodo.4451985
9. Kankipati AK, Murty D. September 30) NPA of Banking Industry & Its Impact on Overall Indian Economy and Measures to Recovery of NPA in Banks. International Journal of Recent Technology and Engineering (IJRTE),2019:8(3):8815–8821.https://doi.org/10.35940/ijrte.c6539.098319
10. MJ, NP. June) Wilful defaulters of Indian banks: A firstcut analysis. IIMB Management Review,2020:32(2):129–142. https://doi.org/10.1016/j.iimb.2019.10.005
11. Murari Krishna. Comparative Evaluation of Non-Performing Assets of Indian Banks: A Study of Public and Private Sector Banks. Asian Journal of Research in Banking & Finance,2014:4:232-247.
12. Nidugala GK, Pant A. August 24) Lessons from NPAscrisis in Indian banks. Journal of PublicAffairs,2017:17(4):e1672. https://doi.org/10.1002/pa.1672
13. Prasad GVB, Veena D. (2011, September) NPAs Reduction Strategies for Commercial Banks in India. International Journal of Management & Business Studies,2017:1(3):47–53. Retrieved from http://www.ijmbs.com/13/bhawani.pdf
14. Reddy PK. A comparative study of Non Performing Assets in India in the Global context - similarities and dissimilarities, remedial measures. *SSRN Electronic Journal*, 2003. https://doi.org/10.2139/ssrn.361322
15. Reserve Bank of India (2015-16) *Report on Trend and Progress of Banking in India.*
16. Reserve Bank of India (2016-17): *Report on Trend and Progress of Banking in India.*
17. Reserve Bank of India (2017-18): *Report on Trend and Progress of Banking in India.*
18. Reserve Bank of India (2018-19): *Report on Trend and Progress of Banking in India.*
19. Reserve Bank of India (2019-20): *Report on Trend and Progress of Banking in India.*

20. Reserve Bank of India (2020-21): *Report on Trend and Progress of Banking in India.*
21. RESERVE BANK OF INDIA ACT, 1934 (As amendedby the Finance Act, 2022)
22. In: India Development Report. OUP, 2008, 134-144.
23. Siraj KK, Pillai PS. Efficiency of NPA Management in Indian SCBs – A Bank-Group Wise Exploratory Study. Journal of Applied Finance & Banking,2013:3(2):123– 137.
24. Tensingh E, Suresha B. (2019, June) A STUDY ON THE IMPACT OF INSOLVENCY AND BANKRUPTCY CODE, 2016 ON INDIAN COMMERCIAL BANKS- A PRE AND POST EVENT ANALYSIS. International Journal of Emerging Technologies and Innovative Research, 6(6):68–75. Retrieved fromhttps://www.jetir.org/view?paper=JETIRCK06009
25. THE INSOLVENCY AND BANKRUPTCY CODE, 2016
26. THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OFSECURITY INTEREST ACT, 2002
27. *World Bank. (2012) Global Financial Development Report 2013 : Rethinking the Role of the State in Finance. Washington, DC. © World Bank. https://openknowledge.worldbank.org/handle/10986/11 848 License: CC BY 3.0 IGO."*