



HIMACHAL PRADESH NATIONAL LAW UNIVERSITY, SHIMLA

Semester-I

LL.M. (One-year Programme)

Paper Code: LM-113

Insolvency and Bankruptcy Laws

Credit-02

Introduction:

In India, the legal and institutional machinery for dealing with debt default has not been in line with global standards. The recovery action by creditors, either through the Contract Act or through special laws such as the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, has not had desired outcomes. Similarly, action through the Sick Industrial Companies (Special Provisions) Act, 1985 and the winding up provisions of the Companies Act, 1956 have neither been able to aid recovery for lenders nor aid restructuring of firms. Laws dealing with individual insolvency, the Presidential Towns insolvency Act, 1909 and the Provincial Insolvency Act, 1920, are almost a century old. This has hampered the confidence of the lender. When lenders are unconfident, debt access for borrowers is diminished. This reflects in the state of the credit markets in India. In this backdrop Parliament enacted Insolvency and Bankruptcy Code, 2016. The Landmark Insolvency and Bankruptcy Code, 2016 was enacted on 28th May 2016 with the aim of replacing the scattered legal framework for insolvency resolution for corporate entities and individuals in a time-bound manner for maximization of the value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders and ease of doing business. Starting from the notification of the Code, the Indian legal & regulatory environment for insolvency resolution and liquidation of corporate has witnessed a remarkable transition from an archaic resolution and winding-up process to a systematized time bound process with a faster resolution of distressed companies and assets. The major objective of this course is to give thorough knowledge about the subject to the student in a systematic manner.

Course Objectives:

1. To facilitate the students with an in depth understanding the legal and practical aspects of Insolvency and Bankruptcy.
2. To acquaint and equip the students with the practical skills relevant to insolvency laws in the Indian Courts along with the requisite negotiation and problem solving skills.

3. Have a comprehensive knowledge about Corporate Insolvency Resolution Process (CIRP) and Liquidation process.
4. To understand the duties and responsibilities of Insolvency Professionals.

Learning Outcomes:

1. To identify and describe the various concepts relating to Insolvency and Bankruptcy
2. To understand and comprehend the necessity of Insolvency and Bankruptcy laws in India
3. To Appreciate and be able to analyses insolvency and liquidation process
4. To evaluate and assess the concept of Insolvency Resolution Process and Bankruptcy Board of India.

Module-I

Introduction

- 1.1 Insolvency and Bankruptcy: Concept, Evolution and Historical Development of Insolvency laws in India;
- 1.2 Need for the Insolvency and Bankruptcy Code, 2016;
- 1.3 Corporate Insolvency Resolution Process, Resolution Professionals and their duties;
- 1.4 Resolution Plan and Strategies;
- 1.5 Fast Track Corporation Insolvency Resolution Process.

Module-II

Liquidation Process for Corporate Persons

- 2.1 Liquidation Process;
- 2.2 Liquidation of Corporate Persons;
- 2.3 Adjudication and Appeals for Corporate Persons and Companies;
- 2.4 Offences and Penalties;
- 2.5 Cross Border Insolvency.

Module-III

Insolvency Resolution and Bankruptcy for Individual and Partnership Firm

- 3.1 Insolvency Process;
- 3.2 Insolvency Resolution of Individual and Partnership Firm;
- 3.3 Bankruptcy Order for Individuals and Partnership firms;

3.4 Fresh Start Process;

3.5 Adjudicating Authority for Individuals and Partnership firms.

Module-IV

Professional and Ethical Practices for Insolvency Practitioners

4.1 Insolvency and Bankruptcy Board of India (IBBI): Constitution, Powers and Functions;

4.2 Role of Insolvency Professional Agencies;

4.3 Code of Conduct and Ethics for Insolvency Professionals;

4.4 Role of Information Utilities;

4.5 Insolvency and Bankruptcy fund.

Prescribed Legislations:

1. Insolvency and Bankruptcy Code, 2016.
2. Recovery of Debts Due to Banks and Financial Institutions Act, 1993.
3. The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.
4. The Companies Act, 2013.
5. The Indian Partnership Act, 1932.

Prescribed Books :

1. The Law of Insolvency in India by Sir Dinshaw Fardunji Mulla and Aparna Ravi, 6th Edition, Lexis Nexis.
2. Corporate Insolvency Law and Practice by Sumant Batra, 1st edition, 2017, Eastern Book Company.
3. Guide to Insolvency and Bankruptcy Code, 2016 by Taxmann, 2017 (Revised and Reprint), Taxmann Technologies.
4. Guide to Insolvency and Bankruptcy Code by Dr. D. K. Jain, 2nd edition, 2019, Bhart Law Publications.
5. Insolvency and Bankruptcy Code, 2016: Concepts and Procedure by Jyoti Singh, 2nd edition, 2017, Bloomsbury Publishing India.
6. Treatise on Insolvency and Bankruptcy Code by V. S. Wahi, Foreword by Justice A.K. Sikri, 3rd edition, 2019, Bhart Law Publications.
7. Insolvency and Bankruptcy Code of India by Ashish Makhija, 1st edition, Lexis Nexis.
8. Handbook on Debt Recovery by Indian Institute of Banking and Finance, 2nd edition, 2017, Taxmann Technologies.
9. Insolvency and Bankruptcy Code, 2016 by Thomson Reuters, 1st edition, Thomson Reuters Publication.
10. Law & Practice of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest by Dr. R. G. Chaturvedi, 2019, Bhart Law Publications.


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