



NAGPUR BRANCH OF WIRC OF ICAI

E-NEWSLETTER

JANUARY 22



The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)
Email : nagpur@icai.org | Website : www.nagpuricai.org

Chairman's Message



CA. Saket Bagdia

Dear Professional Colleagues,

“Today is your opportunity to build the tomorrow you want”- Ken Poirot

The situations are challenging again for all of us with the onslaught of this third wave of Corona. But as life teaches us; this time though faster spreading, we are prepared mentally to face the brunt of this menace. This is the thing which this Chartered Accountancy profession has taught us. With the unique concept of CPE – Continuous Professional education, we constantly upgrade ourselves to learn the changes in law, technical advancements and to make ourselves better Professionals. We at Nagpur Branch are thus striving our best to organize numerous CPE events for the benefit of members at large.

The year 2022 started with a lot of positivity and a lot of new avenues for all of us. We need to be definitely careful but at the same time develop our understanding and interpretation skills. The professional scenario though is very challenging with increasing expectations from we professionals, but with our determination and our commitment we would provide the best of the results in the expected areas. **“Proud to be CA” an icon which is installed at Nagpur Branch of ICAI premises truly depicts the pride of every Chartered Accountant and every CA Student's target.**

I continue my appeal on behalf of Nagpur Branch of ICAI in these testing times to everyone. Let's follow the rules, Be Responsible!!

During the month of January'2022, Nagpur Branch continued with its various initiatives for benefit of members as well as students. We started with a much awaited 2 day Student Conference organized at our own Nagpur Branch Premises with a huge participation from enthusiastic CA students as well as Paper Writers from all over the country. An excellent inauguration studded with presence of Retd. Major General Anil Bam as Chief Guest and Past President ICAI CA Jaydeep Shah as Guest of Honor really ignited the entire Conference. I would remember the golden words of Chief Guest “Transparency and Truth are two jewels of CA Profession”. We were privileged by the virtual presence of Galaxy of Hon. Central Council Members BOS Chairman CA Sushil Goyal, CA Durgesh Kabra, CA Anil Bhandari, CA Charanjot Singh Nanda, CA Umesh Sharma, CA Jay Chhaira and the motivation and presence of WIRC Chairman CA Manish Gadia and WICASA Chairman WIRC CA Yashwant Kasar. The mesmerizing notes of CA Swami Krishnadas Brajdevi really enthralled the enterprising CA Students. The glittering 2 days of conference were concluded in Valedictory with presence of Prof. Shrirang Altekar, Director, Symbiosis Institute and CA Amar Agrawal as Guest of Honor along with CA Samir Bakre and CA Ajay Agrawal. “Youth is power of tomorrow”. Very effectively conveyed by Chief Guest Prof Shrirang Altekar on the occasion. The



Chairman's Message

conference was effectively chaired in Technical sessions and guided by Charismatic Past Chairmans of Nagpur Branch – CA Umang Agrawal, CA Satish Sarda, CA Sandeep Jotwani, CA Kirti Agrawal, CA Kavita Loya and ever smiling RCM CA Abhijit Kelkar. Great efforts and a lot of hard work was put in by WICASA Chairman and Vice Chairman Nagpur Branch CA Jitendra Saglani along with Team WICASA comprising of Ameya Soman, Aviral Bareng, Radhika Taneja, Raveena Tayade, Karan Agrawal, Karan Tajne and Parag Jain. No event can be possible without Team Work and thus I sincerely thank and complement Team Nagpur Branch comprising of Vice Chairman and WICASA Chairman CA Jiten Saglani, Secretary CA Sanjay M Agrawal, Treasurer CA Akshay Gulhane, Past Chairmen CA Kirit Kalyani and CA Suren Duragkar and Managing Committee Member CA Harish Rangwani.

We continued with our VCM's guided by CA Bhavesh Mittal and CA Shardul Shah. An excellent virtual session course on Understanding Bhagwat Gita was conducted in coordination with Ahmedabad Branch of ICAI. Under the Young member Mentorship Program, a new series of Fire side Chat show with New Age professionals was started designed and conducted by Vice Chairman CA Jitendra Saglani with 2 efficient Speakers – CA Sharwari Watak and CA Nitesh Jagwani.

For the first time, a Regional Virtual CA Students Chess Competition was organized by Nagpur Branch of WICASA with a record participation of 127 contestants. The event was graced by Hon. President ICAI CA Nihar Jambusaria and WIRC Chairman CA Manish Gadia. My big compliments to entire WICASA Team for the stupendous success of this first Regional Virtual Chess Event.

Let me congratulate and thank the learned contributors of this Newsletter – CA Bharat Jeswani, CA Ritesh Adatiya and CA Alok Saxena for their knowledge enriched articles.

Nothing was possible without active support of the Joint Editor of our Nagpur Branch Newsletter CA Ashok Dalmia for his constant support in making this newsletter more meaningful.

I thank SIDBI and its management for getting associated with Nagpur Branch for promoting wonderful schemes for the benefit of all.

We are looking forward to getting a positive response from your side to ensure we stay connected through this newsletter and in all our events to come. Please do share your articles and talents to Nagpur Branch on nagpur@icai.org

Karma-

“It is not how much **WE HAVE**, but how much **WE ENJOY** that makes *Happiness*”

Stay Safe and Stay Blessed.

Professionally Yours

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Practical Implications of Forensic Accounting & Investigation Standards

CA. Bharat Jeswani

Standards on Key Concepts (100 Series)

Standard 110 “NATURE OF ENGAGEMENT”

KEY POINTS

1. Responsibility of the Professional in understanding the nature of the engagement
2. Clarity on the purpose of the engagement
3. Define scope & approach
4. Identifies any specialized skills or resources necessary
5. Documentation

Audit reports which highlight possible fraud indicators Initial correspondence, minutes of meeting with stakeholders in respect of the engagement to be undertaken.

Standard 120 “FRAUD RISK”

KEY POINTS

1. Professional's responsibility to understand fraud risk concepts and how these may apply to engagements.
2. Understanding of the Fraud triangle
3. Undertake Fraud risk-based evaluations
4. Focus and prioritise the work based on risk.
5. Assigning appropriate skill sets.
6. Give due consideration to matters indicating fraud risk when reporting findings

Standard 130 “LAWS AND REGULATIONS”

KEY POINTS

1. Professional's responsibility to understand the provisions of laws and regulations.
2. Ensure that the objectives of the engagement are in line with the provisions of the laws.
3. Process driven approach
4. May seek expert legal advice
5. Principle of Natural Justice
6. Basic understanding of direct impact laws & engagement specific laws
7. Documentation : Legal checklist, deviations from law, Chain of custody

Standard 140 “APPLYING HYPOTHESES”

KEY POINTS

1. Professional's responsibility to understand the concept of hypotheses.
2. Design investigation methodologies in accordance with considered hypotheses
3. Remain neutral
4. Gather all types of evidence related to the hypotheses, irrespective of whether it proves or disproves the hypotheses.
5. Documents which demonstrate the formulation and application of the concept of hypotheses

Standards on Engagement Management (200 Series)

Standard 210 “ENGAGEMENT OBJECTIVES”

KEY POINTS

1. Professional's responsibility to clearly set the objectives of the engagement

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2. Does not apply to situations where the outcome of the work is being used for Expert Testimony.
3. Understand the broad purpose and expected outcome of the engagement, and comes to an agreement with the stakeholders.
4. Scope should be consistent with objectives, clearly defined & agreed.
5. Document the main purpose of the engagement.
6. Objective cannot be particular outcome.
7. If unethical, do not accept. Communicate the reasons.
8. Documentation regarding need for engagement, initial correspondence, change in objective.

Standard 220 ACCEPTANCE “ENGAGEMENT AND APPOINTMENT”

KEY POINTS

1. Responsibility of the Professional in agreeing the terms of the engagement during appointment.
2. Need to conduct preliminary procedures and due diligence before accepting engagements
3. All key terms of the engagement, as agreed with the client, are documented in the form of a formal Engagement Letter.
4. Adhering to the requirements of Basic Principles
5. The Professional shall identify all key stakeholders, the individuals covered under the scope and the direct and indirect users of the engagement report.
6. Evaluation of independence, preliminary capability assessment with available resources and skills, complexity of relevant laws and regulations as well as any constraints or scope limitations.
7. If risk substantial or limitation of scope, do not accept. Communicate reasons.
8. Written consent of the appointing stakeholders on Engagement letter.
9. In case of government agency, letter of appointment will do.

Standard 230 “USING THE WORK OF AN EXPERT”

KEY POINTS

1. Responsibility of the Professional regarding the use of an expert.
2. Does not apply to outsourced work to third parties.
3. Independent determination of using the work of an expert.
4. Seek the authority to select, appoint and engage the Expert
5. If no authority then perform procedures to evaluate the independence and objectivity of the Expert appointed. If there are any concerns communicate with the appointing authority.
6. Evaluate the qualifications and credentials of the Expert
7. Define the scope and expected deliverables
8. Evaluate the adequacy of the work conducted by the Expert
9. The Professional shall retain ultimate responsibility for assignment conclusions
10. The report issued by the Professional shall clearly state the role of the Expert and reliance placed (if any)
11. Evaluate Independence and Objectivity of the Expert by considering client relationships & personal interests
12. Evaluate Qualifications and Credentials of the Expert by Background checks, Self-Certification
13. If work of expert inadequate, get agreement for further procedures or perform further procedures on your own.

Standard 240 “ENGAGING WITH AGENCIES”

KEY POINTS

1. Responsibility of the Professional when engaging with agencies.
2. Does not apply in situations wherein the Professional provides Expert Witness services in

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any proceeding before a Court of law.

3. The Professional shall agree on the objectives, scope and planned procedures
4. The Professional shall have an understanding of the applicable laws and regulations governing the respective agency

Standard 250 “COMMUNICATION WITH STAKEHOLDERS”

KEY POINTS

1. Responsibility to have an effective communication with the stakeholders.
2. Communicate directly with the Primary Stakeholders, if required with secondary stakeholders.
3. The communication regarding reporting of the results or findings of an engagement is outside the scope of this Standard
4. A pre-established communication protocol
5. Exercise good communication etiquettes at all times
6. Confidential & Secured
7. Identify whether any communication requirements are mandated by any relevant statutory or regulatory provisions.

Standards on Executing Assignments (300 Series)

Standard 310 “PLANNING THE ASSIGNMENT”

KEY POINTS

1. Responsibility of the Professional when planning an assignment.
2. Planning process is in line with the overall scope of work & objective & should be flexible
3. Determine the appropriate work methodology
4. Resource Allocation
5. Risk Considerations
6. Discussion with Stakeholders

7. Technology Deployment

Standard 320 “EVIDENCE AND DOCUMENTATION”

KEY POINTS

1. Responsibility of the Professional to discover appropriate and reliable evidence and maintain relevant and sufficient documentation.
2. Procedures for discovery of evidence not subject of this standard.
3. Appropriate and reliable evidence, which can stand on its own
4. Relevant and sufficient documentation for manner in which the evidence was discovered, reviewed, recorded and stored.
5. Ownership and custody of the documentation
6. Where the work is entrusted to a third party, copy of documents to be kept, originals should be available for review
7. Evidence should be reliable, if not perform further procedures to obtain additional corroborative evidence.
8. Appropriate Evidence suitable in a Court of law.
9. Maintain the chain of custody

Standard 330 “CONDUCTING WORK PROCEDURES”

KEY POINTS

1. Develops planned Work Procedures for effective execution of the assignment.
2. Evaluate deploying relevant tools and techniques
3. Pay due attention to any Fraud Indicators
4. Formulation and testing of hypotheses
5. Assess the need for any change in methodology
6. Duly document
7. Communicate with the Stakeholders

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Standard 340 “CONDUCTING INTERVIEWS”

KEY POINTS

1. Deals with the requirements for the Professional to conduct interviews with individuals.
2. Well planned and conducted within the framework of existing laws, rules, norms and procedures.
3. Suitable evidence in a Court of law
4. Interviews shall be conducted within the defined scope of work.
5. Any interviews considered necessary by the Professional, but excluded from the scope for any reason, shall be mentioned in the report.
6. The planning may include preparing a questionnaire and a sequence, , the interviewer shall be flexible
7. Interview evidence should be collected without any inducement, threat or promise.
8. Presence of senior representatives at the interview
9. Minutes of the interview may be circulated and receipt duly acknowledged. 10. A declaration or signed statement may be taken as a safeguard

Standard 350 “REVIEW AND SUPERVISION”

KEY POINTS

1. Deals with exercising due professional care through a process of review and supervision towards effective assignment conduct.
2. Evaluate if work procedures are being performed effectively and efficiently
3. Progress of the assignment is monitored as per the plan and the plan is updated
4. The procedures undertaken evaluated to ensure their relevance and adequacy
5. Key steps undertaken in the review and supervision process shall be Documented

Standard 360 “TESTIFYING BEFORE A COMPETENT AUTHORITY”

KEY POINTS

1. Deals with the requirements to be followed by the Professional when testifying before a Competing Authority as a Fact Witness.
2. Expert witness not covered here.
3. Competencies expected and principles to be adhered to by the Testifying Professional
4. Testifying Professional shall be independent and be objective in approach and ensure that there is no conflict of interest in taking on the role of a Fact Witness prior to accepting an engagement.
5. Where there is any conflict, the Testifying Professional's paramount duty shall be towards the Competent Authority
6. Limit the scope of the testimony to only the facts and evidences
7. Where circumstances arise raising doubts over the Basic Principles , the professional shall intimate the circumstances to the Primary Stakeholders and the Competent Authority.
8. Compensation shall not be contingent upon the outcome of the proceedings.
9. Fundamental responsibility to aid and assist the Competent Authority with the facts discovered, irrespective of the conclusions.
10. Certain aspects of the matter have not been covered, shall clearly identify the same in the testimony.

Standards on Specialised Areas (400 Series)

Standard 410 “APPLYING DATA ANALYSIS”

KEY POINTS

1. Deals with the application of data analysis (DA) techniques to aid the work procedures of the Professional.
2. Improve the probability of evidence discovery
3. Enhance consistency across forensic assignments
4. Enable identification of fraud indicators for further investigation.
5. Gain confidence over the reliability of results

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6. data analysis plan
7. Include pre-processing steps such as data acquisition, data validation and data preparation
8. Performing data analysis in line with the objective
9. Undertake adequate measures to maintain data confidentiality, integrity, archival and retrieval
10. Adequate DA expertise
11. Fulfil the requirements of test of reproducibility

Standard 420 “EVIDENCE DISCOVERY IN DIGITAL DOMAIN”

KEY POINTS

1. Deals with the practices to be followed by the Professional for discovery of electronic evidence
2. Electronic evidence must be capable of satisfying the requirements of judicial scrutiny.
3. Acquire the expertise necessary to undertake e-discovery
4. Consider the unique risk factors in e-discovery
5. Evaluate the resources, skill and timeline required
6. Maintain and deploy a documented process for e-discovery of evidence
7. Undertake an overall understanding of the prevalent information systems
8. Comply with the domestic laws
9. Deploy appropriate forensic tools and techniques

Standard 430 “LOANS OR BORROWINGS”

KEY POINTS

1. Deals with specific types of engagements related to disputed transactions of loans or borrowings.
2. Utilization of the funds
3. Identify and communicate the information requirements to Primary Stakeholders
4. Collect additional information from other sources
5. Asset Tracing

6. Review the digital footprints of the borrower
7. Perceived nexus between the borrower and the loan sanctioning authority.

Standards on Reporting (500 Series)

Standard 510 “REPORTING RESULTS”

KEY POINTS

1. Shall be addressed to the Primary Stakeholders
2. No fixed form or content of the report is mandated by this Standard, the report shall include certain key elements
3. Where the form and content of the report is mandated by the stakeholders, the Professional shall report in line with those requirements, while keeping in mind the key elements
4. A summary of the responses received from the subject party shall be included in the report
5. Highlight any key assumptions made and whether any limitations were faced
6. Shall not express an opinion or pass any judgement on the guilt or innocence.
7. Shall be issued within reasonable time frame

Standards on Quality Control (600 Series)

Standard 610 “QUALITY CONTROL”

KEY POINTS

1. Deals with the responsibility of the Professional to ensure a consistent approach for an acceptable quality of work performed.
2. Quality control requirements are in place and well understood.
3. Work performed by the Professional and their staff follows a systematic and disciplined approach to achieve the quality control requirements.
4. Establish a quality control system (QCS)
5. Assignments are appropriately staffed with individuals having relevant experience
6. QCS shall be communicated

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Liquidation , Voluntary Liquidation IBC

CA. Ritesh Adatiya

Liquidation

The code **does not allow any of the stakeholders to institute the liquidation process** against the corporate debtor rather regarded it **as last resort** to be used in cases where the resolution process of the corporate debtor fails.

Chapter III extends from **section 33 to section 54** of the Act. IBBI has also provided IBBI (Liquidation Process) Regulations, 2016 and IBBI (Voluntary Liquidation Process) Regulations, 2017 (hereinafter Liquidation Regulation) which assist the code and provides regulation for the liquidation process of the corporate debtor.

Sec 5(17) defines “**Liquidation Commencement Date**” means the date on which proceedings for liquidation commence in accordance with Section 33 or Section 59, as the case may be;

When Liquidation Can be initiated ? Section 33

Four Scenarios:-

1. Adjudicating authority does not receive a resolution plan on or before the expiry of the maximum time permitted for CIRP;
 2. Resolution plan is rejected by the Adjudicating authority (under section 31);
 3. Committee of Creditor resolves to **liquidate** before approval of resolution plan with 66% voting share.
 4. If the approved resolution plan is contravened by the corporate debtor on application by the aggrieved party
- Subject to section 52, when a liquidation order has been passed, no suit or other legal proceeding shall be instituted by or against the

corporate debtor; except the Compromise proceeding U/s 230 of CA 2013 within Ninety days from the Order of Liquidation.

- Provided that a suit or other legal proceeding may be instituted by the liquidator, on behalf of the corporate debtor, with the prior approval of the Adjudicating Authority;
- The order for liquidation under this section shall be deemed to be a notice of discharge to the officers, employees and workmen of the corporate debtor, except when the business of the corporate debtor is continued during the liquidation process by the liquidator;

Liquidation (Section 33) Ratios from Judgements.....

- It must be noted that the terms 'winding up' and 'liquidation' are often used interchangeably.
- The liquidation procedure envisaged under the Code, in order to ensure cooperation and an orderly distribution, is compulsory and binding on the general group of unsecured creditors and, to the limited extent as provided under Ss. 52 and 53 of the Code, on secured creditors.
- The resolution of corporate insolvency to ensure the survival of the enterprise as a going concern is one of the objectives of the IBC. However, this must not come at the cost of efficiency. A timely liquidation is preferred over endless resolution proceedings.
- Where there was no possibility of revival of the company, with its losses and liabilities much higher than its assets, an order of liquidation was passed instead of order for initiating CIRP GNB Technologies (India) P. Ltd., In re, [2020] 115 taxmann.com 188 (NCLT-Beng).

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- If the RP intimates the AA the decision of the COC to liquidate the CD, the AA must pass a liquidation order under this section. The Mandate of this section is unambiguous to the extent that the decision of the COC is simply to be approved by the AA.
- Valuation of Assets not germane to liquidation:- Collecting material in regard to the assets of the "Corporate Debtor" and Valuation reports etc. is not germane to the disposal of the application under Sec. 33 of the Code.

Appointment of Liquidator (Section 34)

- On passing of the order for liquidation under section 33, the resolution professional appointed for the CIRP (subject to submission of a written consent by the resolution professional) shall act as the liquidator for the purposes of liquidation unless replaced by the Adjudicating Authority under subsection (4).
- All powers of the board of directors, key managerial personnel and the partners of the corporate debtor, as the case may be, shall cease to have effect and shall be vested in the liquidator.
- The Personnel of the CD shall Extend all assistance and Cooperation
- Replace the resolution professional on recommendation of the IBBI or in absence of the written consent or Failure to comply with Sec. 30(2)

Ratios from Judgements.....

- If no resolution plan is placed before the Adjudicating Authority under S. 33. And provided that there are no adverse recommendations from the IBBI, the Adjudicating Authority does not have the power to replace the resolution professional. Sahara Fincon P. Ltd. V. Tirupati Ceramics Ltd., [2018] 147 SCL 123 : (2018) 144 CLA 381 (2018) 210 Comp Cas 265 (NCLT-Chd).
- The Appellate Tribunal held that where the Adjudicating Authority was not satisfied with the performance of the 'RP', the Adjudicating Authority was well within its jurisdiction to engage another person as RP or Liquidator. Sandeep Kumar v. Stewarts and Lloyds of India [2018] 2 Comp Cas-OL 35 : [2018] 144 CLA 161 : [2018] 146 SCL 591 (NCLT-New Delhi).

- Under S. 27 of the Code, the Committee of Creditors can vote to replace the resolution professional at any time during the corporate insolvency resolution process. A similar provision with regard to the liquidation of an insolvent company does not exist.
- After liquidation, the CoC has no role to play and cannot move an application for removal of Liquidator. Punjab National Bank v. Kiran Shah, Liquidator of ORG Informatics Ltd., Company Appeal (AT) (Insolvency) No. 102 of 2020, dated 21-01-2019 (NCLAT-New Delhi) (Unreported).

VOLUNTARY LIQUIDATION OF CORPORATE PERSONS (Section 59)

Declaration from Directors

A corporate person can liquidate itself if there is no debt or It can be paid fully from the proceeds; and Company is not being liquidated to defraud any person

Special Resolution

Annex-Audited financial statements (previous 2 years) & valuation report of assets (If any) Approval for liquidation by Members thru Special Resolution & appointment of Insolvency Professional with terms of appointments (Within 4 weeks of declaration)

Creditors Approval

Creditors representing 2/3rds in value of debt shall approve the special within 7 days- The voluntary liquidation process shall commence

ROC & Board

Within 7 days the Registrar of Companies & Board shall be intimated. NO NEED for NOC from Income Tax Department

Adjudicating Authority

Where affairs are completely wound up and assets liquidated – liquidator shall apply to adjudicating authority for dissolution

Dissolution

Adjudicating authority shall order for dissolution – copy of order shall be filed with Registrar within 14 days

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Pre Initiation of Liquidation Process

Preparation of
Financial Accounts
DAY - 0

Preparation of
Valuation Report
Day 8

Declaration
of Solvency
Day 10

Board Meeting
Day 17

Notice for
Board Meeting
Day 10*

Appointment
of Liquidator
Day 40

Special
Resolution-
EGM DAY 38
(Liquidation
Commencement
date)**

Notice For
EGM DAY 17 *

* A shorter notice for Board Meeting
and EGM can help in reducing the overall time lines
** EGM must be held within Four week of Declaration date

Ratios from Judgements.....

- As per sub-section (1) of S. 59 of the Code, a corporate person may initiate voluntary liquidation where the corporate person
 - (i) intends to liquidate himself voluntarily and
 - (ii) has not committed any default.
- The corporate person is at the sole discretion to initiate voluntary liquidation unless the corporate person is in default.
- 'Default' is defined under S. 3(12) of the Code to mean non-payment of debt when the same has become due and payable and is not paid by the corporate debtor.
- Unlike liquidation, under Chapter III of the Code, **voluntary liquidation under S. 59 of the Code does not require an order** by the Adjudicating Authority allowing for the process to commence.
- Resignation by Liquidator. – Where a Liquidator or trustee in bankruptcy wishes to resign on grounds of ill health, or where a change in personal circumstances makes it impracticable for the office holder to discharge his duties as such, **the Liquidator may be replaced**. Re Sankey Furniture

Post Initiation of Liquidation Process

Publication of Notice
DAY 45

Submission of Claims
DAY 75

Preparation of
Preliminary Report

Verification of Claims
DAY 103

Realization of Assets
Day 103

Distribution of Assets
DAY 110

Audit of Liquidation
Account DAY 115

Preparation of Final
Report DAY 118

Application to NCLT
for Liquidation
DAY 120

Ltd exp Harding; re Calorfique Ltd. Ex P Betts, [1995] 2 BCLC 594 (Ch D).

- Following the commencement of voluntary liquidation of a company, **no automatic moratorium** on the enforcement of actions against the company or properties comes into force.
- Section 59(6) of the Code provides that, in case of voluntary liquidation, only the provisions of S. 35 to S. 53 of Chapter II and Chapter VII apply, meaning that the '**automatic**' moratorium available to a company under liquidation in S. 33(5) & S. 33(6) is not applicable in the case of voluntary liquidation.

Stay of voluntary liquidation process

- Under the Code, once the voluntary liquidation is initiated, there is no provision to stay or stop the voluntary liquidation, and the same will result in the dissolution of the company. However, the Reg. 40 of IBBI (Voluntary Liquidation process) Regulation 2017 provides that where the Liquidator is of the opinion that "the liquidation is being done **to defraud** a person or the corporate person will **not be able to pay its debts** in full from the proceeds of the assets to be sold in liquidation". The Liquidator

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shall make an application to the adjudicating Authority to suspend the process of liquidation and pass any such orders as it deems fit.

- Section 59 of the Code is silent on the aspect of **fixing of remuneration** of the Liquidators Further, sub-sections (8) and (9) of S. 34 of the Code provides for Liquidator's fee in case of liquidation under Chapter III of Part 11. The said provisions are not extended to the 'voluntary liquidation, as sub-section (6) of S. 59 of the IBC only applies provisions of S. 35 to S. 53 of Chapter ID and Chapter VII to voluntary liquidation proceedings for corporate person.

Liquidators' duty to file application on detecting insolvency

- As per Regulation 40(2) of the IBBI (Voluntary Liquidation), Regulations, 2017, where the Liquidator is of the opinion that the company would not be able to pay its debts in full from the proceeds of the assets to be sold in the Voluntary Liquidation, he 'shall' make an application to the Adjudicating Authority to suspend the process.
- Under CA, 1956 and CA, 2013, **the creditors had greater involvement** in the voluntary liquidation process as compared to the creditors under S. 59 of the Code. However, under the Code, unlike the earlier enactments, voluntary liquidation can only take place for solvent company. Therefore, the Legislature has provided limited rights to the

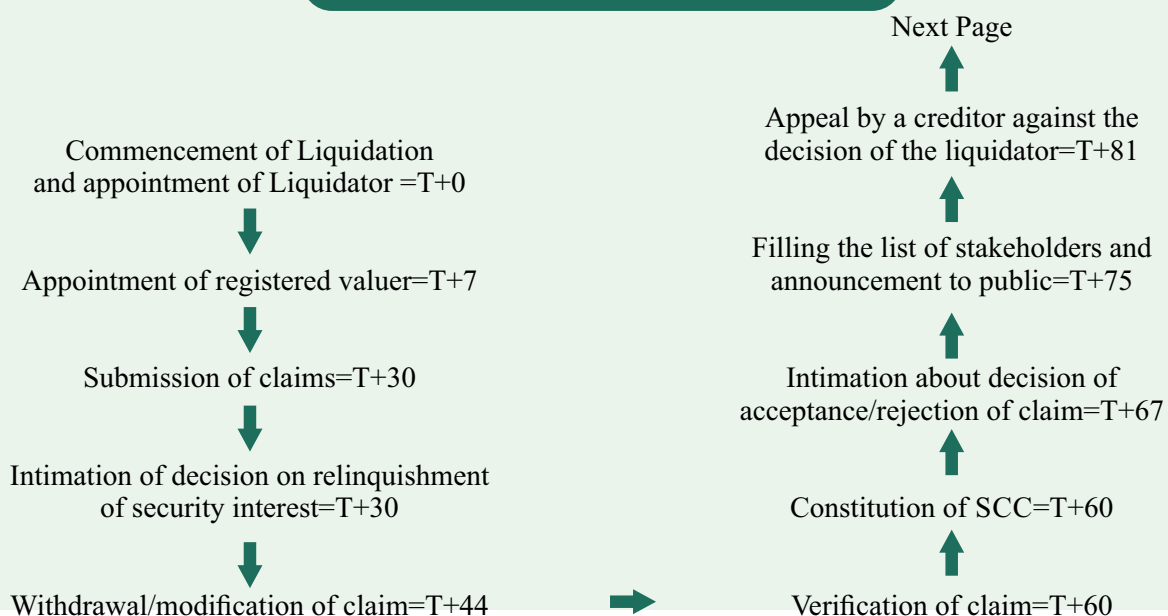
creditors during the voluntary liquidation process as their interests are protected due to the solvent state of the company in voluntary liquidation.

- The Code does not prescribe for meeting of creditors. Therefore, **the approval can be taken from each creditor** individually, until it fulfills the requirement of proviso to sub-section (3) of S. 59 of the Code and the creditors representing two-third in value of the debt approve of the resolution for voluntary liquidation.
- The corporate state and corporate powers of the company would continue until it is dissolved. [Reg. 4 of IBBI (Voluntary Liquidation Process) Regulations]

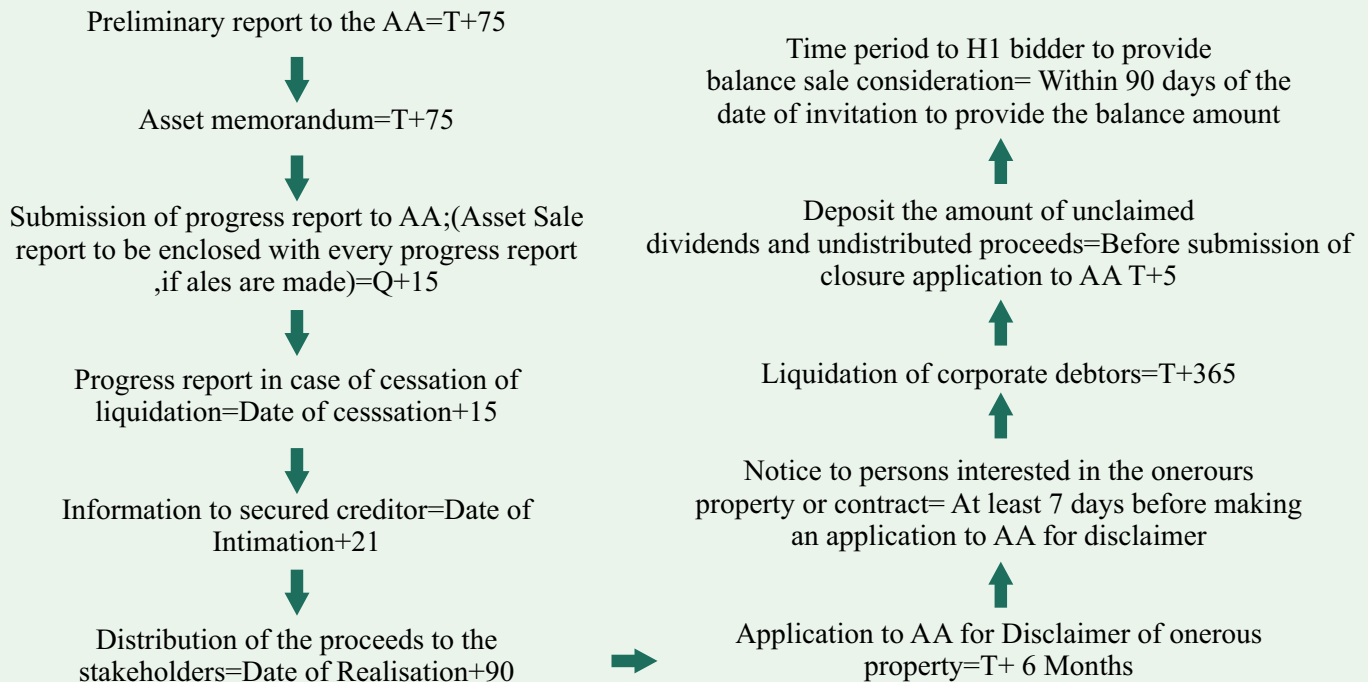
Non-availability of business prospects and financial resources

- The Board of Directors of the corporate debtor company took a decision to close down the company due to non-availability of business prospects and non-availability of long-term financial resources.
- The Adjudicating Authority allowed the liquidation after confirming that the company was found not involved in any kind of business activities, wherein the public interest at large was involved or it was going to be affected adversely in case such dissolution of the company is ordered. China Steel Machinery Corporation India (P.) Ltd. v. Registrar of Companies, [2019] 154 SCL 281 (NCLT-Ahd)

Liquidation Process timeline



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Powers and Duties of Liquidator (Section 35)

Subject to the Directions of the AA, The Liquidator shall have the following powers and duties, namely:-

- To verify claims of all the creditors;
- To take into his custody or control all the assets, property, effects and actionable claims of the corporate debtor;
- To evaluate the assets and property of the corporate debtor in the manner as may be specified by the Board and prepare a report;
- To take such measures to protect and preserve the assets and properties of the corporate debtor as he considers necessary;
- To carry on the business of the corporate debtor for its beneficial liquidation as he considers necessary;
- Subject to section 52, to sell the immovable and movable property and actionable claims of the corporate debtor in liquidation by public auction or private contract, with power to transfer such property to any person or body corporate, or to sell the same in parcels in such manner as may be specified: (29A applicable)
- To draw, accept, make and endorse any negotiable instruments including bill of exchange, hundi or promissory note in the name and on behalf of the corporate debtor, with the same effect with respect to the liability as if such instruments were drawn, accepted, made or endorsed by or on behalf of the corporate debtor in the ordinary course of its business;
- To take out, in his official name, letter of administration to any deceased contributory and to do in his official name any other act necessary for obtaining payment of any money due and payable from a contributory or his estate which cannot be ordinarily done in the name of the corporate debtor, and in all such cases, the money due and payable shall, for the purpose of enabling the liquidator to take out the letter of administration or recover the money, be deemed to be due to the liquidator himself;
- To obtain any professional assistance from any person or appoint any professional, in discharge of his duties, obligations and responsibilities;
- To invite and settle claims of creditors and claimants and distribute proceeds in accordance with the provisions of this Code;
- To institute or defend any suit, prosecution or other legal proceedings, civil or criminal, in the name of or on behalf of the corporate debtor;
- To investigate the financial affairs of the

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corporate debtor to determine undervalued or preferential transactions;

- m) To take all such actions, steps, or to sign, execute and verify any paper, deed, receipt document, application, petition, affidavit, bond or instrument and for such purpose to use the common seal, if any, as may be necessary for liquidation, distribution of assets and in discharge of his duties and obligations and functions as liquidator;
- n) To apply to the Adjudicating Authority for such orders or directions as may be necessary for the liquidation of the corporate debtor and to report the progress of the liquidation process in a manner as may be specified by the Board; and
- o) To perform such other functions as may be specified by the Board

The liquidator shall have the power to consult any of the stakeholders entitled to a distribution of proceeds under section 53 . Not binding. MoM to be shared with other stake holders

Ratios from Judgements.....

- ♦ The gravity of the powers and duties provided under S. 35 clearly suggests that the actions of the liquidator ought to be under the supervision of the Adjudicating Authority and the Legislature has not bestowed the liquidator with unbridled or arbitrary powers.
- ♦ Prior permission for every action not necessary. – Section 35(1) of the Code states that the powers of a Liquidator are subject to direction of the Adjudicating Authority, however it does not mean that for every action which the Liquidator has to perform should be with the prior permission of the Adjudicating Authority, Nicco Corporation Ltd. v. Vinod Kumar Kothari, CA (IB) No. 487/KB/2017 in CP No. 03/2017 dated 24-11-2017 (NCLT-Kolkata) (Unreported).
- ♦ The Liquidator holds the liquidation estate as a fiduciary for the benefit of all the creditors of the company in liquidation and is charged with evaluating, protecting and preserving the assets and properties that comprise the liquidation estate. [S. 35 and S. 36(2) of the Code].

- ♦ The overriding requirement is for Liquidators to exercise their professional judgment in what they believe to be the best interests of creditors. He must act in a reasonable manner and in compliance with the provisions of the Code and regulation. Union Bank of India v. V. Nagarjan MA/1078/2019 in TCP/126(IB)/ 2017 dated 23-10-2019 (NCLT-Chennai) (Unreported).
- ♦ The property of the company in liquidation still vests with the company and not with the Liquidator. Rajive Kaul v. Vinod Kumar Kothari CA (AT) (Insolvency) Nos. 44, 224, 1518 of 2020, dated 20-03-2020 (NCLT-Delhi) (Unreported).
- ♦ The Liquidator has to act as a quasi-judicial authority while rejecting or admitting claims under S. 40 of the Code. Edelweiss Asset Reconstruction Co. Ltd. v. TATA Capital Financial Services Ltd. CA (AT) (Insolvency) No. 42 of 2019, dated 22-05-2019 (NCLT-New Delhi) (Unreported).

Liquidation Estate (Section 36)

36 (3) Following should be included:

- a) Any assets over which the corporate debtor has ownership rights, including all rights and interests therein as evidenced in the balance sheet of the corporate debtor or an information utility or records in the registry or any depository recording securities of the corporate debtor or by any other means as may be specified by the Board, including shares held in any subsidiary of the corporate debtor;
- b) Assets that may or may not be in possession of the corporate debtor including but not limited to encumbered assets;
- c) Tangible assets, whether movable or immovable;
- d) Intangible assets including but not limited to intellectual property, securities (including shares held in a subsidiary of the corporate debtor) and financial instruments, insurance policies, contractual rights;
- e) Assets subject to the determination of ownership by the court or authority; Liquidation Estate
- f) Any assets or their value recovered through proceedings for avoidance of transactions in accordance with this Chapter;

Professional Enrichment

- g) Any asset of the corporate debtor in respect of which a secured creditor has relinquished security interest;
- h) Any other property belonging to or vested in the corporate debtor at the insolvency commencement date; and
- i) All proceeds of liquidation as and when they are realised.

36 (4) The following shall not include in the liquidation estate

- a. Assets owned by a third party which are in possession of the corporate debtor, including –
 - i. Assets held in trust for any third party;
 - ii. Bailment contracts;
 - iii. All sums due to any workmen or employee from the provident fund, the pension fund and the gratuity fund;
 - iv. Other contractual arrangements which do not stipulate transfer of title but only use of the assets; and
 - v. Such other assets as may be notified by the Central Government in consultation with any financial sector regulator;
 - vi. Such other assets as may be notified by the Central Government in consultation with any financial sector regulator;
- b. Assets in security collateral held by financial services providers and are subject to netting and set-off in multi-lateral trading or clearing transactions;
- c. Personal assets of any shareholder or partner of a corporate debtor as the case may be provided such assets are not held on account of avoidance transactions that may be avoided under this Chapter; 41
- d. Assets of any Indian or foreign subsidiary of the corporate debtor; or
- e. Any other assets as may be specified by the Board, including assets which could be subject to set-off on account of mutual dealings between the corporate debtor and any creditor

Ratios from Judgements.....

The term “property” has not been defined under the Code.

- ♦ There are two essential ingredients that must be fulfilled for a thing to be considered as a “property”.

Firstly, it must involve some benefit or entitlement to the person holding it and secondly, it must be capable of having some realizable value i.e., it must be transferable and a person must be in a position to a price for it for its usage. However, it cannot be said that merely because a thing is unsaleable it will not fall within the ambit of “property”.

- ♦ In *Leo Edibles & Facts Ltd. v. Tax Recovery Officer*, (2048) 146 CLA 192 : (2019) 5 Comp Cas-OL 691 (AP-HC) held that attachment of the property does not create a lien/charge over the property. It was observed that the property that is subject to an attachment order constitutes the company's property for the purposes of the liquidation.
- ♦ Fire Insurance proceeds in respect of mortgage property – The Adjudicating Authority held that since the property was under the exclusive charge of the bank, all encumbrances thereon and all incomes and claims, including the insurance claim, therefrom related to the bank.

Power to access the information (Section 37)

- 1) For the purpose of admission and proof of claims and identification of liquidation estate assets, Liquidator can access information from:-
 - a) An information utility;
 - b) Credit information systems regulated under any law for the time being in force;
 - c) Any agency of the Central, State or Local Government including any registration authorities;
 - d) Information systems for financial and non-financial liabilities regulated under any law for the time being in force;
 - e) Information systems for securities and assets posted as security interest regulated under any law for the time being in force;
 - f) Any database maintained by the Board; and

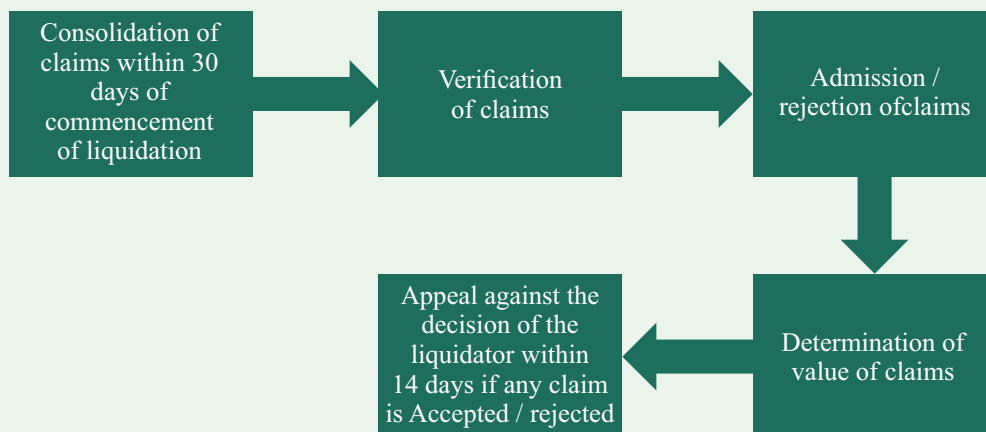
Professional Enrichment

- h) Any other source as may be specified by the Board.
- 2) The creditors may require the liquidator to provide them any financial information relating to the corporate debtor in such manner as may be specified.
- 3) The liquidator shall provide information referred to in sub-section (2) to such creditors who have requested for such information within a period of seven days from the date of such request or provide reasons for not providing such information.

Public announcement and receipt of claims R-12

- ♦ The liquidator shall make a public announcement in Form B of Schedule II within five days from his appointment.

- ♦ A person claiming to be an operational creditor of the corporate debtor, other than a workman or employee, shall submit proof of claim to the liquidator in person, by post or by electronic means in Form C of Schedule II.
- ♦ A person claiming to be a financial creditor of the corporate debtor shall submit proof of claim to the liquidator in electronic means in Form D of Schedule II.
- ♦ A person claiming to be a workman or an employee of the corporate debtor shall submit proof of claim to the liquidator in person, by post or by electronic means in Form E of Schedule II.
- ♦ A person, claiming to be a stakeholder other than those under Regulations 17(1), 18(1), or 19(1), shall submit proof of claim to the liquidator in person, by post or by electronic means in Form G of Schedule II.



Consolidation of claims (Section 38)

- 1) The liquidator shall receive or collect the claims of creditors within a period of thirty days from the date of the commencement of the liquidation process.
- 2) A financial creditor may submit a claim to the liquidator by providing a record of such claim with an information utility:
 - a) Provided that where the information relating to the claim is not recorded in the information utility, the financial creditor may submit the claim in the same manner as provided for the submission of claims for the operational creditor under sub-section (3).
- 3) An operational creditor may submit a claim to the liquidator in such form and in such manner and

along with such supporting documents required to prove the claim as may be specified by the Board. Consolidation of claims (Section 38) continue.....

- 4) A creditor who is partly a financial creditor and partly an operational creditor shall submit claims to the liquidator to the extent of his financial debt in the manner as provided in sub-section (2) and to the extent of his operational debt under sub-section (3).
- 5) A creditor may withdraw or vary his claim under this section within fourteen days of its submission.
- 6) It is immaterial whether the debt or liability is present or future, whether it is certain or contingent, or whether its amount is fixed or liquidated, or is capable of being ascertained by fixed rules or as a matter of opinion. It will be seen that provable debts include those becoming payable after winding-up

Professional Enrichment

pursuant to an obligation incurred before winding-up, for example, pre- liquidation debts maturing after liquidations. Unliquidated damages in contract or tort, and claims for interest payable in respect of a period up to the relevant date.

- 7) Right to lodge claims – Any person who has a claim against the company, which is ordered to be liquidated by the Adjudicating Authority, has a right to lodge the claim before the Liquidator. The Liquidator is statutorily empowered to either admit or reject the claim unlike under CA, 1956 and the Companies (Court) Rules, 1959 which did not contain any specific provision to that effect. On receipt of claim, the Liquidator is required to verify, scrutinize and adjudicate on the claims, and communicate his decision within seven days of admission or rejection. [See S. 39 and S. 40 of the Code]. Where he rejects a claim, the Liquidator must record the reasons for such rejection in writing.

Verification of claims (Section 39)

- 1) The liquidator shall verify the claims submitted under section 38 within such time as specified by the Board.
- 2) The liquidator may require any creditor or the corporate debtor or any other person to produce any other document or evidence which he thinks necessary for the purpose of verifying the whole or any part of the claim.
- 3) Proof of debts – It is duty of the official liquidation to satisfy himself that the sums claimed by the creditor were really due to it. The official liquidator had the power to insist on proof from the respondent firm notwithstanding the entries in the accounts books of the company which prima facie, establish the indebtedness. In re, Mysore Spun Silk Mills Ltd. (In liquidation), (1964) 34 Comp Cas 1005 (Mys-DB)

Admission or rejection of claims (Section 40)

- 1) The liquidator may, after verification of claims under section 39, either admit or reject the claim, in whole or in part, as the case may be:
 - a) Provided that where the liquidator rejects a claim, he shall record in writing the reasons

for such rejection.

- 2) The liquidator shall communicate his decision of admission or rejection of claims to the creditor and corporate debtor within seven days of such admission or rejection of claims.
- 3) Under proviso to S. 40(1) there is an express requirement for a Liquidator to record his reason for rejection of a claim. However, there is also a provision for appeal by any creditor under S. 42 of the Code. This appeal is not restricted to decision of Liquidator rejecting a claim but by amendment the word “accepting” has also been included.

This which implies that the liquidator in compliance with the rules of natural justice has to provide reasons while both accepting and rejecting a claim.

An Adjudicating Authority can interfere when a Liquidator has not exercised his discretion in a bona fide manner or where he has made a proposal which no reasonable person would act on. Liquidator, as an officer of the Adjudicating Authority is expected to perform his duties fairly, justly and honorably in dealing with the claims of persons. Indian Oil Corpn. Ltd v. Ashish Arjun Kumar Rathi, CA (AT) (Insolvency) No. 1116 of 2019, dated 22- 05-2020 (NCLAT-New Delhi) (Unreported).

Determination of valuation of claims (Section 41)

- 1) The liquidator shall determine the value of claims admitted under section 40 in such manner as may be specified by the Board.
- 2) Claim earlier rejected by Interim Resolution Professional - It is open to the creditor whose claim was earlier rejected file the claim and the Liquidator is required to consider the same in accordance with law. Concept Management Consulting Ltd. v. Anand Chandra Swain, [2019] taxmann.com 37 : [2019] 154 SCL 368 : [2019] 151 CLA 164 (NCLA-New Delhi).

Scope of set off – In Bharti Airtel Ltd. v. Vijaykumar V. Iyer, [2019] 154 SCL 56 : [2019] 106 taxmann.com 103 : [2019] 150 CLA 419 (NCLT-Mum), the

Professional Enrichment

Adjudicating Authority extensively discussed the scope of set off in context of the Code. It observed that “although in legal set-off the substantive rights of the parties, both have respective cause of action, are to be merged in a judgment of the Court, but the procedure of adjustment in any case shall remain identical that the cross-claims to be tried together instead of having to be subject to separate action or suit and thereafter a cash-flow statement to be prepared so as to relieve the debtor from the burden of payment of entire debt due to Insolvent, but to make arrangement of cash of the balance payment after due adjustment of cross-claims”

Appeal against the decision of liquidator (Section 42)

A creditor may appeal to the Adjudicating Authority against the decision of the liquidator [accepting or] rejecting the claims within fourteen days of the receipt of such decision.

Preferential transactions and relevant time (Section 43)

Preferential transactions and relevant time (Section 43)

- 1) Where the liquidator or the resolution professional, as the case may be, is of the opinion that the corporate debtor has at a relevant time given a preference in such transactions and in such manner as laid down in sub-section (2) to any persons as referred to in sub-section (4), he shall apply to the Adjudicating Authority for avoidance of preferential transactions and for, one or more of the orders referred to in section 44.
- 2) A corporate debtor shall be deemed to have given a preference, if—
 - a) there is a transfer of property or an interest thereof of the corporate debtor for the benefit of a creditor or a surety or a guarantor for or on account of an antecedent financial debt or operational debt or other liabilities owed by the corporate debtor; and
 - b) the transfer under clause (a) has the effect of putting such creditor or a surety or a guarantor in a beneficial position than it would have been in the event of a distribution of assets being made in accordance with section 53.

- 3) Preference shall not include the transfers made in the ordinary course of Business and for which new value is created AND such transfers were registered with the Information Utility within 30 days
- 4) A preference shall be deemed to be given at a relevant time, if—
 - a) It is given to a related party (other than by reason only of being an employee), during the period of two years preceding the insolvency commencement date; or
 - b) a preference is given to a person other than a related party during the period of one year preceding the insolvency commencement date
 - c) The exchange of an asset of the company for one of at least equal value;
 - d) Payment or transfer of property to a person who is not a creditor of the company;
 - e) Payment to the creditor by a third party which does not involve any call on the company's assets.

Jurisdiction of NCLT to hear applications under S. 43 after approval of resolution plan

An application by RP under S. 43 of the Code cannot be continued after approval of resolution plan as the Code does not contemplate continuation of RP beyond CIRP period. **“An avoidance application for any preferential transaction is meant to give some benefit to the creditors of the Corporate...”**

Debtor. The benefit is not meant for the Corporate Debtor in its new avatar, after the approval of the Resolution Plan. The benefit of an avoidance application is not meant for the company, after the Resolution Plan is considered by the CoC and approved by the NCLT”.

Resolution applicant cannot file avoidance application.
– It was also clarified that the **successful resolution applicant cannot file an avoidance application** as the avoidance applications are neither for the benefit of the resolution applicants nor for the company after the resolution is complete. Venus Recruiters P. Ltd. V. Union of India, WP (C) No. 8705/2019 & CMA No. 36026/2019 dated 26-11-2020 (Delhi) (Unreported).

Professional Enrichment

Transaction for benefit of holding company

In Anuj Jain Interim Resolution for Jaypee Infrastructure LTD. V/S Axis Bank Ltd., (2020) 155 CLA 139: (2020) 221 Com Cas : 625 (SC') the IRP filed an application to claim that the mortgage of its properties (i.e. by the corporate debtors) as collateral to claim that mortgage of its properties (i.e. by the corporate debtors) as collateral securities for the loans and advances made by the lender banks and financial institution to holding company of the corporate debtor was preferential, undervalued and fraudulent, in terms of Sections 43, 55 and 66 of the Code. Discharge of the security interest created by the corporate debtor in favour of the lender of the holding was sought for and direction for such properties to be deemed to be vested in the; corporate debtors.

Supreme Court held that though there had not been any creditor debtor relationship between the lenders bank and corporate debtors, it would not be decisive of the question of the ultimate beneficiary of these transaction.

Transfer not made on ordinary course of business or financial affairs- preference of repayment of debt to one creditor over secured creditor, negligence in taking insurance policy for inventory resulting in loss of inventory in fire accident, showing of inflated debtors and incorrect book debts and stock statements and mismatch of receivable as per audited balance sheet and list of receivable submitted to the bank causing overall loss to lender, were all held to be transaction made not in ordinary course of business or financial affairs of corporate debtors and satisfy the criteria of this section to be labelled as preferential transaction Ram Ratan Kanooga v. Sunil Kathuria . (2020) 156 CLA 162 : (2019) 154 SCL 203: (2020) 10 CC-OL

423 (NCLT -MUM).

Allowing payment to the creditor by a third party who has a right to be recouped by the company; and

Performance of a contract in favour of a creditor who had already made payment in advance where performance were also due under other contract to other creditors in a similar positions, as where a seller of goods collects payment from a number of buyers but only makes of goods collects payments from number of buyers but only makes delivery to a few selected buyers.

Ratios from Judgements.....

What does not constitute a preference

The following transactions do not involve the giving of a preference:

- 1) Payment to a validly secured creditor of a sum not exceeding the value of his security, having regard to any preferential debts then in existence ranking in priority to the security;
- 2) Payments to avoid loss of an asset (e.g., Property or equipment held on lease) or of a right (e.g., Under a contract) having a value not less than the amount of the payment;
- 3) The grant of security for a contemporaneous or subsequent advance or other new value;

Orders in case of preferential transactions (Section 44)

- 1) The AA may, on an application made by the resolution professional or liquidator U/s 43(1), by an order:-
 - a) Require any property transferred in connection with the giving of the preference to be vested in the corporate debtor;
 - b) Require any property to be so vested if it represents the application either of the proceeds of sale of
 - c) property so transferred or of money so transferred;
 - d) Release or discharge (in whole or in part) of any security interest created by the corporate debtor;
 - e) Require any person to pay such sums in respect of benefits received by him from the Corporate Debtor Orders in case of preferential transactions
 - f) Direct any guarantor, whose financial debts or operational debts owed to any person were released or discharged (in whole or in part) by the giving of the preference, to be under such new or revived financial debts or operational debts to that person
 - g) Direct for providing security or charge on any property for the discharge of any financial

Professional Enrichment

debt or operational debt under the order, and such security or charge to have the same priority as a security or charge released or discharged wholly or in part by the giving of the preference; and

- h) Direct for providing the extent to which any person whose property is so vested in the corporate debtor, or on whom financial debts or operational debts are imposed by the order, are to be proved in the liquidation or the corporate insolvency resolution process for financial debts or operational debts which arose from, or were released or discharged wholly or in part by the giving of the preference:

Proviso to Sec 44 immunises the transactions entered in good faith and for value

Explanation I :- For the purpose of this section, it is clarified that where a person, who has acquired an interest in property from another person other than the corporate debtor, or who has received a benefit from the preference or such another person to whom the corporate debtor gave he preference,-

- i. Had sufficient information of the initiation or commencement of insolvency resolution process of the corporate debtor;
- ii. Is a related party, it shall be presumed that the interest was acquired or the benefit was received otherwise than in good faith unless the contrary is shown.

Explanation II. – A person shall be deemed to have sufficient information or opportunity to avail such information if a public announcement regarding the corporate insolvency resolution process has been made U/s 13.

Ratios from Judgements.....

Maintainability of application

An interim order is an application under Section 43, 45 read with 180 and 186 of the Code was passed directing repayment without deciding the question as to whether such an application was maintainable. Since the order

was not a speaking or reasoned order, it was to do be set aside and the matter was to be remitted to the Adjudicating Authority to decide the petition on the merit if not yet decided. SKS Power Generation Chattisgarh Ltd. V. V. Nagarajan, Resolution Professional, Cetha Ltd., [2019] 5 Comp Cas- OL 62 : [2019] 150 CLA (Snr.) 9 (NCLT-New Delhi).

Avoidance of undervalued transactions (section 45)

- 1) (1) If the liquidator or the resolution professional, as the case may be, on an examination of the transactions of the corporate debtor referred to in sub-section (2) determines that certain transactions were made during the relevant period under section 46, which were undervalued, he shall make an application to the Adjudicating Authority to declare such transactions as void and reverse the effect of such transaction in accordance with this Chapter.
- 2) A transaction shall be considered undervalued where the corporate debtor—
 - i. makes a gift to a person; or
 - ii. enters into a transaction with a person which involves the transfer of one or more assets by the corporate debtor for a consideration the value of which is significantly less than the value of the consideration provided by the corporate debtor,

And such transaction has not taken place in the ordinary course of business of the corporate debtor.

Ratios from Judgements.....

Test for undervalued transactions

In England, in order to be classified as an 'undervalued transaction' the transaction must be-

- i. Entered into by the company;
- ii. For a consideration;
- iii. The value of which measured in money or money's worth;
- iv. Is significantly less than the value;
- v. Also measured in money or money's worth;
- vi. Of the consideration provided by the company

Professional Enrichment

Examples of transactions at an undervalue

The company enters into a transaction at an undervalue where it:

- 1) Makes a gift of property.
- 2) Undertakes the burden (for example, binds itself to supply of goods or services) for no consideration (this would usually require deed)
- 3) Purchase an asset for significantly more, or sells an asset for significantly less, than its value.
- 4) Take an asset on lease or hire at a rent significantly above the rental value of the assets or lets it out on lease or hire at a rent significantly below its rental value.
- 5) Aggress to pay for services a sum significantly more, or to charge for services a sum significantly less, than their value.
- 6) Allows an asset to be retained by the other party in satisfaction of a claim against the company which is significantly less than the value of the asset or takes an assets in satisfaction of a claim which is significantly more than the value of the assets.
- 7) Accepts in satisfaction of a debt a sum significantly less than the recoverable value of the debt; or
- 8) Gives a guarantee or indemnity and receives by way of benefit significantly less than the value. of the benefit conferred. by the guarantee or takes a guarantee or indemnity against a benefit which is significantly less in value than that of the guarantee.

In all of these cases, the company either receives nothing for what it supplies or pays significantly too much or receives significantly too little to ensure equality of exchange, and the transaction will be vulnerable to the application of avoidance provisions

Relevant period for avoidable transactions (Section 46)

1. In an application for avoiding a transaction at undervalue, the liquidator or the resolution professional, as the case may be, shall demonstrate that –
 - i. Such transaction was made with any person within the period of one year preceding the insolvency commencement date; or

- ii. Such transaction was made with a related party within the period of two years preceding the insolvency commencement date.

2. The Adjudicating Authority may require an independent expert to assess evidence relating to the value of the transactions mentioned in this section.

Application by creditor in cases of undervalued transactions (Section 47)

1. Where an undervalued transaction has taken place and the liquidator or the resolution professional as the case may be, has not reported it to the Adjudicating Authority, a creditor, member or a partner of a corporate debtor, as the case may be, may make an application to the Adjudicating Authority to declare such transactions void and reverse their effect in accordance with this Chapter.
2. Where, the Adjudicating Authority, after examination of the application made under sub-section (1), is satisfied that –
 1. Undervalued transactions had occurred; and
 2. Liquidator or the resolution professional, as the case may be, after having sufficient information (Explanation II of Section 44) or opportunity to avail information of such transactions did not report such transaction to the Adjudicating Authority,

It shall pass an order-

- a) Restoring the position as it existed before such transactions and reversing the effects thereof in the manner as laid down in section 45 and section 48;
- b) Requiring the Board to initiate disciplinary proceedings against the liquidator or the resolution professional as the case may be.

Order in cases of undervalued transactions (section 48)

1. The order of the AA u/s 45(1) may provide for the following:-
 - a) Require any property transferred as part

Professional Enrichment

of the transaction, to be vested in the corporate debtor;

- b) Release or discharge (in whole or in part) any security interest granted by the corporate debtor;
- c) Require any person to pay such sums, in respect of benefits received by such person, to the liquidator or the resolution professional as the case may be, as the Adjudicating Authority may direct; or
- d) Require the payment of such consideration for the transaction as may be determined by an independent expert.

Transactions defrauding creditors (Section 49)

1. (1) Where the corporate debtor has entered into an undervalued transaction as referred to in sub-section (2) of section 45 and the Adjudicating Authority is satisfied that such transaction was deliberately entered into by such corporate debtor –
 - a) For keeping assets of the corporate debtor beyond the reach of any person who is entitled to make a claim against the corporate debtor; or
 - b) In order to adversely affect the interests of such a person in relation to the claim, the Adjudicating Authority shall make an order –
 - i. Restoring the position as it existed before such transaction as if the transaction had not been entered into; and
 - ii. Protecting the interests of persons who are victims of such transactions: Transactions defrauding creditors (Section 49) continue.....
2. Provided that an order under this section –
 - a) Shall not affect any interest in property which was acquired from a person other than the corporate debtor and was acquired in good faith, for value and without notice of the relevant circumstances, or affect any interest deriving from such an interest, and
 - b) Shall not require a person who received a benefit from the transaction in good faith, for value and without notice of the relevant circumstances to pay any sum unless he was a party to the transaction.

Extortionate credit transactions (Section 50)

1. Where the corporate debtor has been a party to an extortionate credit transaction involving the receipt of financial or operational debt during the period within two years preceding the insolvency commencement date, the liquidator or the resolution professional as the case may be, may make an application for avoidance of such transaction to the Adjudicating Authority if the terms of such transaction required exorbitant payments to be made by the corporate debtor.
2. The Board may specify the circumstances in which a transactions which shall be covered under sub-section (1).

Explanation. - For the purpose of this section, it is clarified that any debt extended by any person providing financial services which is in compliance with any law for the time being in force in relation to such debt shall in no event be considered as an extortionate credit transaction.

Ratios from Judgements.....

Test for determining extortionate credit transactions

- ♦ A transaction is extortionate if, having regard to the risk accepted by the person providing the credit, the terms of it are or were such as to require grossly exorbitant payments to be made, whether unconditionally or in certain contingencies, in respect of the provision of the credit, or it otherwise grossly contravened ordinary principles of fair dealing; and it is to be presumed, unless the contrary is proved, that a transaction with respect to which an application is made or, as the case may be, was extortionate. This test for whether transaction is extortionate is a very stringent one; "Extortionate" does not mean unwise.
- ♦ Extortionate credit transaction is neither invalid nor necessarily wholly reversible but may be set aside, wholly or in part, or simply varied as the justice of the case requires.
- ♦ Money advanced to the corporate debtor at an exorbitant rate of interest of 40% to 60% per annum. was nowhere near the business standards as prevailing in the market would attract S. 50 of the Code. Such transactions within a period of two years preceding insolvency commencement date were to

Professional Enrichment

be treated as extortionate credit transactions. Even for those transactions which were not covered under the said period, the NCLAT was of the view that the claim of exorbitant rates of interest was extortionate regarding interest and thus illegal. Therefore, such claimants were permitted to submit their claims for the principal amount as unsecured creditors. *Animika Singh v. Shinhan Bank, Company. Appeal (AT) (Insolvency) No. 912-913 of 2019, dated 24-06-2020 (NCLAT New Delhi)*

- ♦ Supreme Court Observed that “In our view,
- ♦ The question of intent is not involved in S. 43 of the Code and by virtue of legal fiction, upon existence of the given ingredients, a transaction is deemed to be of giving preference at a relevant time. However, whether a transaction is undervalued requires a different enquiry as per Section 45 and 46 of the Code and Significantly, such application can also be made by the creditor under S. 47 of the Code.
- ♦ If the undervalued transaction is referable to sub-section (2) of S. 45 of the Code, the Adjudicating Authority may look at the intent to examine if such undervaluation was to defraud the creditors.
- ♦ *Anuj Jain Interim resolution Professional for Jaypee Infratech Ltd. v. Axis Bank Ltd., (2020) 155 CLA 139:*
- ♦ Before assigning the assets of the corporate debtor to the Liquidator, it is the duty of the Adjudicating Authority to consider the right of a secured creditor to realize the security interest and sit out of liquidation in accordance with S.52 of the code. Any order in the contravention of the same is liable to be set aside. *Bank of Baroda v. Mrs. Deepa Venkat Ramani, [2020] 158 SCL 320 (NCLT-New Delhi).*
- ♦ Secured creditor staying outside winding up
- ♦ A secured creditor is defined in S.3(30) of IBC, 2016 as a creditor in favour of whom a security interest is created.
- ♦ Creditor to inform Liquidator and not to apply Adjudicating Authority

Orders of Adjudicating Authority in respect of extortionate credit transactions (section 51)

Where the Adjudicating Authority after examining the application made under sub-section (1) of section 50 is

satisfied that the terms of a credit transaction required exorbitant payments to be made by the corporate debtor, it shall, by an order –

- a) Restore the position as it existed prior to such transaction;
- b) Set aside the whole or part of the debt created on account of the extortionate credit transaction;
- c) Modify the terms of the transaction;
- d) Require any person who is, or was, a party to the transaction to repay any amount received by such person; or
- e) Require any security interest that was created as part of the extortionate credit transaction to be relinquished in favour of the liquidator or the resolution professional, as the case may be.

Secured creditor in liquidation proceedings (section 52)

1. A secured creditor in the liquidation proceedings may-
 - a) Relinquish its security interest to the liquidation estate and receive proceeds from the sale of assets by the liquidator in the manner specified in section 53; or
 - b) Realise its security interest in the manner specified in this section.
2. Where the secured creditor realises security interest under clause (b) of sub-section (1), he shall inform the liquidator of such security interest and identify the asset subject to such security interest to be realised.
3. Before any security interest is realised by the secured creditor under this section, the liquidator shall verify such security interest and permit the secured creditor to realise only such security interest, the existence of which may be proved either –
 - a) By the records of such security interest maintained by an information utility; or
 - b) By such other means as may be specified by the Board.

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4. A secured creditor may enforce, realise, settle, compromise or deal with the secured assets in accordance with such law as applicable to the security interest being realised and to the secured creditor and apply the proceeds to recover the debts due to it.
5. If in the course of realising a secured asset, any secured creditor faces resistance from the corporate debtor or any person connected therewith in taking possession of, selling or otherwise disposing off the security, the secured creditor may make an application to the Adjudicating Authority to facilitate the secured creditor to realise such security interest in accordance with law for the time being in force.
6. The Adjudicating Authority, on the receipt of an application from a secured creditor under sub-section (5) may pass such order as may be necessary to permit a secured creditor to realise security interest in accordance with law for the time being in force.
7. Where the enforcement of the security interest under sub-section (4) yields an amount by way of proceeds which is in excess of the debts due to the secured creditor, the secured creditor shall-
 - a) Account to the liquidator for such surplus; and
 - b) Tender to the liquidator any surplus funds received from the enforcement of such secured assets.
8. The amount of insolvency resolution process costs, due from secured creditors who realise their security interests in the manner provided in this section, shall be deducted from the proceeds of any realisation by such secured creditors, and they shall transfer such amounts to the liquidator to be included in the liquidation estate.
9. Where the proceeds of the realisation of the secured assets are not adequate to repay debts owed to the secured creditor, the unpaid debts of such secured creditor shall be paid by the liquidator in the manner specified in clause (e) of sub-section (1) of section 53.

Ratios from Judgements.....

- ♦ Registration of Charge- Any charge which is not

registered as stipulated under S. 125 of CA, 1956 or S. 77 of CA, 2013 was void against the liquidator and any creditor of the company.

- ♦ The Tribunal held that the initiation of SARFAESI Proceedings fell within the purview of S. 52(4) of the Code.
- ♦ Application to Adjudicating Authority only in case of difficulty (Sub-section (6))
- ♦ If a secured creditor directly applies before the Adjudicating Authority for allowing it to recover the secured assets under S. 52(6) of the Code, such application is not maintainable. J.M. Financial Asset Reconstruction Co. Ltd. v. Finquest Financial Solutions P. Ltd., [2020] 2018 Comp Cas 65: Ratios from Judgements..... continue....
- ♦ There is no provision to file an application under S. 52 of the code before the Adjudicating Authority for enforcement of any right by secured creditor. State bank of India v. Anuj Bajpai, [2019] 217 Comp Cas 547 (NCLAT-New Delhi).
- ♦ Enforcement of security interest [Sub-section (4)]
- ♦ The Liquidator cannot impose conditions on the enforcement of security interest by the secured creditor under S. 52 of the Code. In Anil Goel v. REI Agro, (2018) 146 SCL 421:2018

Distribution of Assets: Order of priority (Section 53)

- 1) The proceeds from the sale of the liquidation assets shall be distributed in the following order of priority :-
 - a) The insolvency resolution process costs and the liquidation costs paid in full;
 - b) The following debts which shall rank equally between and among the following: -
 - i. Workmen's dues for the period of twenty-four months preceding the liquidation commencement date; and
 - ii. Debts owed to a secured creditor in the event such secured creditor has relinquished security in the manner set out in section 52;
 - c) Wages and any unpaid dues owed to employees other than workmen for the

Professional Enrichment

period of twelve months preceding the liquidation commencement date;

- d) Financial debts owed to unsecured creditors; Distribution of Assets:
 - e. The following dues shall rank equally between and among the following: -
 - i. Any amount due to the Central Government and the State Government including the amount to be received on account of the Consolidated Fund of India and the Consolidated Fund of a State, if any, in respect of the whole or any part of the period of two years preceding the liquidation commencement date;
 - ii. Debts owed to a secured creditor for any amount unpaid following the enforcement of security interest;
 - f. Any remaining debts and dues
 - g. Preference shareholders, if any; and
 - h. Equity shareholders or partners, as the case may be.
- 2) Any contractual arrangements between recipients under sub-section (1) with equal ranking, if disrupting the order of priority under that sub-section shall be disregarded by the liquidator.
- 3) The fees payable to the liquidator shall be deducted proportionately from the proceeds payable to each class of recipients under sub-section (1), and the proceeds to the relevant recipient shall be distributed after such deduction

Explanation :- If the debt can not be paid in full in a class of recipients it will be paid in equal proportion within the same class of recipients.

Ratios from Judgements.....

Scheme of Selection

- ♦ All operational creditor are ranked equally. A Resolution plan which discriminates the distribution of liquidation value amongst the operational creditors is unsustainable in law and will need modification.
- ♦ While contractually unsecured financial creditors and unsecured operational creditors stand in the

same ranking, under S. 53 of the Code operational creditors have been given priority two ranks below unsecured financial creditors. J.R. Agro Industries P Ltd. v. Swadisht Oils P. Ltd., (2018) 146 CLA 260 (NCLT-Ahb).

Enforcement by Secured Creditors having interest in the same assets [Sub- section (7)]

- ♦ Only one secured creditor can enforce his right for realization of its debt out of the secured assets in terms S. 52 of the Code. J.M. Financial Assets Reconstruction Co. Ltd. v. Finquest Financial Solutions P. Ltd., [2020]

Decision of majority of secured creditors to relinquish their Interest binding on Minority

- ♦ Since the respondent does not have a requisite 60% value in secured interest, therefore, the respondent does not have right to realize its security interest, because it would be respondent does not right to realize its security interest, because it would be detrimental to the liquidation process and the interest of the remaining ten secured creditors.
- ♦ Even if the Income tax Department was construed to be a secured creditor as per the provisions of IT Act, 1961, it cannot be claimed as per secured creditor under the Code as there is no provision in the IBBI (Corporate Insolvency Resolution Process) Regulations, 2016 for the Operational creditors to claim that corporate debtor has created security interest while there is such provision in favour of financial creditor. Principal Commissioner of Income-tax v. C. Ramasubramaniam, Resolution Professional for Surana Corporation Ltd., CA (AT) (Insolvency) No. 1290 of 2019, dated 13-12-2019 (NCLAT-New Delhi) (unreported).
- ♦ No distinction between consenting and dissenting financial creditors
- ♦ The right dissent has been provided under S. 30(4) of Code. A Creditor who has dissented cannot be unsuited on the ground that he has dissented and eligible only for liquidation value.

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Dissolution of corporate debtor (section 54)

- 1) Where the assets of the corporate debtor have been completely liquidated, the liquidator shall make an application to the Adjudicating Authority for the dissolution of such corporate debtor.
- 2) The Adjudicating Authority shall on application filed by the liquidator under sub-section (1) order

that the corporate debtor shall be dissolved from the date of that order and the corporate debtor shall be dissolved accordingly

- 3) A copy of an order under sub-section (2) shall within seven days from the date of such order, be forwarded to the authority with which the corporate debtor is registered.



Process of Liquidation

1. Insolvency Resolution Failure
2. Liquidation Order
3. Moratorium
4. Appointment of Liquidator
5. Liquidator makes public announcement
6. Receipt of claims and verification
7. Submission of preliminary reports
8. Creation of Progress Report
9. Maintenance of records and books
10. Appointing and assisting professional
11. Recovery of assets
12. Assets estate creation
13. Preparation of assets memorandum
14. Valuation of assets
15. Realization of Security Interest
16. Selling the assets
17. Distributing the profits among claimants
18. Distributing the unsold assets among claimants
19. Dissolution of corporate debtors

Professional Enrichment

Pre Initiation of Liquidation Process

Preparation of
Financial Accounts
DAY - 0

Preparation of
Valuation Report
Day 8

Declaration
of Solvency
Day 10

Board Meeting
Day 17

Notice for
Board Meeting
Day 10*

Appointment
of Liquidator
Day 40

Special
Resolution-
EGM DAY 38
(Liquidation
Commencement
date)**

Notice For
EGM DAY 17 *

* A shorter notice for Board Meeting
and EGM can help in reducing the overall time lines
** EGM must be held within Four week of Declaration date

Post Initiation of Liquidation Process

Publication of Notice
DAY 45

Submission of Claims
DAY 75

Verification of Claims
DAY 103

Distribution of Assets
DAY 110

Preparation of Final
Report DAY 118

Preparation of
Preliminary Report

Realization of Assets
Day 103

Audit of Liquidation
Account DAY 115

Application to NCLT
for Liquidation
DAY 120

Voluntary Liquidation of Corporate Persons Its covered under Part II Chapter V of IBC, 2016 with section 59

STEP	PROCESS	TIMELINE
Step -1	1. Select one date for finalization of account and prepare provisional financial statement of that date	T - 39
	2. Report by the Registered Valuer about the valuation of the assets of the Company, if any.	T - 32
	3. Declaration of Solvency duly verified by an Affidavit by Majority of Directors of the Company on Stamp paper of Rs.100/	T - 29
	Affidavit to be accompanied by :	
	a) Audited Financial Statement of past two years	
	b) Records of Business Operations of past two year	
	c) Report by the Registered Valuer about the valuation of the assets of the Company, if any.	
	d) Latest Financial Position of the Company, if any.	
Step -2	1. Sent 7 days notice for board meeting (Issue shorter notice if consent received from all director)	T - 29
	2. Convene a board meeting to discuss and approve subject to the approval of Members in the General Meeting to resolve:-	T - 22
	a) Voluntary winding up of the Company	
	b) Appointment of Liquidator (An insolvency professional shall be appointed who is independent from the company)	

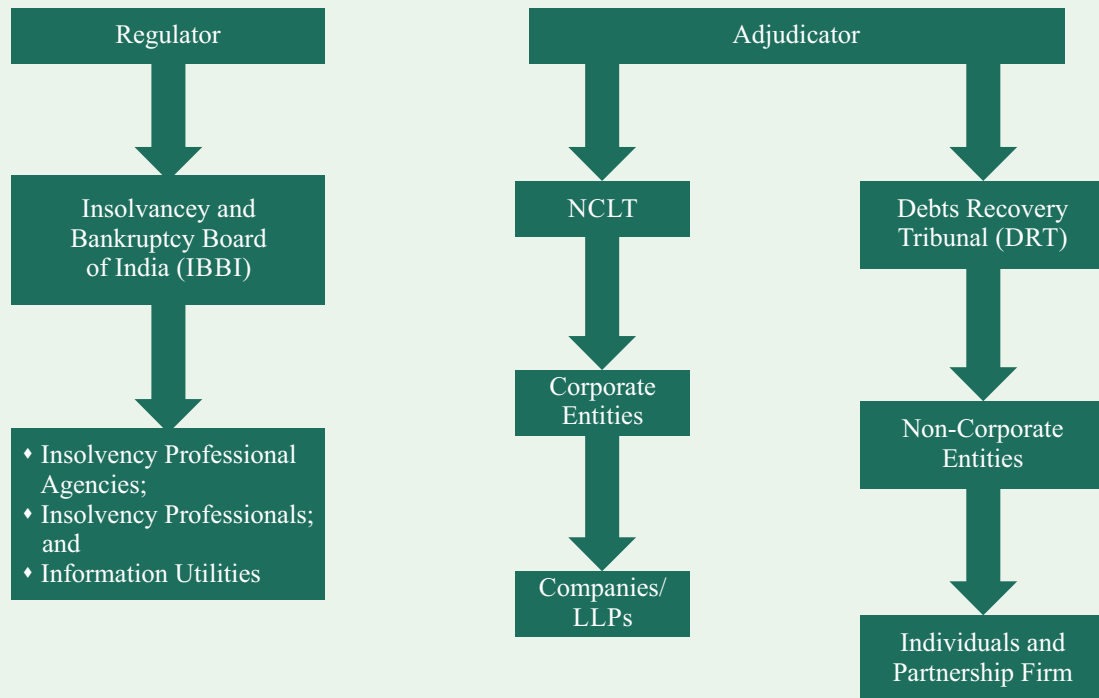


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STEP	PROCESS	TIMELINE
	c) To consider and approve Declaration of Solvency and affidavit by the directors of the Company.	
Step -3	Issues 21 Days notices in writing for calling of a General Meeting proposing the resolution along with the explanatory statement.	T - 21
	If Notice Period is less than 21 Days then Consent of all Member required for Shorter Notice	
Step - 4	In General Meeting pass the ordinary resolution for the purpose of winding up by special resolution for....	T
	1) Voluntary Winding up of the Company And	
	2) Appointment of Insolvency Professional to act as Liquidator	
	Company needs to obtain approval from 67% of total Creditor of company (if any)	
Step -5	Public announcement of Voluntary Liquidation made within 5 Days from the liquidation commencement date in one English and one regional language newspaper and on website corporate person and if any designated by the board for this purpose.	T + 5
	Company to intimate IBBI regarding initiation of Voluntary Winding up within 7 days of approval of liquidation of Company /subsequent approval by the creditors owing 2/3rd of the Value of the Debt of the Company.	T + 7
	Intimation to Income Tax Department within One month of passing resolution regarding Voluntary Winding up of the Company and to obtain NOC for the same.	
	Intimate ROC in Form MGT-14 – For Board Resolution and Special Resolution &	
STEP	PROCESS	TIMELINE
	Intimate ROC in Form GNL-2 – For Declaration of Solvency & Appointment of Liquidator.	
Step - 6	Liquidator to open Bank Account within One month of passing of SR.	T + 30
	Bank Account needs to be opened in the Name of the Company followed by the words 'in voluntary liquidation' in a scheduled bank.	
Step - 7	Preparation of Preliminary Report by Liquidator and submitted to corporate person within 45 days of commencement of liquidation	T + 45
Step -8	Submission of Proof of Claim	
	All stakeholder submit their claim within 30 days of liquidation commencement date	T + 30
	The liquidator shall verify the claims submitted within 30 days from the last date for receipt of claims and may either admit or reject the claim.	T + 60
	Liquidator to prepare list of stakeholders within 45 days from the last date for receipt of claims.	T + 75
Step -9	Liquidator to value and sell the assets of the Corporate Person in the manner and mode approved by the Stake Holders.	T + 75
	a) Liquidator to deposit proceeds of distribution in Bank Account.	
	b) Distribution of Proceeds within 6 months from the receipt of amount to the stakeholders & Distribution of Assets that cannot be sold with the approval of Stakeholders.	
STEP	PROCESS	TIMELINE
Step -10	Preparation of Final Report by Liquidator. The report will have audited financials evidencing payment of liability and distribution of assets and no litigation is pending	T + 80
	Submission of Final Report post completion of Process to ROC, IBBI and NCLT along with application to NCLT for dissolution of XYZ	T + 80
Step-11	Order from NCLT for dissolution of XYZ i.e. Date of Dissolution	
	Order of NCLT to be filed with ROC	

Professional Enrichment

FRAMEWORK OF THE CODE



1) Adjudicating Authority for Corporate Person (NCLT) (section 60)

The adjudicating authority for corporate person as mentioned above shall be the NCLT having territorial jurisdiction over the place where the registered office of the corporate person is located. It is important to note that in case where a corporate insolvency resolution process or liquidation proceedings of a corporate debtor is pending before NCLT, then the application for insolvency resolution or bankruptcy of personal guarantor of such corporate debtor shall also be filed before the same NCLT as that of the corporate debtor.

If the insolvency process or bankruptcy proceedings of personal guarantor of the corporate debtor is pending before any court or tribunal then it shall in such a situation shall transferred to the same adjudicating authority which is dealing with the insolvency resolution process or liquidation proceedings of the corporate debtor.

2) Appeals and Appellate Authority (NCLAT) (Section 61)

Once the application under IBC is admitted by the NCLT from the corporate person then any person

aggrieved by the order of NCLT may prefer an appeal before the NCLAT. Every appeal shall be filed before NCLAT within thirty days. An appeal can be filed beyond thirty days if NCLAT is satisfied that there was a sufficient cause for not being able to file within the thirty days duration, but then within fifteen days period after thirty days only.

3) Appeal to Supreme Court (Supreme Court) (Section 62)

If a person is not satisfied and is aggrieved by the order of NCLAT then in such a case he can file an appeal to the Supreme Court. The application to be filed shall be based only on question of law that arise out of the order only.

The application before Supreme Court shall be filed within forty-five days from the date of receipt of order of NCLAT. However, the Supreme Court may allow extension beyond forty-five days if it is satisfied that person was prevented by sufficient cause. The extension allowed shall be only fifteen days beyond the forty-five days duration.

Professional Enrichment

4) Civil Court not to have jurisdiction (Section 63)

No civil court or authority shall have jurisdiction to entertain any suit or proceedings in respect of any matter on which National Company Law Tribunal or the National Company Law Appellate Tribunal has jurisdiction under this Code.

Civil court not to have jurisdiction.

5) Expeditious disposal of application (Section 64)

Civil court not to have jurisdiction (Section 63) The application shall be disposed off by NCLT or NCLAT within the period specified in the Code. However, if the application is not disposed off within the prescribed time limit, then the NCLT or NCLAT shall record the reason for delay in writing.

The President of NCLT or the Chairperson of NCLAT shall take the reason for delay into consideration and thereafter if required may extend the period prescribed in the act by another period not exceeding ten days.

6) Fraudulent or malicious initiation of proceedings (Section 65)

- a) If, any person initiates the insolvency resolution process or liquidation proceedings fraudulently or with malicious intent for any purpose other than for the resolution of insolvency, or liquidation, as the case may be, the Adjudicating Authority may impose upon such person a penalty which shall not be less than one lakh rupees, but may extend to one crore rupees.
- b) If, any person initiates voluntary liquidation proceedings with the intent to defraud any person, the Adjudicating Authority may impose upon such person a penalty which shall not be less than one lakh rupees but may extend to one crore rupees.
- c) If, any person initiates the pre-packaged insolvency resolution process—
 - i. Fraudulently or with malicious intent for any purpose other than for the resolution of insolvency; or
 - ii. With the intent to defraud any person, the Adjudicating Authority may impose upon such person a penalty which shall not be less than one lakh rupees, but may extend to one

crore rupees.

7) Fraudulent Trading or wrongful trading (Section 66)

- a) If during the corporate insolvency resolution process or a liquidation process, it is found that any business of the corporate debtor has been carried on with intent to defraud creditors of the corporate debtor or for any fraudulent purpose, the Adjudicating Authority may on the application of the resolution professional pass an order that any persons who were knowingly parties to the carrying on of the business in such manner shall be liable to make such contributions to the assets of the corporate debtor as it may deem fit.
- b) On an application made by a resolution professional during the corporate insolvency resolution process, the Adjudicating Authority may by an order direct that a director or partner of the corporate debtor, as the case may be, shall be liable to make such contribution to the assets of the corporate debtor as it may deem fit, if—
 - i. Before the insolvency commencement date, such director or partner knew or ought to have known that there was no reasonable prospect of avoiding the commencement of a corporate insolvency resolution process in respect of such corporate debtor; and
 - ii. such director or partner did not exercise due diligence in minimising the potential loss to the creditors of the corporate debtor.
- b) Notwithstanding anything contained in this section, no application shall be filed by a resolution professional under subsection (2), in respect of such default against which initiation of corporate insolvency resolution process is suspended as per section 10A.

8) Proceeding under section 66 (Section 67)

- a) Where the Adjudicating Authority has passed an order under sub-section (1) or sub-section (2) of section 66, as the case may be, it may give such further directions as it may deem appropriate for giving effect to the order, and in particular, the Adjudicating Authority may—

Professional Enrichment

- i. Provide for the liability of any person under the order to be a charge on any debt or obligation due from the corporate debtor to him, or on any mortgage or charge or any interest in a mortgage or charge on assets of the corporate debtor held by or vested in him, or any person on his behalf, or any person claiming as assignee from or through the person liable or any person acting on his behalf; and
 - ii. From time to time, make such further directions as may be necessary for enforcing any charge imposed under this section.
- b) Where the Adjudicating Authority has passed an order under sub-section (1) or sub-section (2) of section 66, as the case may be, in relation to a person who is a creditor of the corporate debtor, it may, by an order, direct that the whole or any part of any debt

owed by the corporate debtor to that person and any interest thereon shall rank in the order of priority of payment under section 53 after all other debts owed by the corporate debtor.

9) Fraudulent management of corporate debtor during prepackaged insolvency resolution process (Section 67A)

On and after the pre-packaged insolvency commencement date, where an officer of the corporate debtor manages its affairs with the intent to defraud creditors of the corporate debtor or for any fraudulent purpose, the Adjudicating Authority may, on an application by the resolution professional, pass an order imposing upon any such officer, a penalty which shall not be less than one lakh rupees, but may extend to one crore rupees.

Offence and Penalty

Its covered under Part II Chapter VII of IBC, 2016 with section 68 to 77A

Offences committed by the officer of the corporate debtor or

Section	Detail of offences	Liability	Punishment & penalty
Section 68	Willfully concealed any property or any debt valued at 10,000 Indian rupees or more within 12 months immediately preceding insolvency commencement date. Fraudulently removed any part of the property of the value of 10,000 Indian rupees or more. Willfully concealed, destroyed, mutilated or falsified any books, papers, etc. Willfully created any security interest over or disposed of any property	Any officer of the CD	Imprisonment of three to five years; or Fine of one lakh to one crore Indian rupees; or Both
Section 69	Transaction defrauding creditors (on or after commencement of insolvency)	CD and officer	Imprisonment of one to five years; or Fine of one lakh to one crore Indian rupees; or Both
Section 70	Misconduct in the course of CIRP Not disclosure of information to the RP Not giving custody and control to the RP Not providing books of accounts to the RP	Any officer of the CD	Imprisonment of three to five years; or Fine of one lakh to one crore Indian rupees; or Both

Professional Enrichment

Section	Detail of offences	Liability	Punishment & penalty
Section 71	Destruction, mutilation, alteration, or falsification of books of accounts	Any relevant person	Imprisonment of three to five years; or Fine of one lakh to one crore Indian rupees; or Both
Section 72	Punishment for willful and material omissions from statements relating to affairs of the CD	Officer of the CD	Imprisonment of three to five years; or Fine of one lakh to one crore Indian rupees; or Both
Section 73	Punishment for false representation to creditors	Officer of the CD	Imprisonment of three to five years; or Fine of one lakh to one crore Indian rupees; or Both
Section 74(1)	Punishment for contravention of moratorium	CD or its officers	Imprisonment of three to five years; or Fine of one lakh to three lakh Indian rupees; or Both
Section 74(2)	Punishment for contravention of moratorium by a creditor	Person authorizing or permitting contravention of section 14 by a creditor	Imprisonment of one to five years; or Fine of one lakh to one crore Indian rupees; or Both
Section	Detail of offences	Liability	Punishment & penalty
Section 74(3)	Punishment for contravention of approved resolution plan	CD or its officers or creditor, or any person on whom the approved resolution plan is binding	Imprisonment of one to five years; or Fine of one lakh to one crore Indian rupees; or Both
Section 75	Punishment for false information in section 7 application	Any relevant person	Fine of one lakh to one crore Indian rupees
Section 76	Punishment for non-disclosure of dispute or payment of debt by the OC	Operational Creditor or any other relevant person	Imprisonment of one to five years; or Fine of one lakh to one crore Indian rupees; or Both
Section 77	Punishment for providing false information in application made by the CD	CD or any other relevant person	Imprisonment of three to five years; or Fine of one lakh to one crore Indian rupees; or Both

REQUEST TO MEMBERS

It's a request to all respected members to contribute to Nagpur Branch Newsletter by way of sending articles, showcasing talent or any other matter related to professional enrichment on Nagpur Branch email address : nagpur@icai.org/nagpuricainewsletter@gmail.com

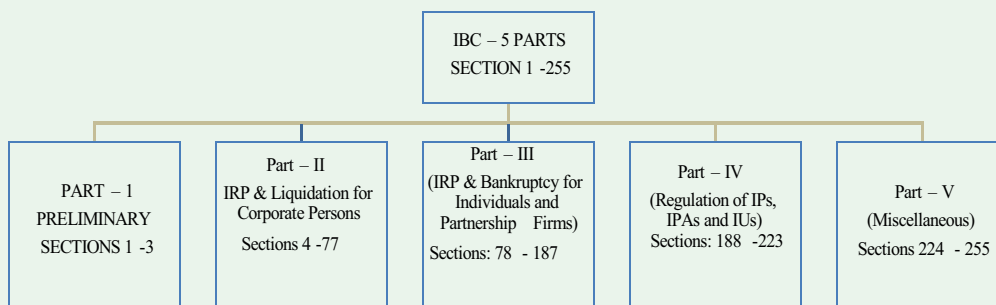
Professional Enrichment



IBBI, IPA, IP, IU and other Regulations

CA. Alok Saxena

FRAMEWORK OF IBC



ARRANGEMENT OF SECTIONS

Part-I - Preliminary (1-3 Sections)			Part-III - Insolvency Resolution and Bankruptcy for individuals and partnership firms (79-187 Section)			Part-IV - Regulation of Insolvency Professionals, Agencies and Information Utilities (36 Sections)		
Part-II - Insolvency Resolution and Liquidation for Corporate Persons (74 section)								
I Preliminary	4-5	2	I Preliminary	78-79	2	I Insolvency & Bankruptcy Board of India (IBBI)	188-195	8
II Corporate Insolvency Resolution Process (CIRP)	6-32	30	II Fresh Start Process	80-93	14	II Powers & Functions of the Board	196-198	3
III Liquidation	33-54	22	III Insolvency Resolution Process	94-120	27	III Insolvency Professional Agencies	199-205	7
IV Fast Track CIRP	55-58	4	IV Bankruptcy Order	121-148	28	IV Insolvency Professionals	206-208	3
V Voluntary Liquidation of CP	59	1	V Administration & distribution of the estate	149-178	30	V Information Utilities	209-216	8
VI Adjudicating Authority for Corporate Person	60-67	8	VI AA for Individual & Partnership Firms	179-183	5	VI Inspection & Investigation	217-220	4
VII Offences & Penalty	68-77	10	VII Offences & Penalties	184-187	4	VII Finance, Accounts & Audit	221-223	3
	77			110				36
Part-V - Miscellaneous (224-255 : 35 Sections)						Total : 261 Sections		
Schedules (1-12) - Amending 11 laws								

PART IV REGULATION OF INSOLVENCY PROFESSIONALS, AGENCIES AND INFORMATION UTILITIES

FOUR PILLARS OF THE CODE



Professional Enrichment

Chapter	Topic	Sections and Regulations
I & II	IBBI	1. Section 188 to 198 2. Governing Board Meetings Regulation 3. Advisory Committee Regulation 4. Engagement of Research Association and Consultants Regulation 5. Grievance & Complaint Handling Procedure Regul.
III	Insolvency Professional Agency	1. Section 199 to 205 2. Model Bye Laws and Governing Board of IPA 3. Insolvency Professional Agency Regulation
IV	Insolvency Professional	1. Section 206 to 208 2. Insolvency Professional Regulation
V	Information Utilities	1. Section 209 to 216 2. Information Utilities Regulation

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V	Information Utilities	1. Section 209 to 216 2. Information Utilities Regulation
VI	Inspection & Investigation	1. Section 217 to 220 2. Inspection and Investigation Regulations
VII	Finance and Accounts	1. Section 221 to 223

PART IV OF IBC

- CHAPTER I - IBBI
Sec 188 to 195
- CHAPTER II POWERS AND FUNCTIONS OF THE BOARD
Section 196 to 198

Relevant Regulations :

Governing Board Meetings Regulation
Advisory Committee Regulation
Engagement of Research Association and Consultants Regulation
Grievance & Complaint Handling Procedure Regulation

Professional Enrichment

- Insolvency and Bankruptcy Board of India was set up on **1st October 2016** under the Insolvency and Bankruptcy Code, 2016 (Code).
- It is a unique regulator which regulates a profession as well as the Rules for transactions.
- It writes and enforces rules for transactions, namely, corporate insolvency resolution, corporate liquidation, individual insolvency resolution and individual bankruptcy under the Code.
- It has regulatory oversight over the Insolvency Professionals, Insolvency Professional Agencies and Information Utilities.
- A key pillar of the IBC ecosystem

PART IV - CHAPTER I THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

Section	Description
188	Establishment and incorporation of Board.
189	Constitution of Board.
190	Removal of member from office.
191	Powers of Chairperson.
192	Meetings of Board.
193	Member not to participate in meetings in certain cases.
194	Vacancies, etc., not to invalidate proceedings of Board, Officers and employees of Board.
195	Power to designate financial sector regulator.

PART IV - CHAPTER I THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

- Sec 188. Establishment and incorporation of Board.
- With effect from such date as the CG may, by notification, appoint, there shall be established, for the purposes of this Code, a Board by the name of the Insolvency and Bankruptcy Board of India.
- The Board shall be a **body corporate** by the

name aforesaid, having **perpetual succession and a common seal**, with power, subject to the provisions of this Code, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

- The **head office** of the Board shall be at such place in the National **Capital Region**, The Board may establish offices at other places in India.

PART IV - CHAPTER I THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

Sec 189 Constitution of Board

The Board shall consist of the **following members** who shall be **appointed by the CG**, namely:—

- a Chairperson;
- three members from amongst the officers of the CG not below the rank of **Joint Secretary** or equivalent, one each to represent
 - The **Ministry of Finance**,
 - the **Ministry of Corporate Affairs** and ex officio – **Ministry of Law**,
- one member** to be **nominated by the RBI**, ex officio;
- five other members** to be nominated by the **CG**, of whom at least three shall be the whole-time members.

PART IV - CHAPTER I THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

Sec 189 Constitution of Board. Selection committee

- The appointment of the **Chairperson and the members of the Board** other than the ex officio shall be made after obtaining the recommendation of a **selection committee**

Professional Enrichment

consisting of-

- Cabinet Secretary-Chairperson;
- Secretary to the GOI to be nominated by the CG-Member;
- Chairperson of the IBBI (in case of selection of members of the Board)-Member;
- **three experts of repute from the field of finance, law, management, insolvency and related subjects, to be nominated by the CG-Members.**

PART IV - CHAPTER I THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

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194	Vacancies, etc., not to invalidate proceedings of Board, Officers and employees of Board.
195	Power to designate financial sector regulator.

- ♦ The term of office of the Chairperson and members (other than ex officio members)
 - shall be **five years** or
 - till they attain the age of **sixty-five years**,
 - whichever is **earlier**,
 - and they shall be **eligible for reappointment**.
- ♦ The salaries and allowances payable to, and other terms and conditions of service of, the Chairperson and members (other than the ex officio members) shall be such as may be prescribed.
- ♦ Insolvency and Bankruptcy Board of India (Salary, Allowances and other Terms and Conditions of Service of Chairperson and members) Rules, 2016.

PART IV - CHAPTER I THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

Section	Description
188	Establishment and incorporation of Board.
189	Constitution of Board.
190	Removal of member from office.
191	Powers of Chairperson.
192	Meetings of Board.
193	Member not to participate in meetings in certain cases.
194	Vacancies, etc., not to invalidate proceedings of Board, Officers and employees of Board.
195	Power to designate financial sector regulator.

PART IV - CHAPTER I THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

- ♦ **Sec 190 Removal of member from office.**
- ♦ The CG may remove a member from office if he—
 - is an **undischarged bankrupt**
 - has become **physically or mentally incapable**
 - has been **convicted of an offence**, which in the opinion of the CG involves **moral turpitude**
 - has, so **abused his position** as to render his continuation in office detrimental to the public interest. (with reasonable opportunity of being heard).

IBBI (PROCEDURE FOR GOVERNING BOARD MEETINGS) REGULATIONS, 2017

Regulation 11. Obligation of a Member to give information of Disqualification

- ♦ A Member shall, as soon as possible, inform

Professional Enrichment

the Board if he becomes subject to any of the disqualifications specified in section 190 of the Code.

- ♦ The Board shall inform the Central Government, if it comes to the notice of the Board that any Member has attracted any of the disqualifications .

PART IV - CHAPTER I THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

Section	Description
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PART IV - CHAPTER I THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

Sec 191 Powers of Chairperson.

The Chairperson shall have powers of

- ♦ general superintendence and direction of the affairs of the Board &
- ♦ may also exercise such other powers as may be delegated to him by the Board.

PART IV - CHAPTER I THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

Section	Description
188	Establishment and incorporation of Board.
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195	Power to designate financial sector regulator.

THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

Sec 192 - Meetings of Board.

The Board shall meet at such times and places, and observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be determined by regulations

THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

Sec 192 - Meetings of Board.

- ♦ The Chairperson, or if, for any reason, the Chairperson is unable to attend any meeting of the Board, any other member chosen by the members present at the meeting shall preside at the meeting.
- ♦ All questions which come up before any meeting of the Board shall be decided by a majority votes of the members present and voting, and, in the event of an equality of votes, the Chairperson, or in his absence, the person presiding, shall have a second or casting vote.
- ♦ **Insolvency and Bankruptcy Board of India (Procedure for Governing Board Meetings) Regulations, 2017**



Gist of Past Events of Nagpur Branch of ICAI (January 2022)

S. N.	Date	Programme Type	Topics	Speakers	Venue	No. of Part.
1	4/01/2022 & 5/01/2022	WICASA	<p>CA Students Conference Organized by: Students' Skills Enrichment Board (Board of Studies – Operations), ICAI</p> <p>Hosted by: Nagpur Branch of WIRC of ICAI & Nagpur Branch of WICASA</p> <p>Day-1</p> <p>Technical Session I: Taxation</p> <p>Special Session I: Interactive Session by Board of Studies</p> <p>Technical Session II: Economy</p> <p>Motivational Session I</p> <p>Day 2</p> <p>Technical Session III: Towards Entrepreneurship</p> <p>Motivational Session II</p> <p>Technical Session IV: Stepping into the Technoverse</p> <p>Special Session II – Independence 2.0</p> <p>Valedictory Session: Chief Guest: Dr. Shrirang Altekar Director, SIBM Guest of Hon: CA. Amar Agrawal</p>	<p>Chief Guest: Shri Anil Bam Ret. Major General</p> <p>Conference Chairman: CA. Jay Chhaira, Chairman, Students Skills Enrichment Board, ICAI</p> <p>Conference Director: CA. Tarun Ghia Central Council Member</p> <p>Host Branch Co-ordinators: CA. Saket Bagdia Chairman Nagpur Branch CA. Jiten Saglani Chairman Nagpur Branch of WICASA</p>	ICAI Bhavan Nagpur	192
2	15/01/2022	Study Circle	The Top 10 Series- GST VI January -2022 Changes under GST w.e.f 1st January-2022	Speaker: CA. Bhavesh Mittal Raipur	On Line	55

Gist of Past Events of Nagpur Branch of ICAI (January 2022)

3	17/12/2021 To 12/01/2022	Training Program	ICITSS- IPCC Orientation Program (148 th Batch)		On Line	40
4	17/12/2021 To 12/01/2022	Training Program	ICITSS- ITT Course (259 th Batch)		On Line	50
5	18/01/2022 To 02/02/2022	Training Program	ICITSS- IPCC Orientation Program (149 th Batch)		On Line	40
6	18/01/2022 To 02/02/2022	Training Program	ICITSS- ITT Course (260 th Batch)		On Line	50
7	20/01/2022	Career Counselling Program	A Webinar on Choosing Chartered Accountancy As A Career (Jointly with G.H. Raison Vidyaniketan)	CA. Saket Bagdia Chairman, Nagpur Branch CA. Jiten Saglani Vice Chairman Nagpur Branch & Chairman WICASA, Nagpur	On Line	
8	25/01/2022	VCM	VCM on Recent Updates in Search & Seizure under Income Tax Act	Speaker: CA Shardul Shah Mumbai	On Line	45
9	25/01/2022	Virtual Course	Understanding Bhagavad Gita (A Journey towards Business Management Excellence) Achieving overall Excellence and Success in Life (Jointly with Ahmedabad Branch)	Speaker: CA. Chetan Dalal, Mumbai Author of Gita for Professionals	On Line	
10	26/01/2022	WICASA	Regional Virtual CA Students Chess Competition On the occasion of Republic Day	Chief Guest : CA Nihar Jambusaria, Hon. Past President, ICAI Guest of Hon. CA. Manish Gadia Chairman, WIRC CA. Yashwant Kasar Chairman WICASA	On Line	127 Partici pants for all over the countr y
11	27/01/2022 To 12/02/2022	Training Program	ICITSS- ADV ITT Course (58 th Batch)	--	On Line	50

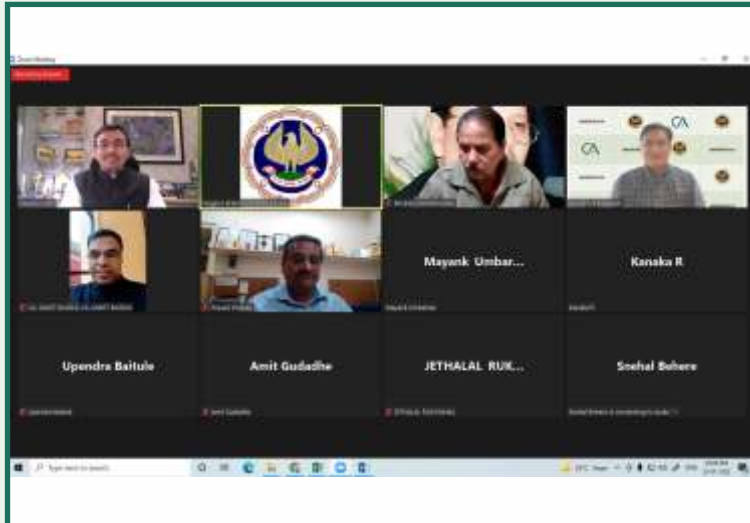


Gist of Past Events of Nagpur Branch of ICAI (January 2022)

12	27/01/2022	Virtual Course	Understanding Bhagavad Gita (A Journey towards Business Management Excellence) Balancing Family Life and Work (Jointly with Ahmedabad Branch)	Speaker: CA (Dr.) Nilesh Suchak Ahmedabad	On Line	
13	29/01/2022	Virtual Course	Understanding Bhagavad Gita (A Journey towards Business Management Excellence) Leadership and Relationship with Employees (Jointly with Ahmedabad Branch)	Speaker: Ms. Jaya Row Mumbai	On Line	
14	30/01/2021	Young Member Mentorship Program	Young Member Mentorship Program : Fireside Chat with New Age Professionals	Key Note Speaker: CA. Anil Bhandari CCM Special Guest: CA. Rushikesh Wangade Chairman WICASA Satara Branch Speakers: CA. Sharvari Watak Nagpur CA. Nitesh Jagwani Nagpur	On Line	75
15	31/01/2021		Aao Invest Kare telecast interaction on All India Redio	Speaker: CA. Akshay Gulhane Treasurer	All India Redio Aakshwani Bhavan, Nagpur	-

Glimpses of Past Events

Regional Virtual CA Students Chess Competition



42

Nagpur Branch of ICAI in News

TheHitavada

Nagpur City Line | 2022-01-26 | Page-6
ehitavada.com

Financial literacy is need of hour: CA Swapnil Ghatge

Business Bureau

IN AN attempt to make the students and members aware of derivatives and enrich their knowledge about the financial markets, the Nagpur branch of ICAI recently conducted a webinar - 'Derivatives Pathshala'.

CA Swapnil Ghatge, past Chairman of the Nagpur Branch, was the chief guest of the session. In his inaugural address, he emphasized on the need of staying updated with the latest happenings and developments in the financial world. 'Derivatives are instruments whose use we need to understand not just how to use them but also to understand what need not be downsize handling such a complex instrument,' he said elaborating the concept of financial literacy which has become the need of the hour.

At the outset, CA Saket Bagadia, Chairman of Nagpur Branch of ICAI, welcomed the chief guest and expert speakers CA Jiten Sogani and Ajay Barik. He appreciated the efforts of WICASA students' team for taking steps to conduct webinar on an informative and intriguing topic. He addressed the webinar by mentioning the eminence of the session and notable benefits that members and students would derive from the session.



CA Jiten Sogani



CA Sanjay Agrawal



CA Swapnil Ghatge



CA Saket Bagadia



CA Akshay Gulhane

CA Jiten Sogani, Chairman of Nagpur Branch of WICASA, in his opening remarks stressed on the fact, 'It's not about being right about the market all the time, but being consistent learner as the market is a place full of opportunities'. He emphasized upon the significance of understanding the use of derivatives which are very important financial instruments since the day they had been invented. The session was guided by a CA Jiten Sogani who is SEBI Certified Securities Market Trainer (SMART) and Ajay Barik, a Technical Analyst having in-depth knowledge of the topic derivatives. The speakers started with the basics of derivatives and made members and students understand the terms and terminology used in the market. Starting with derivatives, its types they gradually moved towards and futures, index and stock futures. They also threw light on options, call and put options, option pricing open interest and rollover in a very detailed manner. The technical aspects of market deal with topics like future payoffs, trading in futures and financial leverage. They supported the market theories with examples which made it easier for members and students to get through the basics as well as to understand the intricacies involved. The session marked the presence of CA Anjali Choksey, Secretary of Ahmedabad Branch, CA Jitesh Shah, Past Vice Chairman of WIRC of ICAI, and the managing committee members CA Sanjay Agrawal, Secretary and CA Akshay Gulhane, Treasurer of Nagpur Branch. The seminar was conducted jointly by Nagpur WICASA Team comprising Ananya Sonant, Arsal Barangi, Karan Agarwal, Karan Tajne, Parag Jain, Rudhika Taneja and Ravina Tayade.

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Nagpur City Line | 2022-01-04 | Page-6
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Prevent frauds at source itself: CA Nitin Alshi

Business Bureau

"FRAUDS in the business are intentional wrongdoing and management must apply strong internal procedure for better identification and prevention. One should be vigilant enough to prevent frauds at the source itself to avoid further complications and losses to business," said Chartered Accountant Nitin Alshi. He was speaking at the 'Widened Horizons' organised by Vidhika Management Association.

He was delivering a lecture on the topic 'Detection and Prevention of Frauds in Business'. CA Nitin Alshi has 20+ years of rich experience in strategic business advisory, internal audit, risk management and forensic accounting in large corporates.

While describing the behavioural aspects of fraudsters who are most likely to commit frauds, Alshi urged the businesses to stay alert and trace the wrong



CA Nitin Alshi

doings for preventing it. Fraud triangle of opportunity, rationalization and pressure was very well explained with examples. Various case studies related to payment, expense, inventory and receipt frauds etc. were discussed at length for the benefit of the audience.

He further said that fraudsters apply different tricks of misappropriation and camouflage their activities. Internally, internal frauds act like vermin in business and out the organization from within, so timely detection is of immense importance. Business dynamism provides various opportunities to fraudsters to effect transgression and especially the persons having a tendency to beat the system and procedures are most likely to

commit frauds. Larceny, use of business resources for personal use, account receivable and account payable are the major vulnerable areas of frauds, he added. In conclusion, he discussed various methods of combating frauds in business and enlightened the audience about the biggest risks related to frauds.

Prior to the presentation by CA Nitin Alshi, CA Anjali Choksey delivered a short session on 'Decoding CIBIL Score' wherein along with the importance of CIBIL Score, he also shared various aspects which are important for good CIBIL score. He also shared various myths and facts around CIBIL score including duration of information in CIBIL score which is available like credit history. Vidhika Management Association is based at Nagpur and meets every Sunday at 10.30am. VMA is dedicated to impart learning related to business management and leadership to its members.

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विकास के इंजन के चालक बनें सीए छात्र

छात्र सम्मेलन में सौजन्यपूर्ण मेजर जनरल अनिल बाग का आह्वान



राष्ट्रीय छात्र सम्मेलन का आयोजन करीब 100 छात्रों की भागीदारी में हुआ। मेजर जनरल अनिल बाग ने छात्रों को संबोधित करते हुए कहा कि छात्रों को अपने अध्ययन के साथ-साथ व्यावसायिक जीवन में भी सफल बनने के लिए तैयार रहना चाहिए। उन्होंने छात्रों को अपने अध्ययन के दौरान ही अपने भविष्य के करियर के लिए योजना बनाने की सलाह दी।

मेजर जनरल अनिल बाग ने छात्रों को संबोधित करते हुए कहा कि छात्रों को अपने अध्ययन के साथ-साथ व्यावसायिक जीवन में भी सफल बनने के लिए तैयार रहना चाहिए। उन्होंने छात्रों को अपने अध्ययन के दौरान ही अपने भविष्य के करियर के लिए योजना बनाने की सलाह दी।

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आपका नेटवर्क ही आपकी नेटवर्थ है : सीए बगड़िया



व्यवसाय प्रशिक्षण / नागपुर

आईसीआईए का स्थानीय शाखा ने हाल ही में एक सफल पाठ्यक्रम के तहत व्यावसायिक और नेटवर्किंग इंटरनैटों पर एक सेमिनार का आयोजन किया। कार्यक्रम में स्थानीय शाखा के अध्यक्ष सीए सखेत बगड़िया ने कहा, आपका नेटवर्क ही आपकी नेटवर्थ है। विभिन्न व्यवसायिक क्षेत्रों में व्यक्तिगतता के साथ, व्यक्तिगत / छोटी कर्मों के लिए विशेषज्ञता का आवश्यकताओं को पूरा करना बहुत महत्वपूर्ण होता है। व्यवसायिक क्षमताओं को बढ़ाने और बढ़े कर्मों को एक साथ करने के लिए सीए सदस्यों को नेटवर्किंग मॉडल में प्रवेश करने में सक्षम बनने के लिए आईसीआईए

ने नेटवर्किंग टिनिटोर जरी कि है। उन्होंने कहा कि व्यक्तिगतता के दौरान फेडर और निजी जीवन में मूल्य का महत्व और भी बढ़ गया है। नागपुर शाखा ने आयोजन में सक्षम बगड़िया सीए फुल कनिवेल का एक अनुरूप कार्यक्रम आयोजित किया। इस दौरान विभिन्न क्षेत्रों और निजीजीव के अन्वेषण किया गया। इस अवसर पर सीए अनुत्त और सीए पूजा हुंदट, सीए सना और सीए निरिता मुकोन, सीए मिश्राओं को पूरा करना बहुत महत्वपूर्ण होता है। व्यवसायिक क्षमताओं को बढ़ाने और बढ़े कर्मों को एक साथ करने के लिए सीए सदस्यों को नेटवर्किंग मॉडल में प्रवेश करने में सक्षम बनने के लिए आईसीआईए

Fri, 07 January 2022
<https://epaper.bhaskarhindi.com/c/6/>

Jan, 28 January 2022
<https://bbskarni.digitalladdition.com/10270000>

Nagpur Branch of ICAI in News

Lokmat Times

'Derivatives are good market instruments'

LOKMAT NEWS NETWORK
NAGPUR, JAN 31

'Derivatives Pathshala' was organised by Nagpur branch of ICAI. The webinar was hosted to enlighten the students and members about derivatives and enrich their knowledge about the financial markets.

Post-chairman of Nagpur branch of ICAI CA Swapnil Ghate was the chief Guest for the session. In his inaugural address, he said derivatives are instruments which people need to understand not just how to use them; but also to understand what need not be done while handling such a complex instrument.

He also stated and elaborated the concept of financial literacy which has become the need of the hour.

Chairman of Nagpur branch of ICAI CA Saket Bagdia highlighted the importance of having an in-depth knowledge of the market.

Chairman of Nagpur branch of WICASA, CA Jiten Saglani stressed on



Saket Bagdia

Swapnil Ghate

Jiten Saglani

that it is not about being right about the market all the time. He further stressed upon the fact that derivative is a good tool when used in right manner and how the same can make an investor trader's life better. The speakers started with the basics of derivatives and made members and students understand the terms and terminologies used in the market. Starting with derivatives, its types they gradually moved to forwards and futures, index and stock futures.

They also threw light on options, call and put options, option pricing, open interest and rollover. The technical aspects of market dealt with topics

like future payoffs, trading in futures and financial leverage.

They supported the market theories with various practical examples which made it easier for members and students to get through the basics as well as understand the intricacies involved.

CA Julfesh Shah, secretary of Nagpur branch of ICAI Sanjay Agrawal, Treasurer CA Akshay Gulhare and 65 CAs attended the seminar.

WICASA members comprising Ameya Soman, Aviral Barange, Karan Agarwal, Karan Tajne, Parag Jain, Radhika Taneja and Ravina Tayade worked hard for the success of the programme.

Nagpur First
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प्रकाश 

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युवा कल की शक्ति : प्रो. डॉ. अल्टेकर

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सफल रहा आईसीएआई का दो दिवसीय सीए छात्र सम्मेलन

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आईसीएआई की स्थानीय शाखा द्वारा 'डेरिवेटिव्स पाठशाला' का आयोजन

वित्तीय बाजारों में जो नहीं किया जाना चाहिए वह अधिक महत्वपूर्ण है: सीए घाटे

संवादपत्रा

नानुसु अइसोपेजार्ड की स्थानीय शाखा द्वारा 'हेरिपेटिव्स पाठशाला' का आयोजन किया गया। बैबिनर में छात्रों और सदस्यों को हेरिपेटिव के बारे में जानकारी दी गई और विनीष बाजौरों के बारे में उनके ज्ञान को समृद्ध करने का प्रयास किया गया।

सागपुर शाखा के पूर्व अध्यक्ष सीए स्टांफिल पाटे सन के प्रमुख अतिथि थे। उद्घाटन कार्यक्रम में उन्होंने वित्तीय सुविधा में सर्वोत्तम प्रदर्शन और विकास के साथ अग्रसर रहने की आवश्यकता पर जोर दिया। उन्होंने कहा कि डिजिटल ऐसे उपकरण हैं जिनमें हमें न केवल बचत सम्पन्न की आवश्यकता है कि उनका उपयोग कैसे करें, बल्कि वह भी समझें कि इस तरह के डिजिटल उपकरण को संभालते समय क्या करने की आवश्यकता नहीं है। उन्होंने वित्तीय साक्षरता की अवधारणा को विस्तृत रूप



समझाया और कहा कि यह अब समय की जरूरत बन गई है। नागपुर शाखा के वर्तमान अध्यक्ष सीतू मोहोते बर्हिना ने मुख्य अतिथि सीतू स्वयंनित धाटे, वरुं अध्यक्ष और विशेषज्ञ कला सीतू जिवित समझाने और अध्यक्ष बारीक का स्वागत किया। उन्होंने एक सम्वनतमक और दिलचस्प विषय पर बेमिहार आपोचित करने के लिए विकास हाथों की टीम के प्रयासों की सराहना की। उन्होंने वैचिकता के महत्व को हाथों से साक्षात् किया। विकास की वापस

राष्ट्रा के अध्यक्ष सीए जितेन सगलानी ने
देरिवेटिव के उपयोग को समझने के माध्यम पर
बोले दिया। उन्होंने बताया कि यदि सही तरीके
से उपयोग किया जाता है तो देरिवेटिव एक
अच्छा उपकरण है। सब को मेरी सर्विफाइड
सिफरिफाइड मैकेनिकल ट्रेडर सीए जितेन सगलानी
और तकनीकी विनिर्माणक अध्यक्ष बारिक ने
निर्देशित किया। सब में 50 से अधिक
प्रतिभागियों की सक्रिय भागीदारी रही।

सूत्र में अष्टमदाबाद शास्त्रा के सचिव सी

अंजलि चौकसे, आईसीआई के डब्ल्यूआईआरसी के पूर्व उपाध्यक्ष सीए जूलियेज़ शाह, प्रबंध समिति के सदस्य सावित्रा चौकसे संजय अग्रवाल और नागपुर शाखा के कोषाध्यक्ष सीए अध्यक्ष मुकुतादे उमस्किता ये। संघोर्षी का संघालान नागपुर विकास टीम द्वारा संयुक्त रूप से किया गया, जिसमें अमेरा सोमन, अविशार बरगे, बरध अग्रवाल, बरध शाहने, परम जैन, राधिका तेलजे और रवीना शाहदे का समावेश था।

CMYK

Nagpur Branch of ICAI in News



Celebrating 75 years of India's Independence

Credit Scheme for MSMEs

Assistance to Re-energize capital
Investments by SMEs

(ARISE)

**5.50% to 6.80% p.a. for
first year with reset
applicable thereafter
(as per internal rating)**

- MSMEs engaged in high growth sectors (including sunrise sectors)
- End-to-End digital journey
- Submission of minimal papers
- E-signing facility for document execution
- Quicker sanction

- TL up to ₹700 Lakh to existing / brownfield entities, subject to maximum of 80% of the project cost
- 100% financing for loans upto ₹3 crore, based on FD upto 25% (interest bearing)
- Facility of TL/FCTL available

Digital Technology
Enabled
Quick Sanction

Attractive
Interest Rate

Target Group /
Ease of Doing

Broad
Features

SIDBI Thematic Assistance for
Purchase of capital Assets in
New Enterprises


(STHAPAN)

**6.00% to 7.30% p.a. for
first year with reset
applicable thereafter
(as per internal rating)**

- MSMEs in identified sectors under Production Linked Incentive Scheme, other high growth sectors etc.
- Quicker sanction
- End-to-End digital journey
- E-signing facility for document execution

- TL upto ₹2000 Lakh, subject to maximum of 75% of the project cost
- New Entities or Greenfield units are eligible

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