

**SMALL AND MEDIUM ENTERPRISES (SMES) AND THE
INSOLVENCY FRAMEWORK: CHALLENGES IN ACCESSING IBC
MECHANISMS**

by

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ABSTRACT

Micro, Small, and Medium Enterprises (MSMEs) are vital to the Indian economy, contributing significantly to GDP, employment, and exports¹. However, they face unique financial vulnerabilities and challenges in accessing formal insolvency mechanisms². The Insolvency and Bankruptcy Code (IBC), 2016, was enacted to consolidate insolvency laws and provide a time-bound resolution process³. While a landmark reform, the IBC framework, often designed with larger corporations in mind, presents barriers for MSMEs⁴. This paper aims to analyse the challenges MSMEs face in accessing IBC mechanisms despite provisions intended for them⁵. Employing a doctrinal methodology, this paper reviews the MSME Act, 2006, the IBC, 2016, and relevant literature and reports⁶. Key findings suggest that high costs, procedural complexities, lack of awareness, limited access to insolvency professionals, and potential biases within the creditor committee structure disproportionately affect MSMEs' ability to utilize IBC effectively⁷. While specific provisions like Section 240A and the Pre-Packaged Insolvency Resolution Process (PIRP) exist⁸, systemic issues remain. The paper argues for targeted reforms to enhance accessibility and effectiveness of the IBC for MSMEs, drawing comparisons with international approaches where relevant, to ensure this critical sector can leverage insolvency laws for timely resolution and revival⁹.

¹ Yajur Sood, *Analysis of the Micro, Small and Medium Enterprises Act, 2006*, 3 INDIAN J.L. & LEGAL RSCH. 1, 2 (2021) (discussing the role and employment contribution of MSMEs)

² Insolvency and Bankruptcy Code, 2016, No. 31, Acts of Parliament, 2016 (India) [hereinafter IBC, 2016]

³ Insolvency and Bankruptcy Code, 2016, No. 31, Acts of Parliament, 2016 (India) [hereinafter IBC, 2016]

⁴ Vivek Kumar, *Reforms Brought in the Insolvency Regime: The Insolvency and Bankruptcy Code, 2016*, 5 INDIAN J.L. & LEGAL RSCH. 1, 2 (2023)

⁵ Ronald B. Davis et al., *The Modular Approach to Micro, Small, and Medium Enterprise Insolvency* 20

⁶ Ronald B. Davis et al., *The Modular Approach to Micro, Small, and Medium Enterprise Insolvency* 20

⁷ Davis et al., *supra* note 3, at 20-21

⁸ *Id.* at 25

⁹ IBC, 2016, Preamble; *see also* Davis et al., *supra* note 3, at 21

Key Words: MSMEs, SMEs, Insolvency and Bankruptcy Code (IBC), India, Challenges, Access, Insolvency Framework, MSMED Act, NCLT, Delayed Payments.

Research Methodology

Doctrinal research methodology has been deployed in this paper¹⁰. It goes through an in-depth analysis of the primary legal source: Insolvency and Bankruptcy Code, 2016, and Micro, Small and Medium Enterprises Development Act, 2006. Besides, it makes reference to secondary sources in the forms of articles written by different authors, reports by international bodies, as discussed in the given documents, and secondary sources: Glimpses about practical challenges and circumstances thrown in. The study is restricted to the Indian insolvency framework concentrating on corporate MSMEs, analysing the challenges faced by corporate MSMEs in accessing procedures laid down by the IBC of 2016¹¹. While comparative notes are briefly referred to, a detailed international comparison is outside the scope of this paper¹².

Research Questions and Objectives

Which provisions of IBC, 2016 are applicable or special for Micro and Small Enterprises (MSEs)?¹³

What are the major challenges and hurdles faced by MSEs, when they attempt to access and ratio to use the IBC provisions?¹⁴

To what extent do the provisions of IBC, including amendments and specific schemes like PPIRP, meet the special needs of distressed MSMEs?¹⁵

What policy suggestions can be recommended to improve MSMEs' access to and effective use of the Indian insolvency framework?¹⁶

Hypothesis

¹⁰ MSMED Act, 2006, § 7(1)(a)-(b)

¹¹ Sood, *supra* note 1, at 2 (citing Ministry of Finance for revised definition table). *See also* MSMED Act, 2006, § 7(9)

¹² MSMED Act, 2006, § 7

¹³ Davis et al., *supra* note 3, at 20-21.

¹⁴ *Id.* at 25

¹⁵ Sood, *supra* note 1, at 6

¹⁶ *Id.*

The high financial costs and the perceived procedural complexities stemmed from the standard Corporate Insolvency Resolution Process under the IBC which are very negatively correlated with the extent to which financially distressed MSMEs initiate voluntary insolvency proceedings¹⁷.

Literature Review

The economy of India acknowledges the eminent importance of Micro, Small, and Medium Enterprises (MSMEs) vis-a- vis the contribution of these firms to GDP, employment, and exports. However, they remain, despite their many numbers, financially vulnerable and repeatedly hit because of systemic barriers to availing formal insolvency processes under the Insolvency and Bankruptcy Code (IBC), 2016. The reviewed literature concedes that even as the IBC constitutes a landmark reform intended toward a time-bound resolution process, it is more geared to the large corporate and thus is complicated and expensive for MSMEs.

The references to important academic and policy sources show how much more MSMEs suffer from the high costs and complexities of procedure: limited availability of IPs, and a creditor committee structure that excludes operational creditors. Specific provisions like..

Special provisions included in Section 240A and the Pre-Packaged Insolvency Resolution Process (PPIRP) are discussed in the literature; however, these provisions apparently have not altogether addressed the issues faced.

Comparative studies from international jurisdictions accentuate the need for simplified yet economically sensible debtor-in-possession (DIP)-style processes designed for MSMEs. Recommendations include models that advocate for modular approaches, faster timelines, and alternative dispute resolution mechanisms. Overall, the review showcases a consensus in the scholarship argument that while the IBC was a welcome step, meaningful reforms have to come about to ensure better accessibility and benefits for MSMEs in India.

INTRODUCTION

India's economy has very much woven look of the micro, small and medium enterprises

¹⁷ Davis et al., *supra* note 3, at 15

(MSMEs)¹⁸. The different ways through which they are engine of growth and development is: through contribution to the gross national product (GDP)¹⁹; by creating employment opportunities for the people, particularly in semi-urban and rural areas²⁰; through development of industrialization beyond the major cities; and the most crucial aspect of this is that it plays a significant role within the export performance of the country²¹. Most of India's entrepreneurs are incubated through this sector, and it serves as a significant employer for the workforce²². Current estimates put employment at almost 6 crore individuals in the MSME sector, with an estimated contribution of approximately 45% to output in manufacturing and 40% to exports from India²³. Thus, despite an important role, their direct contribution to the national GDP is around 8% indicating the potentials still unreached²⁴. Given this significance and the recognized need for focused support, the Government of India set up the Ministry of MSME and enacted the Micro, Small and Medium Enterprises Development (MSMED) Act in 2006 that would create the necessary premises for promotion and development of these enterprises while at the same time fostering overall competitiveness within markets²⁵.

With their unique operational features and inherent financial liabilities, MSMEs require sophisticated insolvency mechanisms²⁶. Larger companies, on the other hand, can hardly hold these constraints against their interests: limited access to formal credit channels, reliance on a few suppliers or customers, lack of business diversification, and macroeconomic downturns and industry-specific downturns have all put MSMEs in a worse-off position²⁷.

Many MSMEs would within themselves lack sophisticated governance structures and specialized financial management expertise, making them weaker in anticipating, managing, or resolving financial distress in a timely manner²⁸. Hence, there should be one valid reason for an efficient and accessible insolvency regime to be put in place for this sector²⁹. Such a regime should seek to differentiate between those MSMEs that have viable underlying operations but are temporarily distressed, and those that are in all essence non-viable³⁰. It

¹⁸ Sood, *supra* note 1, at 6

¹⁹ Davis et al., *supra* note 3, at 20-21.

²⁰ *Id.*

²¹ Sood, *supra* note 1, at 6

²² MSMED Act, 2006, § 15.

²³ *Id.* § 16

²⁴ Sood, *supra* note 1, at 6-7 (discussing the MCA notification dated Nov. 2, 2018)

²⁵ MSMED Act, 2006, § 15 proviso.

²⁶ IBC, 2016

²⁷ *Id.* § 4(1).

²⁸ *Id.*; Ministry of Corporate Affairs, Notification S.O. 1205(E) (Mar. 24, 2020).

²⁹ Insolvency and Bankruptcy (Pre-packaged Insolvency Resolution Process) Rules, 2021 (India) (setting the threshold for PPIRP)

³⁰ IBC, 2016, § 6.

should provide a pathway towards restructuring and revival for the first group and should follow a clear process towards orderly exit for the second group so that productive assets could be pulled for an excellent reallocation into a different, brighter venture³¹. Above all else, the insolvency framework should allow individual entrepreneurs, especially those running unincorporated businesses or who have given personal guarantees, to enjoy a mode of "fresh start"³². The meaning here is to free honest but unfortunate entrepreneurs from having to carry insurmountable debt burdens, thereby allowing them the opportunity to re-engage productively in the economy without any overhangs of past business failures³³. The IBC should stand to be a framework for just that mode because it aims at timely resolution and maximization of value³⁴. However, the extent to which it can be truly said to have both equal applicability and efficacy in practice for the MSME segment should be under great scrutiny³⁵.

The objectives of this research paper are to study the complex link between the MSMEs and the IBC framework and to answer the following essential questions³⁶. First, which provisions in the IBC, 2016, and subsequent amendments will apply to the resolution of insolvency among the MSMEs?³⁷ Second, what principal operative, financial, and systemic hindrances and bottlenecks do MSMEs face in their efforts to access and use the mechanisms created by the IBC?³⁸ Thirdly, how far do the present IBC provisions, including a particular scheme like the Pre-Packaged Insolvency Resolution Process (PPIRP), suffice for the distinct needs and conditions with which the distressed MSMEs are confronted?³⁹ Finally, from the analysis, what precise policy recommendations can be given for making MSMEs more accessible to the Indian insolvency framework and improving its effectiveness for such an important economic sector⁴⁰?

This paper aims to track the critical analysis towards understanding the role that MSMEs are playing in the IBC framework and study the existing and future gaps to make strong recommendations on possible changes that will result in the insolvency process being more navigable, affordable, and, ultimately, useful to the vast multitude of small and medium

³¹ *Id.* § 7.

³² *Id.* §§ 8-9

³³ *Id.* § 10

³⁴ *Id.* § 5(5)

³⁵ *Id.* § 14.

³⁶ *Id.* § 14(2A) (inserted by amendment).

³⁷ *Id.* § 21

³⁸ *Id.* § 29A.

³⁹ *Id.* §§ 30-31

⁴⁰ *Id.* § 33.

enterprises in India⁴¹.

For the accomplishment of the above objectives, the methodology adopted in this paper is doctrinal research⁴². The study examines and analyses primary legal texts, mainly the Insolvency and Bankruptcy Code, 2016 and its amendments and related regulations, and the Micro, Small and Medium Enterprises Development Act, 2006, as the heart of this research⁴³. To complement the scholarly analysis of laws with conceptions founded on secondary sources, scholarly articles relating specifically to Indian insolvency law and MSMEs, reports/publications issued by international bodies like the World Bank or UNCITRAL that address MSMEs insolvency issues (cited in the primary documents), and circulars/notifications of specific relevance from the government, were reviewed⁴⁴. This enables the understanding of some aspects concerning the legal setup and also the context of the environment and practical issues faced by MSMEs within the ambit of the Indian insolvency law⁴⁵. The scope of the paper is narrowly confined to the Indian insolvency regime as related to corporate MSMEs, focusing on the difficulties that they face in generating access and in implementing the remedies under the IBC, 2016. References are made to some international practice and comparisons for the sake of enhancing the analysis, but a complete, thorough study of the world MSME insolvency regime is outside the set boundary of this study⁴⁶.

2. Understanding SMEs and Their Financial Challenges

Micro, Small, and Medium Enterprises, otherwise known as MSMEs, in India derive their legal identity and classification primarily from the Micro, Small and Medium Enterprises Development (MSMED) Act of 2006. The Act provides the definition and distinction of the investment criteria for categorization of an enterprise into micro, small, or medium, based on the amount it invests in plant and machinery in the case of manufacturing or production enterprises or investment in equipment in the case of service enterprises⁴⁷. These definitions essentially determine if an enterprise is eligible to avail of various support schemes and specific

⁴¹ *Id.* § 53

⁴² IBC, 2016, § 4(1); Ministry of Corporate Affairs, Notification S.O. 1205(E) (Mar. 24, 2020)

⁴³ Insolvency and Bankruptcy (Pre-packaged Insolvency Resolution Process) Rules, 2021 (India).

⁴⁴ IBC, 2016, §§ 55-58.

⁴⁵ *Id.* § 55(2)

⁴⁶ *Id.* § 56

⁴⁷ *Id.* § 57

provisions of laws such as the IBC⁴⁸. The initial classification for the purposes of the 2006 Act was twofold, that is between manufacturing and service sectors, and specified different sets of investment thresholds⁴⁹. For manufacturing, micro-enterprise is defined as having an investment below ₹25 lakh⁵⁰; a small enterprise is a business with an investment between ₹25 lakh and ₹5 crore, whereas a medium enterprise has an investment between ₹5 crore and ₹10 crore⁵¹. In relation to service sector, below ₹10 lakh was prescribed for a micro, between ₹10 lakh and ₹2 crore for small and between ₹2 crore and ₹5 crore for medium enterprises⁵².

These criteria were, subsequently, modified to create a composite one for both investment and annual turnover and applicable equally to manufacturing as well as service enterprises in the light of the dynamic economic structure⁵³. According to the definition revised, an enterprise is classified as micro if it has an investment of less than ₹1 crore AND generates an annual turnover of less than ₹5 crore⁵⁴. A small enterprise has an investment of less than ₹10 crores AND a turnover below ₹50 crore⁵⁵. Medium enterprise means investment below ₹50 crore AND turnover below ₹250 crore⁵⁶.

This is subject to change by the government through notification from time to time⁵⁷. In its directives regarding priority sector lending and other banking regulations, the Reserve Bank of India (RBI) broadly follows the definitions for MSMEs under the MSMED Act to ensure uniformity in policy application across the financial sector⁵⁸.

By virtue of their nature and size, MSMEs face a different range of financial challenges which often render them comparatively more vulnerable than their larger counterparts⁵⁹. One principal and constant challenge is the guarantee of adequate and timely access to formal credit⁶⁰. Financial institutions typically view MSMEs through a cautious lens, often deeming them inherently riskier borrowers on account of considerations such as lack of adequate tangible collateral, often limited or poorly documented financial track records, and the inherent information asymmetry between lender and small business owner⁶¹.

⁴⁸ *Id.* § 240A

⁴⁹ Insolvency and Bankruptcy Code (Amendment) Act, 2021 (India).

⁵⁰ Kumar, *supra* note 6, at 2, 11; Davis et al., *supra* note 3, at 7, 36.

⁵¹ Davis et al., *supra* note 3, at 36, 100.

⁵² *Id.* at 64-67.

⁵³ IBC, 2016, § 21; Kumar, *supra* note 6, at 13; Davis et al., *supra* note 3, at 35-36.

⁵⁴ Kumar, *supra* note 6, at 11.

⁵⁵ Davis et al., *supra* note 3, at 88-92

⁵⁶ *Id.* at 26-28.

⁵⁷ *Id.* at 11-13.

⁵⁸ *Id.* at 45.

⁵⁹ *Id.* at 47

⁶⁰ MSMED Act, 2006, § 18; Sood, *supra* note 1, at 8-9

⁶¹ *Id.* at 20.

The deep ramifications of lack of access to finance deprive them of meeting working capital requirements, investing in technological upgrades for competitiveness, and seizing growth opportunities⁶². Another core problem that deeply affects the survival of MSMEs is the all-pervasive issue of delayed payments⁶³. MSMEs are, most of the time, engaged in supply chain arrangements whereby they serve as suppliers to larger corporations or governmental interests⁶⁴. A delay in payment from these buyers creates a very severe disruption in their cash flow, adversely affecting liquidity, and inevitably setting off a cascade of defaults down their own supply chain, thus potentially impairing even otherwise viable enterprises⁶⁵. Moreover, MSMEs are bound to pay high interest rates on even the little formal credit that they have been able to secure⁶⁶. These represent high-interest loans when compared to the loans that large and established organizations are taking, reflective of the higher risk profile⁶⁷.

The dependence on credit, along with a much higher cost, just compounds their financial burden⁶⁸. It is no wonder, then, that a large number of MSMEs take to informal sources of finance, which although do have a potential access aspect, bear extremely high-interest rates and poor terms, further worsening their financial stress⁶⁹. Such pressure from their external finances is not accompanied by the fact that many micro, small, and medium enterprises do not have highly developed abilities in their local environments in terms of effective financial planning, management, and risk assessment. Such an internal limitation disqualifies these companies from being more resilient to unexpected financial shocks or from being able to navigate through times of distress, hence, their preparedness to engage with such complicated processes as formal insolvency resolution.

These largely undiversified business models further make them so exposed to any economic recession or a particular crisis in a sector. There is always a problem that may perpetually occur as far as the financial condition of MSMEs is concerned: it is their access to credit, the likelihood of default, and the problem of delayed payments. At the same time, it should be noted that access to a reliable credit line is necessary for day-to-day operation and future growth of these small business enterprises. However, their access to this credit is not well linked with

⁶² *Id.* at 25

⁶³ Sood, *supra* note 1, at 6

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ Davis et al., *supra* note 3, at 21.

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

operational vulnerabilities that arise when such access is not established; these in turn lead to increasing risks of default. They can be said to be the catalytic causes of financial distress experienced by the MSME, in many situations being the ultimate cause that drives them into default despite their profitable nature.

This Act aims at addressing such a plight with a legal time frame of payment (usually 45 days from acceptance of goods/services) along with a hefty interest penalty for default. According to Section 15 of the Act, the buyer must pay the supplier on or before the agreed date, not exceeding 45 days, from the date of acceptance. Section 16 further lists that if a person does not pay on the appointed day (or on the agreed date, within the 45 days) then the sales agreement will automatically incur compound interest at three times the bank rate notified by the RBI and with monthly rests. It may be pointed out that even the requirement for companies to report outstanding dues over 45 days to the Ministry of Corporate Affairs highlights the regulation issue in this aspect. Despite such explicit provisions, however, timely enforcement appears to be a serious challenge. It is an interplay of constrained credit, high risk of default, and the highly debilitating consequence of delay in payments.

The Act specifies in Section 15 that the buyer shall pay the supplier either on or before the due date agreed upon between the parties and that such due date shall not exceed 45 days from the date of acceptance. Section 16 further stipulates that for the payment failure occurring at the appointed day (or, in the case of agreed payment, within the 45 days), compound interest at the monthly rests of three times the bank rate notified by the RBI shall accrue. Reporting to the Ministry of Corporate Affairs dues that remain outstanding for more than 45 days further demonstrate the attention of regulators on this issue. However, enforcing timely payments is, in reality, still a far cry from being practical. Together, the tight credit, high default risk, and debilitating consequences of payment delays tilt the financial scale against many MSMEs, increasing the chances of their insolvency and necessitating timely and effective modalities for resolution considered from their perspective.

3. Overview of the Insolvency and Bankruptcy Code, 2016

The Insolvency and Bankruptcy Code, also known as the IBC, was enacted in the year 2016 and provides for the overall legal setup to take care of insolvency among different entities in India. Certain provisions in the Code are made to bring the microscopic health care entities as corporate persons under its application. Section 4 of this Code refers to Part II which relates to the insolvency process as well as liquidation for corporate debtors. Application of part II is triggered when a corporate debtor defaults on any stipulated amount exceeding the minimum threshold amount. The threshold, which was initially pegged at 1 lakh rupees, was increased to a whopping 1 crore rupees on March 20 by the Central Government, partly in view of protecting small businesses given the economic fallout of COVID-19. It is also interesting to note that the government can declare different levels of thresholds for certain categories in companies or processes, as seen in the case of the MSME Pre-Packaged Insolvency Resolution Process (PPIRP), where a lower threshold is specified. The Section 6 states the main principle that once the default happens, the Corporate Insolvency Resolution Process (CIRP) can be initiated by a financial creditor or an operational creditor or by the corporate debtor itself.

The CIRP initiation procedure varies with the person filing the application. While Section 7 describes the process with respect to financial creditors, who may file an individual or a joint application on proof of default, i.e., default supported with evidence from an information utility or other specified evidence, the provisions dealing with special classes of creditors may provide special considerations, with possible higher thresholds, i.e., for joint filing for those classes, like homebuyers or certain classes of debenture-holders. Operational creditors, who usually have claims by virtue of providing goods or services, have to operate under Sections 8 and 9 of the Code, which require them, inter-alia, to first serve demand notices on the corporate debtor. Where the debt remains unpaid and uncontested for 10 days following the service of demand notice, the operational creditor may file an application before the Adjudicating Authority (such as NCLT). The application shall be filed with proof of existence of the unpaid debt, proof of service of demand notice, and proof in the nature of an affidavit that there was no dispute regarding the debt raised by the debtor prior to receiving the demand notice. With the section 10 coming into force, the corporate debtor can voluntarily initiate CIRP through a designated corporate applicant such as an authorized member, partner, or person in charge of management or financial affairs if the corporate debtor defaults on its debts. Such application requires submission of the company's books of accounts and evidence of special resolution passed by shareholders (or resolution by three-fourths partners in an LLP) approving the filing.

A centrepiece provision of the IBC, much applicable during the resolution process, is Section 14, which provides for the immediate declaration of a moratorium upon admission of a CIRP application by the NCLT. This moratorium bars the initiation or continuation of any suits or proceedings against the corporate debtor, transfers or disposals of any part of its assets, actions to enforce security interests (including actions under SARFAESI), and recoveries from occupying property by the debtor. A very crucial 'calm period' is created, which makes the debtor immune from piecemeal actions of individual creditors and allows an insolvency professional and stakeholders to attain a viable resolution. Importantly, the Code also continues through this time to restrain any termination of supply of essential goods and services to the corporate debtor-insulating it from operational disruption. Further amendments also clarified that no critical supplies needed to maintain the corporate debtor as a going concern can be terminated, providing that dues arising during the moratorium period are paid.

Insolvency Resolution Process under the IBC is principally driven by the Committee of Creditors (CoC), as per Section 21, which consists of the financial creditors (without including any related parties). The CoC is in possession of the authority to make decisions in all important matters, including approving resolution plans through a bare minimum of 66% majority. Often the operational creditor, mostly MSMEs, are poorly represented. Section 29A lays down the eligibility criteria for a defaulting promoter to be excluded from regaining control, with the exception of certain MSMEs. Sections 30 and 31 establish a framework for the approval and submission of resolution plans, ensuring that they comply with the prescription of law and that operational and dissenting creditors are paid at least a minimum amount. If none of the plans are approved, the Section 33 code provides for liquidation through asset distribution on the basis of the waterfall mechanism under Section 53.

In March 2020, in the process of the outbreak of COVID-19, the government had raised the minimum default threshold for initiation of CIRP from ₹1 lakh to ₹1 crore to protect smaller companies, which rendered the access harder for MSMEs. On this, it was reportedly introduced the Pre-Packaged Insolvency Resolution Process (PPIRP) for MSME cases where the default amount is ₹10 lakh or above. Besides this, Chapter IV (Sections 55-58) provides for a Fast Track CIRP (FTCIRP) that targets smaller debtors within 90 days (extendable by 45 days) as a quicker alternative, provided eligible criteria are met.

4. Barriers Faced by SMEs in Accessing IBC Mechanisms

MSMEs continue to face serious difficulties in utilizing the IBC effectively amid the gamut of reforms. Legal fees, Insolvency Professional (IP) fees, expenses incurred in making applications and publishing notices, compliance with intricate procedures-these have made the procedures financially prohibitive for small businesses working on meager budgets. An additional technical complexity of insolvency proceedings, with stringent time frames and judicial formalities, add to their problems, necessitating the assistance of costly external advisors.

Another major obstacle is the prevailing ignorance among MSME entrepreneurs of various IBC mechanisms such as Pre-Packaged Insolvency Resolution Process (PPIRP) and the advantages accruing therefrom. Where such awareness does exist, however, low levels of legal literacy get in the way of effectively traversing the process. Further limitation comes from the relatively scarce audiovisual availability of well-qualified and affordable IPs who understand MSME-specific problems, as high professional fees go much into larger corporate cases. The structure of the Committee of Creditors (CoC), with its overwhelming dominance of financial creditors under Section 21, thus sidelines operational creditors-who constitute a large part of MSME liabilities-and hence limits their voice in the resolution process. To cause systemic delays, which overburden National Company Law Tribunals (NCLTs), are seen as effectively undermining the time-bound spirit of IBC, a vital consideration for small business survival.

Generally, many MSMEs do not keep organized and audited financial records for the assessment of their financial position, verification of claims, and preparation of effective resolution plans. The cumulative challenges show the need for specific adaptations to truly make the IBC accessible, efficient, and supportive of the needs of MSMEs.

5. Comparative Perspective

The international jurisdiction of India's MSME insolvency framework, templates common in the country as corporate insolvency legislation are not often listened to the voices of MSEs. This has had the effect of most countries having specific mechanism developments. Broadly, the MSME definition varies between countries. The priorities for most frameworks are speed, simplicity and cost effectiveness. Some specific trends include adoption of Debtor-in-Possession (DIP) arrangements, by which the management continues to be in control, while the reorganization takes place, as reflected in India's PPIRP.

Simplified and short documents, fewer hearings, shorter timelines, and greater promotion of out-of-court settlements and mediation are some of the best international practices that can help lower costs and minimize delays. India's MSMED Act contains provisions for conciliation, but a more robust linkage with the IBC could yield dividend. Other countries have put in mechanisms such as deemed approval or "scream or die" principles for dealing with creditor apathy so that passive creditors do not hold up processes.

Another area of concern in the provision of funding is that of the low-value MSMEs. Public funding and regulated fee structures are among possible solutions, as well as limiting involvement of IP in very straightforward cases. A clear, efficient, and effective debt discharge process for individual entrepreneurs is also on the priority list of most countries in encouraging fresh economic starts.

India could further enhance the MSME insolvency framework by making PPIRP easier, narrowing NCLT involvement into mandatory proceedings in undisputed cases, establishing stronger mediation mechanisms, innovating fee structures for IPs, and improving discharge provisions. A very promising model for future reforms is to adopt "Modular Approach" - procedures according to case complexity.

6. Suggestions and Policy Recommendations

Reforms will be necessary, as realistic with the day-to-day running of MSMEs, to align and amend the Insolvency and Bankruptcy Code (IBC) in the country.

Expand and Simplify PPIRP

Monitor and streamline the Pre-Packaged Insolvency Resolution Process (PPIRP) to lessen the procedural burden-the increase of turnover thresholds, with an emphasis on out-of-court restructuring ssary involvement of the NCLT.

Legislative Literacy and Awareness

Thereafter, the legal awareness programs can be organized into a co-ordinated outreach and education project through government agencies and professional industry bodies. The clinics

can also be established for legal aid or subsidised advisory schemes for distressed MSMEs.

Subsidizing IP Services

Establish mechanisms like an MSME Insolvency Fund or a voucher system for IP cost subsidies; develop a cadre of IPs specialized in MSME work with defined fee regimes.

Revise Thresholds and Procedures

Periodic review of CIRP, PPIRP thresholds; creation of simple, flexible procedures MSME friendly within NCLT, modularized on basis of the complexity of the cases.

5) Strengthen Institutional Capacity

Create specific benches for the NCLT to handle MSME-related cases; recruit extra judicial and technical members to minimize backlog and speed up resolution.

6) Rebalance the Dynamics of CoC

Ensure that any interests of operational creditors are represented in CoC deliberations in cases of MSMEs through mandatory consultations or participatory rights. (without power of the vote).

6) CONCLUSION

MSME'S serve as backbone to the economy of India by propagating employment, innovation and industry, the Micro, Small, and Medium Enterprises (MSMEs) are working under severe financial constraints. The major reform contemplating resolutions that would be faster and maximize value through the Insolvency and Bankruptcy Code (IBC) of 2016, however, its application consequently exposes the MSMEs to lots of continuing challenges like high costs, complex procedures, low awareness, poor operational creditor influence, and extremely systemic delays. The measures that got introduced like Section 240A exemptions and the Pre-Packaged Insolvency Resolution Process (PPIRP) have not helped solve these challenges fully. Therefore, it is an economic imperative to ensure that the IBC supports MSMEs fully, which calls for simplifications in processes, cost reductions, more legal literacy, better NCLT capacity, and much more inclusive creditor participation. Lessons drawn from global best practices like flexibility in out-of-court and modular approaches may complement and

complement India's existing framework further. Creating an accessible and business-friendly insolvency system will also increase the strength of entrepreneurial resilience towards the continued inclusive macroeconomic growth of India. To realize this dream, continuous evaluation and engagement of stakeholders are vital.

