VOLUNTARY LIQUIDATION OF COMPANIES UNDER THE INSOLVENCY AND BANKRUPTCY CODE, 2016: A LEGAL PERSPECTIVE

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ABSTRACT

This article examines the legal framework governing voluntary liquidation of solvent companies under Section 59 of the Insolvency and Bankruptcy Code, 2016, and the IBBI (Voluntary Liquidation Process) Regulations, 2017. It traces the shift from the Companies Act regime to the IBC, outlines the procedural stages and timelines, discusses recent regulatory amendments (2022, 2024, 2025), and evaluates the practical challenges that continue to affect solvent corporate exits in India.

Introduction

A business is set up with the objective of doing business activities and earning profits. But there may come a stage where promoters might find it commercially non-viable or unfeasible to continue with the business activities despite the fact that company is solvent. In this situation, there is an option available under the law through which company can be wound up without causing any detriment to any creditor or other stakeholder. This is termed as voluntary liquidation.

Whereas the compulsory liquidation is done due to insolvency of the company or by court order, the voluntary liquidation makes the solvent company wind up voluntarily after settling off its liabilities. The procedure of voluntary liquidation in India has been mentioned under Section 59 of Insolvency and Bankruptcy Code, 2016 (IBC) and Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017.

The Insolvency and Bankruptcy Code, 2016 has transformed the process of insolvency in India as far as voluntary winding-up is concerned since it repealed the provisions of voluntary winding-up from the Companies Act, 2013.

The scale at which this route has been used is considerable. As on 31 January 2025, 2,175 corporate persons had initiated voluntary liquidation proceedings since the Regulations came into force, with the vast majority of filings attributing the decision to the cessation of business operations rather than financial distress. This uptake indicates that voluntary liquidation has, over time, become the preferred mechanism for solvent corporate exit in India.[1]

[1] Insolvency and Bankruptcy Board of India, 'Status Note on Voluntary Liquidation Process' (IBBI, 31 January 2025) <https://ibbi.gov.in/uploads/meetings/9b244278fce2b60052b8fdbb410ef025.pdf> accessed 27 July 2026.

Meaning of Voluntary Liquidation

It should be noted that voluntary liquidation means a process where a solvent corporate individual terminates his or her activities, realizes his or her assets, discharges all liabilities, distributes surplus, if any, among the stockholders, and, finally, seeks dissolution by the order of NCLT. This process can only apply in case when there is no default on the part of the company, and it is able to discharge all of its liabilities. In contrast to insolvency liquidation, voluntary liquidation is carried out by the company and not the creditors. Empirical data maintained by the regulator bears this out: of the reasons recorded for initiating voluntary liquidation, cessation of business operations accounts for the overwhelming majority of cases, with financial distress or fraud featuring only rarely, which is consistent with the requirement that the route remain confined to genuinely solvent entities.[2]

Legislative Evolution

Prior to the introduction of the Insolvency and Bankruptcy Code, the law of voluntary liquidation was governed by:

Companies Act, 1956

Companies Act, 2013 (Sections 304-323)

But with the introduction of IBC in 2016, all the above sections have become redundant. Voluntary liquidation laws now exist only under Section 59 of the IBC and the IBBI (Voluntary Liquidation Process) Regulations, 2017.

This transition consolidated a process that had previously been administered through company courts and, later, the High Courts, into a single insolvency-professional-led regime with a dedicated regulator. Commentators have observed that the principal aim of the shift was to eliminate procedural fragmentation and to introduce a uniform, timeline-driven framework for solvent exits, rather than to alter the substantive eligibility criteria for voluntary winding up.[3]

Objectives of Voluntary Liquidation

- The law seeks to achieve several important objectives:
- Provide a legal exit route for solvent companies.
- Ensure that creditors receive full payment before dissolution.
- Prevent fraudulent dissolution of companies.
- Facilitate efficient distribution of assets.
- Reduce unnecessary litigation.
- Improve the ease of doing business in India.
- Maintain transparency and accountability during liquidation.

The 2024 amendments illustrate how these objectives are operationalised in practice. By requiring directors to disclose pending regulatory proceedings before liquidation begins, the

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[3] Bathiya Legal, ‘Voluntary Liquidation under Section 59 of the IBC: Legal Framework and Procedural Roadmap’ (Bathiya Legal, 2026) <https://www.bathiyalegal.com/post/voluntary-liquidation-under-section-59-of-the-ibc-legal-framework-and-procedural-roadmap> accessed 27 July 2026.

regulator sought to reduce the incidence of contingent liabilities surfacing after dissolution, thereby directly serving the objectives of creditor protection and fraud prevention set out above.[4]

Eligibility Conditions

Only if the following conditions are met can a firm resort to voluntary liquidation:

1. There have been no defaults on payments by the company.
2. The management feels that all debts can be paid off through the liquidation process.
3. The purpose of liquidation is not to commit fraud against anyone.
4. The solvency statement should be given prior to liquidation.

Companies that are financially stressed cannot choose voluntary liquidation; they need to go through the Corporate Insolvency Resolution Process (CIRP). The importance of rigorous eligibility screening is reflected in outcomes data: of the voluntary liquidations initiated since 2017, a small but consistent proportion have had to be closed by withdrawal rather than dissolution, generally because the eligibility conditions were found, on closer scrutiny, not to have been genuinely satisfied at the outset.[5]

Legal Framework and Process of Voluntary Liquidation

The legislative framework governing the voluntary liquidation process in India comprises Section 59 of the Insolvency and Bankruptcy Code, 2016 (IBC), and the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017. Prior to the introduction of IBC, the voluntary liquidation process was governed by the provisions of the Companies Act, 2013. However, with the enactment of the IBC, the voluntary winding up process in the Companies Act was not considered and all the legislation was made under the ambit of insolvency. While Section 59 governs the statutory requirements for initiating the process of voluntary liquidation process, IBBI Regulations provide the procedure relating to the appointment of the liquidator, duties of the liquidator, public announcement, verification of claims, realization and distribution of assets, reporting obligations, and dissolution.

After declaring solvency, the shareholders of the company will have to ratify the resolution of the voluntary winding up through the passing of a special resolution in the general meeting. The resolution will have to appoint an Insolvency Professional who is a member of the Insolvency and Bankruptcy Board of India (IBBI). When the company has some outstanding debts, then according to the law, the approval from the creditors, which constitute two-thirds of the total value of the debt, will also be needed within seven days of the special resolution. In practice, liquidators had for some years also sought a No Objection Certificate from the Income Tax Department before proceeding, even though neither the Code nor the Regulations mandate this. The regulator clarified in 2021 that no such certificate is required, since the

[4] Insolvency and Bankruptcy Board of India, Press Release No IBBI/PR/2024/06 (IBBI, 5 February 2024) <https://ibbi.gov.in/uploads/press/0572262504d462cb2d4d0e2220513617.pdf> accessed 27 July 2026.

statutory claims process itself is sufficient to bring tax claims on record, a clarification aimed at removing an informal but significant source of delay.[6]

With the passing of the resolution by the shareholders and the approval from the required creditors, the process of liquidation by voluntary means begins. A person who holds the position of Insolvency Professional is appointed as the liquidator who controls all the assets of the company, books, and its other affairs, whereas the powers of the Board of Directors come to an end. Within five days of his/her appointment, the liquidator publishes a notice for creditors to lodge their claims. Once the claims are verified and accepted or rejected, the liquidator makes a list of all the stakeholders and starts realizing the assets of the company. The efficiency of this claims and realisation stage has improved materially in recent years. Following the 2022 revision of completion timelines, the average time taken for a liquidator to submit the final report fell from around 499 days to approximately 203 days, indicating that procedural reform has had a tangible effect on the pace of solvent exits.[7]

Once the liquidation process has been carried out, the liquidator writes a final report showing how the realization and distribution of the assets have been done and also confirming that the Insolvency and Bankruptcy Code and regulations have been followed throughout the process. He/she then makes an application for the dissolution of the company before the National Company Law Tribunal (NCLT) under Section 59(7) of the IBC. Upon being convinced by the liquidator that the entire procedure has been done in accordance with the law, the Tribunal makes an order of dissolution of the company. That dissolution order itself is passed under sub-section (8) of Section 59.

- ***Timelines Under the Voluntary Liquidation Process***
  The Regulations prescribe specific timelines to keep the process from dragging indefinitely. The liquidator must call for claims within five days of appointment, and creditors/stakeholders are generally given thirty days to submit them. Where the affairs of the company do not extend beyond one year from liquidation commencement, the liquidator must complete the process and file for dissolution within ninety days. Where the process extends beyond one year, the liquidator must call a meeting of contributories within fifteen days of the end of each subsequent year, and the process is expected to conclude within twelve months of commencement in ordinary cases, subject to further extensions where litigation or asset realization is pending. These timelines, while workable for straightforward cases, are frequently stretched in practice — an issue discussed later in this article.

Role and Duties of the Liquidator

The liquidator has a key role to play in the proper execution of the voluntary liquidation process. Being an independent Insolvency Professional, the liquidator owes fiduciary duty to all stakeholders and is required to act in an unbiased and fair manner. The main obligations of the liquidator include taking possession of the assets of the company, issuing public notices,

[6] Insolvency and Bankruptcy Board of India, Circular No IBBI/LIQ/45/2021, ‘Clarification regarding requirement of seeking No Objection Certificate or No Dues Certificate from the Income Tax Department during Voluntary Liquidation Process under the Insolvency and Bankruptcy Code, 2016’ (IBBI, 15 November 2021) <https://www.ibbi.gov.in/uploads/legalframwork/cc881169aad7ee239aea7954505a76ab.pdf> accessed 27 July 2026.

[7] Economic Advisory Council to the Prime Minister, ‘Case Study of Voluntary Liquidation in India’ (EAC-PM, April 2025) <https://eacpm.gov.in/wp-content/uploads/2025/04/Case-study-on-Voluntary-Liquidation-11th-April.pdf> accessed 27 July 2026.

receiving and scrutinizing claims, maintaining proper accounting records, realizing the assets of the company, distributing the amount collected amongst the creditors and shareholders, maintaining proper records relating to the liquidation process, and submitting statutory reports to IBBI and NCLT. The liquidator is also required to ensure that all statutory obligations are fulfilled during the process of liquidation. Any dereliction of duty by the liquidator can lead to disciplinary actions against him as per the Insolvency and Bankruptcy Code and its regulations. Parliamentary scrutiny of the insolvency framework has echoed this emphasis on accountability, recommending that the standards applicable to insolvency professionals be strengthened through more rigorous certification, specialised training and independent performance review, particularly in high-value liquidations, so that the fiduciary obligations described above translate into consistent practice.[8]

- ***Recent Regulatory Developments***

The voluntary liquidation framework has not remained static since 2017. IBBI has amended the Regulations multiple times to close procedural gaps:

2022 Amendment: Revised the completion timelines from a flat twelve months to differentiated periods of ninety days (no creditors) or two hundred and seventy days (with creditors), and introduced Form H, a compliance certificate to be filed with the final report.

2024 Amendment: Introduced a requirement for directors to disclose pending proceedings or assessments before statutory authorities at the time of initiating liquidation, mandated structured status reports (a new Regulation 37(4) requires a Status Report within seven days of the contributories' meeting), and streamlined the process for distributing unclaimed proceeds from the corporate voluntary liquidation account before dissolution.

2025 Amendment: Omitted Regulation 33 and revised the Board's record-maintenance obligations under Regulation 39. The 2025 amendment also inserted a new Regulation 41A requiring liquidators to file prescribed forms electronically at each stage of the process within stipulated timelines, with a late fee for non-compliance, reinforcing the regulator's shift toward structured, verifiable reporting.[9]

Taken together, these changes reflect IBBI's continuing effort to make the process more transparent and time-bound, addressing precisely the kind of delays and reporting gaps that practitioners have flagged since the Code's early years.

While the Supreme Court's pronouncements in Swiss Ribbons, Ghanashyam Mishra, and R.K. Industries address the IBC's broader objectives, NCLT and NCLAT benches have also

[8] 'Report of Standing Committee on Finance (2024-25) on Insolvency and Bankruptcy Law and NCLT & NCLAT' (IBC Laws, December 2024) <https://ibclaw.in/report-of-standing-committee-on-finance-2024-25-on-insolvency-and-bankruptcy-law-and-nclt-nclat-december-2024/> accessed 27 July 2026.
[9] Aastha and Apoorva Soni, 'IBBI Amends the Liquidation Regulations and Voluntary Liquidation Regulations' (Argus Knowledge Centre, 2025) <https://www.argus-p.com/updates/updates/ibbi-amends-the-liquidation-regulations-and-voluntary-liquidation-regulations/> accessed 27 July 2026.

dealt directly with voluntary liquidation matters — including disputes over delayed dissolution applications and liquidator accountability under Section 59.

Judicial Interpretation

The judiciary has made it clear that the principles of transparency, value maximization, and stakeholder protection are the key aims of the IBC. The apex court, in the matter of Swiss Ribbons Pvt. Ltd. v. Union of India (2019) 4 SCC 17, declared that the IBC is a constitutional legislation which seeks to strike a balance between the interests of all stakeholders and ensures timely resolution and liquidation of companies. Later, in the case of Ghanashyam Mishra & Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Co. Ltd. (2021) 9 SCC 657, the Supreme Court reiterated that one of the major aims of the IBC is to ensure that there is certainty and finality in the process of insolvency and liquidation to avoid protracted disputes and to facilitate economic revival. In R.K. Industries (Unit-II) LLP v. H.R. Commercials Pvt. Ltd. 2022 SCC OnLine SC 1124, the Supreme Court held that the commercial wisdom of a liquidator in choosing the mode of sale of a corporate debtor's assets during liquidation is not ordinarily open to judicial review by the adjudicating or appellate authority, so long as the process is transparent and aimed at maximising asset value.

Challenges and Conclusion

Nevertheless, despite all the above-mentioned measures, there are still some difficulties associated with voluntary liquidation procedure in general. First of all, there are very long delays in obtaining dissolution orders, problems with the sale of certain categories of property, debts, unresolved cases of lawsuits, and high costs of the entire procedure. Besides, it may be very expensive and time-consuming for small and medium companies to carry out the liquidation. However, one can state that the procedure of voluntary liquidation introduced in the Insolvency and Bankruptcy Code has definitely improved the existing corporate exit strategy in India due to the fact that it has united several procedures into one transparent and professional procedure of liquidation. Due to many changes introduced in the process of liquidation by the IBBI and new judicial decisions, the process has been improved a lot and meets the needs of all stakeholders. With the development of Indian business environment, the voluntary liquidation procedure will be critical for responsible corporation exits.

In 2024 and 2025, the amendments reflect IBBI's desire to plug reporting and timing gaps which have traditionally resulted in delays in the past. However, this additional level of compliance – reporting obligations, a systematic status report, and the prescribed time window for reporting – may in itself create further expenses for small and medium enterprises – precisely the kind of businesses which the regime of voluntary liquidation is supposed to facilitate by providing a relatively easier way out.

These concerns are borne out by the regulator's own figures. As on 31 January 2025, of the 1,634 voluntary liquidations in which a final report had been submitted, 489 remained pending for a dissolution order, with 141 of these pending for more than two years, a pattern that mirrors the wider backlog before the National Company Law Tribunal, which stood at nearly 20,000 cases as of August 2024. Addressing this bottleneck at the adjudicatory stage, and not only at the level of the liquidator's own compliance, is likely to be necessary if the efficiency gains achieved elsewhere in the process are to be fully realised.[10][11]