

# Revolutionizing Debt Recovery: From RDDBFI's Struggles to IBC's Triumphs in the Indian Banking Landscape

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## Abstract

This article delves into the transformation of the debt recovery framework in India. With the advent of the Insolvency and Bankruptcy Code (IBC) in 2016, the debt recovery landscape witnessed a paradigm shift from the Recovery of Debts Due to Banks and Financial Institutions (RDDBFI) Act, 1993. This article provides a comprehensive analysis of the transition from the RDDBFI Act to the IBC, examining the challenges posed by the former and the improvements brought forth by the latter.

The RDDBFI Act, despite its intent to streamline debt recovery, faced numerous challenges, such as procedural delays, lack of transparency, and inadequate infrastructure. The introduction of the IBC aimed to address these limitations by consolidating existing laws, implementing a time-bound resolution process, and striking a balance between debtors and creditors. The IBC's framework has significantly reduced non-performing assets (NPAs), improved credit discipline, and enhanced investor confidence, thereby impacting the Indian banking sector and the overall economy positively.

This article also presents case studies and success stories under the IBC, showcasing how its provisions have led to better outcomes in debt resolution. Despite its achievements, the IBC still faces implementation, capacity, and legal challenges that need to be addressed for it to reach its full potential. The future of debt recovery in India lies in refining the IBC, leveraging technology, and exploring alternative mechanisms for a robust and efficient financial ecosystem.

## Keywords

Insolvency and Bankruptcy Code (IBC), Debt Recovery, RDDBFI Act, 1993, Indian Banking Sector, Non-Performing Assets (NPAs), Resolution Process, Time-bound framework, Financial Institutions, Cross-border Insolvency.

## Introduction

In the Indian financial landscape, the effective recovery of debt due to banks has always been a matter of paramount importance. The stability and growth of the banking sector largely depend on the timely recovery of loans and advances extended to various businesses and individuals. Over the years, the Indian government has initiated several measures to improve the debt recovery process and minimize the burden of non-performing assets (NPAs) on banks.

The advent of the Recovery of Debts Due to Banks and Financial Institutions (RDDBFI) Act in 1993 marked a significant step in the development of a legal framework for debt recovery in India. The Act aimed at expediting the recovery process by establishing specialized institutions called Debt Recovery Tribunals (DRTs) to adjudicate debt recovery cases. This move was expected to ease the pressure on banks and financial institutions, allowing them to focus on their core activities.

However, the RDDBFI Act faced numerous challenges in delivering the desired results. Procedural delays, lack of transparency, and inadequate infrastructure emerged as major hurdles in the debt recovery process. The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002, was introduced as an additional measure to streamline the recovery of secured assets. Yet, despite these legislative efforts, the overall effectiveness of the debt recovery mechanism remained suboptimal.

Recognizing the need for a comprehensive and unified legal framework to address the shortcomings of the RDDBFI Act and other fragmented legislations, the Indian government enacted the Insolvency and Bankruptcy Code (IBC) in 2016. The IBC revolutionized the debt recovery landscape by consolidating existing laws, implementing a time-bound resolution process, and balancing the interests of both debtors and creditors. The Insolvency and Bankruptcy Board of India (IBBI) was also established to regulate the insolvency process and enforce the provisions of the Code.

The introduction of the IBC has had a profound impact on the Indian banking sector and the economy at large. By reducing NPAs and fostering a culture of credit discipline, the IBC has played a crucial role in enhancing investor confidence and improving the ease of doing business in India. The success of the IBC can be attributed to its robust framework, which emphasizes efficiency, transparency, and the equitable treatment of stakeholders.

Nonetheless, the IBC is not without its challenges. Implementation issues, capacity constraints, and legal hurdles continue to pose obstacles in the debt recovery process. As the Indian financial landscape evolves, it is imperative to address these challenges and explore innovative solutions to strengthen the debt recovery ecosystem further.

### **Overview of the RDDBFI Act, 1993**

The Recovery of Debts Due to Banks and Financial Institutions (RDDBFI) Act, 1993, was enacted in India to address the mounting concerns related to rising non-performing assets (NPAs) and the slow recovery of debt due to banks and financial institutions. The Act aimed to expedite the debt recovery process, offering a specialized mechanism for resolving debt recovery cases and alleviating the burden on banks and financial institutions (Reference: The Recovery of Debts Due to Banks and Financial Institutions Act, 1993, No. 51 of 1993).

The RDDBFI Act facilitated the establishment of Debt Recovery Tribunals (DRTs) and Debt Recovery Appellate Tribunals (DRATs) for the adjudication of debt recovery cases. DRTs were responsible for handling cases filed by banks and financial institutions for the recovery of debts above a specified threshold (Reference: Section 17, RDDBFI Act, 1993). DRATs, on the other hand, were appellate bodies hearing appeals against the orders passed by DRTs (Reference: Section 20, RDDBFI Act, 1993).

Under the RDDBFI Act, the process of debt recovery was initiated by the bank or financial institution by filing an application with the DRT, seeking a recovery certificate for the amount due from the debtor (Reference: Section 19, RDDBFI Act, 1993). Once the recovery certificate was issued, the Recovery Officer attached to the DRT had the power to recover the debt from the debtor through various means, such as attaching and selling the debtor's property, arresting, and detaining the debtor, or appointing a receiver for the management of the debtor's property (Reference: Section 25, RDDBFI Act, 1993).

Despite its well-intentioned objectives, the RDDBFI Act faced several challenges in practice. The Act's implementation was plagued by procedural delays, lack of transparency, and inadequate infrastructure, which hindered the overall effectiveness of the debt recovery process. To address some of these issues and further strengthen the debt recovery mechanism, the Indian government enacted the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002. The SARFAESI Act enabled banks and financial institutions to recover secured assets without the intervention of courts or tribunals, complementing the provisions of the RDDBFI Act (Reference: The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, No. 54 of 2002).

### **Challenges and Limitations of the RDDBFI Act**

The Recovery of Debts Due to Banks and Financial Institutions (RDDBFI) Act, 1993, was enacted with the primary objective of streamlining the debt recovery process in India. However, it faced several challenges and limitations, which ultimately hindered its effectiveness in addressing the growing issue of non-performing assets (NPAs) in the Indian banking sector.

1. **Procedural delays and inefficiencies:** The RDDBFI Act aimed to provide a swift and effective mechanism for debt recovery. However, the process was often marred by excessive delays due to bureaucratic red tape, lengthy legal proceedings, and a backlog of cases in Debt Recovery Tribunals (DRTs).

2. **Lack of transparency and consistency:** The RDDBFI Act's implementation often suffered from a lack of transparency and consistency in decision-making across different DRTs. This inconsistency led to uncertainty for both debtors and creditors, undermining the Act's objective of providing an effective debt recovery mechanism.

3. **Inadequate infrastructure and human resources:** The RDDBFI Act established DRTs and DRATs to handle the growing volume of debt recovery cases. However, these tribunals were often hampered by inadequate infrastructure, a shortage of trained personnel, and insufficient resources to manage the caseload effectively.

Despite the introduction of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act in 2002 to supplement the RDDBFI Act, the debt recovery process in India continued to face significant challenges. These limitations ultimately led to the development of a more comprehensive legal framework, the Insolvency and Bankruptcy Code (IBC), 2016, which aimed to address the shortcomings of the RDDBFI Act and other related legislations.

## **Introduction of the Insolvency and Bankruptcy Code (IBC), 2016**

The Insolvency and Bankruptcy Code (IBC), 2016, marked a significant milestone in the evolution of the debt recovery and insolvency resolution framework in India. Enacted to address the shortcomings of previous legislations like the Recovery of Debts Due to Banks and Financial Institutions (RDDBFI) Act, 1993, and the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002, the IBC consolidated existing laws and provided a unified legal framework to handle insolvency and bankruptcy cases. The IBC aimed to streamline the insolvency resolution process, striking a balance between the interests of debtors and creditors, and promoting a time-bound and efficient resolution mechanism. It established a two-stage process for resolving insolvency cases: the Corporate Insolvency Resolution Process (CIRP) for companies and Limited Liability Partnerships (LLPs), and the Fresh Start, Insolvency Resolution, and Bankruptcy processes for individuals and partnership firms.

The IBC also led to the formation of the Insolvency and Bankruptcy Board of India (IBBI), which serves as the regulatory authority overseeing insolvency professionals, insolvency professional agencies, and information utilities. Additionally, the National Company Law Tribunal (NCLT) and the National Company Law Appellate Tribunal (NCLAT) were designated as the adjudicating authorities for corporate insolvency cases, while the Debt Recovery Tribunals (DRTs) and the Debt Recovery Appellate Tribunals (DRATs) were assigned to handle insolvency and bankruptcy cases for individuals and partnership firms.

The IBC's introduction has had a profound impact on the Indian banking sector and the overall economy, significantly reducing NPAs, fostering credit discipline, and enhancing investor confidence. The time-bound resolution process, transparency, and equitable treatment of stakeholders under the IBC have contributed to its success in addressing the issues faced by previous legislations.

However, the IBC still faces challenges related to implementation, capacity constraints, and legal hurdles. Addressing these issues is crucial for the continued success of the IBC in revolutionizing the debt recovery landscape in India.

### **Key Features of the IBC and its Advantages over the RDDBFI Act**

The Insolvency and Bankruptcy Code (IBC), 2016, introduced several key features and advantages over the Recovery of Debts Due to Banks and Financial Institutions (RDDBFI) Act, 1993, addressing the limitations of the previous legal framework for debt recovery and insolvency resolution in India. The following are the key features of the IBC and their comparative advantages over the RDDBFI Act:

1. Consolidated legal framework: The IBC integrated and streamlined various insolvency and bankruptcy laws, providing a unified legal framework for both individuals and corporate entities. This consolidation eliminated the complexities and overlapping regulations that existed under the RDDBFI Act and other legislations, resulting in a more coherent approach to debt recovery and insolvency resolution.

2. Time-bound resolution process: One of the most significant features of the IBC is its time-bound resolution process, with a maximum period of 330 days, including any extensions and litigation, for the completion of the Corporate Insolvency Resolution Process (CIRP) (Reference: Section 12, IBC, 2016). This feature

contrasts with the lengthy and often unpredictable timelines associated with the RDDBFI Act, resulting in a more efficient and expedited resolution process under the IBC.

3. Creditor-driven process: The IBC empowers creditors to initiate the insolvency resolution process, enabling them to have a more significant say in the proceedings. A Committee of Creditors (CoC) is formed, comprising financial creditors who collectively make critical decisions during the resolution process (Reference: Sections 21-27, IBC, 2016). This approach differs from the debtor-driven process under the RDDBFI Act, which often led to delays and conflicts of interest.

4. Value maximization and emphasis on resolution: The IBC focuses on maximizing the value of the debtor's assets and promoting the resolution of insolvency over liquidation. By prioritizing the going-concern principle and aiming for a resolution that benefits all stakeholders, the IBC offers a more comprehensive and inclusive approach compared to the RDDBFI Act, which primarily focused on debt recovery without considering the broader implications for the debtor's business and stakeholders.

5. Transparent and predictable process: The IBC's provisions and procedures emphasize transparency, fairness, and predictability. Insolvency resolution professionals, regulated by the Insolvency and Bankruptcy Board of India (IBBI), are appointed to manage the resolution process, ensuring an impartial and transparent approach (Reference: Sections 20, 208, IBC, 2016). In contrast, the RDDBFI Act often suffered from a lack of transparency and consistency in decision-making across different tribunals.

6. Cross-border insolvency provisions: The IBC contains provisions to address cross-border insolvency issues, enabling cooperation and coordination between Indian authorities and their foreign counterparts in handling insolvency cases involving assets and creditors across borders (Reference: Section 234, IBC, 2016). This feature was absent in the RDDBFI Act, which focused solely on domestic debt recovery cases.

### **IBC's Impact on the Indian Banking Sector and the Economy**

The Insolvency and Bankruptcy Code (IBC), 2016, has had a profound impact on the Indian banking sector and the broader economy, revolutionizing the insolvency resolution and debt recovery landscape in the country. The following are some of the significant ways in which the IBC has influenced the Indian banking sector and the economy:

1. Reduction in non-performing assets (NPAs): The IBC's efficient, time-bound resolution process has facilitated the reduction of NPAs in the Indian banking sector, which had been a persistent issue under the previous debt recovery mechanisms, such as the RDDBFI Act, 1993. By enabling banks to recover their dues in a timely and effective manner, the IBC has contributed to improving the financial health of the banking sector (Reference: Reserve Bank of India, Financial Stability Report, December 2019).

2. Improvement in credit discipline: The IBC has fostered better credit discipline among borrowers, as the threat of insolvency proceedings and potential loss of control over their businesses incentivizes them to service their debts promptly. This improved credit discipline has resulted in a healthier credit environment, which benefits both lenders and borrowers in the long run.

3. Boost to investor confidence: The IBC's transparent, predictable, and efficient insolvency resolution process has enhanced investor confidence in the Indian market. By providing a clear and reliable framework for resolving insolvency and bankruptcy cases, the IBC has made India a more attractive destination for both domestic and foreign investors.

4. Promotion of entrepreneurship and ease of doing business: The IBC's focus on resolution over liquidation and its streamlined exit mechanism for businesses has encouraged entrepreneurship and innovation. By offering a clear and efficient process for businesses to wind up their operations and exit the market, the IBC has contributed to improving India's ranking in the World Bank's Ease of Doing Business Index (Reference: World Bank, Ease of Doing Business Report, 2020).

5. Efficient allocation of resources: The IBC has facilitated the more efficient allocation of resources within the economy by enabling the timely resolution of stressed assets and their transfer to more efficient operators. This process promotes economic growth by ensuring that resources are not trapped in unproductive enterprises, and instead, are reallocated to more productive uses.

6. Strengthening of the legal framework: The IBC has strengthened the legal framework for insolvency resolution and debt recovery in India, addressing the shortcomings of previous legislations and providing a more comprehensive, unified, and effective system. This robust legal framework has contributed to improving the overall functioning of the financial system and the economy.

The Insolvency and Bankruptcy Code (IBC), 2016, has had a significant impact on the Indian banking sector and the economy by reducing non-performing assets, fostering credit discipline, enhancing investor confidence, promoting entrepreneurship, facilitating efficient resource allocation, and strengthening the legal framework for insolvency resolution and debt recovery. The IBC's success in addressing the limitations of previous debt recovery mechanisms has contributed to a more vibrant, resilient, and robust financial system and economy in India.

### **Challenges and Limitations of the IBC**

While the Insolvency and Bankruptcy Code (IBC), 2016, has brought about significant improvements in the insolvency resolution and debt recovery landscape in India, it also faces certain challenges and limitations that need to be addressed for its continued success. The following are some of the key challenges and limitations associated with the IBC:

1. Delays in resolution process: Despite the IBC's emphasis on a time-bound resolution process, several cases have experienced delays, primarily due to litigation, overburdened tribunals, and procedural complexities. These delays can erode the value of the debtor's assets and undermine the IBC's objective of an expedited resolution process.

2. Capacity constraints: The IBC's implementation requires a robust ecosystem of professionals, including insolvency professionals, valuers, and information utilities. However, capacity constraints and skill gaps in these areas can hinder the effective functioning of the IBC framework.

3. Quality of resolution plans: The success of the IBC largely depends on the quality of resolution plans submitted by the bidders. However, in some cases, resolution plans may not sufficiently address the interests of all stakeholders or ensure the long-term viability of the debtor company, raising concerns about the sustainability of the resolution outcomes.

4. Operational creditors' concerns: While the IBC aims to strike a balance between the interests of various stakeholders, operational creditors often feel side-lined compared to financial creditors. Operational creditors may receive a smaller share of the resolution proceeds, which can lead to dissatisfaction and potential litigation, thus slowing down the resolution process.

5. Cross-border insolvency: Although the IBC contains provisions for cross-border insolvency, it is yet to fully adopt the UNCITRAL Model Law on Cross-Border Insolvency. As a result, the handling of cross-border insolvency cases remains a challenge, with limited cooperation and coordination between Indian authorities and their foreign counterparts.

6. Legal challenges and amendments: The IBC have faced several legal challenges and has been subject to multiple amendments since its inception. These challenges and frequent changes to the law can create uncertainty, impacting investor confidence and the overall effectiveness of the IBC framework.

7. Pre-packaged insolvency resolution: The IBC has recently introduced pre-packaged insolvency resolution processes for micro, small, and medium enterprises (MSMEs). While this mechanism holds promise for expediting the resolution process, its success depends on the effective implementation and balancing of the interests of various stakeholders, including operational creditors.

To overcome these challenges and limitations, it is crucial to focus on enhancing the capacity and efficiency of insolvency professionals, adjudicating authorities, and other stakeholders. Further, streamlining the resolution process, addressing the concerns of operational creditors, and adopting international best practices in cross-border insolvency can contribute to the continued success of the Insolvency and Bankruptcy Code (IBC), 2016, in revolutionizing the debt recovery landscape in India.

### **The Future of Debt Recovery in India**

The future of debt recovery in India looks promising, as the country continues to strengthen its legal and regulatory frameworks to address the challenges posed by non-performing assets (NPAs) and insolvency. With the Insolvency and Bankruptcy Code (IBC), 2016, forming the backbone of the debt recovery ecosystem, several developments are expected to shape the future of debt recovery in India.

Firstly, the continued evolution of the IBC framework will play a crucial role in the effectiveness of debt recovery. As the IBC matures, it is expected that the government and regulatory authorities will continue to refine and streamline the resolution process, addressing existing challenges and limitations, such as delays, capacity constraints, and the concerns of operational creditors. This will ensure that the IBC remains a robust and effective mechanism for debt recovery and insolvency resolution.

Secondly, the introduction of new mechanisms, such as pre-packaged insolvency resolution processes for micro, small, and medium enterprises (MSMEs), is expected to further enhance the efficiency and effectiveness of the debt recovery process. By offering a faster and more cost-effective alternative to the traditional Corporate Insolvency Resolution Process (CIRP), pre-packaged insolvency can help to expedite the resolution of stressed assets and reduce the burden on the adjudicating authorities.

Thirdly, the adoption of international best practices in the area of cross-border insolvency will be crucial for the future of debt recovery in India. As the country becomes increasingly integrated into the global economy, it is essential to have a robust framework for addressing cross-border insolvency issues, which will facilitate cooperation and coordination between Indian authorities and their foreign counterparts in handling insolvency cases involving assets and creditors across borders.

Furthermore, the role of technology in the debt recovery process cannot be understated. The adoption of digital technologies, such as artificial intelligence, blockchain, and data analytics, can help to streamline the resolution process, reduce delays, and improve the overall efficiency and effectiveness of the debt recovery ecosystem. Leveraging technology can also facilitate greater transparency, ensuring that all stakeholders have access to accurate and up-to-date information, which is essential for the successful resolution of insolvency cases.

Lastly, financial education and awareness will be vital in fostering a culture of responsible borrowing and lending in India. By promoting financial literacy and responsible credit behaviour among borrowers, lenders, and other stakeholders, it will be possible to reduce the incidence of NPAs and improve the overall health of the Indian banking sector.

## **Conclusion**

The paradigm shift from the Recovery of Debts Due to Banks and Financial Institutions Act (RDDBFI), 1993, to the Insolvency and Bankruptcy Code (IBC), 2016, has significantly transformed the debt recovery landscape in India. The IBC has addressed many limitations of the RDDBFI Act, providing a comprehensive, unified, and time-bound framework for the resolution of insolvency and bankruptcy cases.

The IBC's key features, such as the debtor-in-possession model, the role of insolvency professionals, and the prioritization of resolution over liquidation, have contributed to its success in improving the overall health of the Indian banking sector and promoting investor confidence. Despite facing challenges and limitations, the IBC has demonstrated its effectiveness in resolving high-profile cases and maximizing the value of stressed assets.

Looking ahead, the future of debt recovery in India appears promising, with the ongoing evolution of the IBC, the introduction of new mechanisms like pre-packaged insolvency resolution, the adoption of international best practices in cross-border insolvency, the increasing role of technology, and the promotion of financial education and awareness. By continuously refining the IBC framework and addressing existing challenges, India can further strengthen its debt recovery ecosystem and foster a robust financial sector that supports long-term economic growth and development.



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