

Insolvency Summit 2017 organized by INSOL India and SIPI

Held in Mumbai on 22 and 23 September, the event brought together some of the best minds in business to review the 270-day journey of the Insolvency and Bankruptcy Code and discuss the way forward

All roads led to Hotel Taj Mahal Palace, Mumbai, on 22 and 23 September, 2017, as the Insolvency Summit was being hosted there by INSOL India and SIPI (Society of Insolvency Practitioners of India) in partnership with the Insolvency and Bankruptcy Board of India. The Summit was supported by Axis Bank Ltd. and organised by ARA Legal Media Group

22nd September:

The inaugural session of the Summit was aptly titled, *“The Journey of Insolvency & Bankruptcy Code: The Footprint Hitherto,”* and saw Amarjit Singh Chandhiok, President, INSOL India; Sudarshan Sen, Executive Director, Reserve Bank of India; Dr. M.S. Sahoo, Chairperson, Insolvency and Bankruptcy Board of India; Damini Marwah, General Counsel, Axis Bank; and Ashish Chhawchharia, Partner, Grant Thornton taking to the stage to elaborate on the idea behind the Summit and its central theme. Aakriti Raizada, Founder & Managing Editor, Legal Era Magazine, Legal Media Group welcomed the delegates.

Dr. M.S. Sahoo said, “The law endeavors to prevent insolvency; wherever it is not possible to prevent, it provides a market mechanism for orderly resolution of insolvency in a time-bound manner; where resolution is not possible, it facilitates exit wherever required.”

The opening plenary was followed by the first session of the first day titled, *“270 Days and Counting: Success Stories Under and Around IBC.”* Moderated by Bahram N. Vakil, Founder-Partner, AZB & Partners, and participants Siby Antony, Chairman & Managing Director, Edelweiss ARC; Damini Marwah, General Counsel, Axis Bank; and Ashish Chhawchharia, Partner, Grant Thornton.

The second session, *“Earning Your Crust: How Insolvency Professionals Get Remunerated?”* saw panelists Dr. Steffen Koch, Partner, hww Hermann wienberg wilhelm; Shagun Dubey, Consultant, RSMA; and Harish Chander, Executive Vice President, Edelweiss Financial Services Ltd; and was moderated by Shailen Shah, Deal Advisory, Restructuring & Insolvency, BSRR & Co.

The very first discussion after lunch was titled *“Use And (Misuse) Of IBC For Recovery of Debt: How To Curb The Dangerous Trend?”*, and was moderated by Anju Agarwal, Director, ASC Consulting Pvt Ltd. The likes of Satyajit Gupta, Principal – M&A/ Corporate, Advaita Legal Attorneys and Advocates; Pooja Mahajan, Partner, Chandhiok & Associates, Advocates and Solicitors; and Aashit Shah, Partner, JSA, participated in it.

Anurag Das, Managing Partner, Rain Tree Capital; Nick Wood, Partner – Restructuring Services, Grant Thornton UK; and Ashok Kumar, Director, BlackOak LLC, were the panelists on *“Acquiring Old Businesses in New Ways Or Just The New Packaging? What Kinds of Resolution Plans Are Being Put Forward?”* that was moderated by L. Viswanathan, Partner, CAM.

The last session of Day One of the Summit, *“Creditors & Debtors: Friends or Foes - Does The Blame Game Continue?”* had Divyanshu Pandey, Banking and Finance Partner, J. Sagar Associates (JSA), as moderator, with panelists including Alok Dhir, Founder and Managing Partner, Dhir & Dhir Associates; Paul Seah, Partner, TKQP (Singapore); and Dr. Steffen Koch, Partner, hww hermann wienberg wilhelm.

23rd September:

There were no signs of the enthusiasm and energy dropping as the Summit entered its second day.

The session titled *“Pre-Packs: The Missing Player in The Game”* saw participation from James H.M. Sprayregen, P.C., Partner, Kirkland & Ellis LLP; Richard Heis, Partner, KPMG UK; Paul Williams, Managing Director (Restructuring), Duff & Phelps, UK; and Rudrapriyo Ray, President and Head, Structured Finance Group (SFG). It was moderated by Ashwin Bishnoi, Partner, Khaitan & Co.

The discussion on *“Raising Finance – Interim & Exit – Where to Find the Money, How To Spend?”* saw panelists Nikhil Shah, Managing Partner, A & M; Anurag Das, Managing Partner, Rain Tree Capital; Richard Heis, Partner, KPMG UK, and Harish Chander, Executive VP, Edelweiss Financial Services Ltd. The moderator was Abizer Diwanji, Partner, National Leader, Financial Services, Restructuring Services, EY India.

The panel titled *“The View from the Bench - Judge’s Take On IBC Journey”* was moderated by Damini Marwah, General Counsel, Axis Bank. The likes of Justice S.C. Gupte, Judge, Bombay High Court, and Justice R.D. Dhanuka, Judge, Bombay High Court, participated in it.

David Kidd, Partner, Linklaters; T.K. Viswanathan, Chairman, Bankruptcy Law Reform Committee; James H.M. Sprayregen, P.C., Partner, Kirkland & Ellis LLP; and Ashok Kumar were the panelists on *“Cross Border Insolvency Law – Necessity or An Option?”* that was moderated by Dinkar Venkatasubramanian, Partner, Restructuring & Turnaround, Ernst & Young Private Limited.

The audience regrouped after a sumptuous lunch for the session on *“Will IBC Change the Recovery/Resolution/Liquidation Judicial Landscape*

For The Positive?”. Moderated by Dhananjay Kumar, the participants included Venkatesh R. Dhond, Senior Advocate, Bombay High Court; Ravindra Kadam, Senior Counsel, Bombay High Court; Chaitanya D. Mehta, Managing Partner, Dhruve Liladhar & Co; and Sapan Gupta, Shardul Amarchand Mangaldas.

The Summit closed with a discussion on “IBC Proceedings – Past, Present & Future” with participants including Mukul Shrawat, Member Judicial, National Company Law Tribunal, Mumbai Benches, and Amarjit Singh Chandhiok, President, INSOL India. There was thunderous applause as the curtains dropped on the Summit with Chandhiok presenting the concluding remarks.

QUOTES

Sumant Batra

INSOL India will continue to organise such educational and knowledge sharing programs with support from international experts. We are grateful to speakers in particular those who traveled from other parts of the world for their contribution in making the Summit a great success, said Sumant Batra, Chief Mentor of INSOL India and Summit Chair.

Amarjit Singh Chandhiok

The event started really very well. They were able to bring the best faculty to come and speak. I think their experiences and guidelines should help us evolve through the Insolvency Code better. We must all keep our enthusiasm as there is no magic wand in this and time will make all processes clear. Lot of creases have already been cleared by the courts and as time passes and implement this law, we will be able to build a robust insolvency system.

Hon’ble Mr. Justice S.C. Gupte

Hon’ble Mr. Justice S.C. Gupte highlighted that under the existing regime, Courts had to dabble with thirteen different legislations that dealt with the insolvency and liquidation of corporate entities and lack of specific timelines and the plethora of forums, gave rise to long drawn and complicated legislations in this sphere. The IBC, which provides for a single forum for insolvency resolution of corporate persons, and prescribes specific timelines for insolvency resolution and liquidation, was, in his opinion, a welcome change to the existing regime. Whilst pointing out the positive features of the IBC, His Lordship Justice Gupte observed that the IBC also had certain drawbacks such as non-inclusion of operational creditors in the committee of creditors and lack of comprehensive provisions pertaining to cross-border insolvency.

Hon’ble Mr. Justice R. D. Dhanuka

Hon’ble Mr. Justice R.D. Dhanuka stressed on the practical implications of the IBC on the judicial system in India. He observed that presently, there are only 11 states in which the National Company Law

Tribunal has been established. NCLT benches in various states, including Maharashtra, have jurisdiction of the insolvency resolution and liquidation of corporate persons registered in more than two/three states, in addition to their other judicial functions under the Companies Act, 2013. Additionally, he observed the need for a national training institute that trains Members of the Hon'ble Tribunals in the laws of insolvency resolution and liquidation under the IBC. He urged both litigants and lawyers to assist the judiciary as far as possible so as to enable it function smoothly and in accordance with the timelines prescribed in the IBC.

Damini Marwah

The Summit had the best minds come together from different jurisdictions and was a great initiative by INSOL India. IBC marks a paradigm shift in regime around insolvency, bankruptcy and resolution of corporate debtors. The creditor in control approach will undoubtedly bring about behavioral changes in the lending landscape for the better, and we will hopefully move towards a more disciplined and limited default culture. Cross border insolvency, RP capacity building, information utilities, group company insolvencies are some key areas which need to be developed as we move forward with the Code.

Shailen Shah

Lenders' selection of IP should be based on the experience of the IP, his/her credibility and integrity, and his/her ability to mobilize resources. It shouldn't necessarily be based on the 'lowest bidder wins' approach. A sub-optimal selection may lead to sub-optimal results.

IP should regularly communicate with creditors and update them on work done, key progress achieved and efforts involved to avoid disputes later. IP should maintain the balance between charging fair fees with risk associated with the engagement.

Richard Heis

The conference was absolutely fantastic. I had an enormously enjoyable time and learned a lot. James Sprayregen

It's exciting to watch development of the new code, which is a forward-looking development for India. Development of the cross-border element of the code is yet to come but I am confident it will happen over time. It was a great event with all senior professionals and bankers in the community learning a tremendous amount from people in India and people coming in to share their expertise and I'm honored to be here.

Steffen Koch

The event was wonderful, high-profile speakers, high-profile audience, so this was definitely an event to be present at the very interesting start of the new insolvency regime. Well, I think, IBC is about 280 days

in practice and it has to develop. I remember in Germany when we had the new bankruptcy code, it took a few years to be considered as a mature tool to restructure companies in trouble. So, it will take some time but we're very optimistic that this will be a true success for the Indian recovery and restructuring business.

I absolutely foresee progress but it will take some time for everybody to get used to it. In the end however, this will be an overwhelming success for the whole atmosphere for restructuring and insolvency.

This is very important and I would like to congratulate our Indian friends to have been able to achieve it.