**Questionnaire About Implementation of the Insolvency and Bankruptcy Code, 2016**

*1.* From your vantage point, how would you rate *(in scale of 1-5, with 5 being excellent and 1 being poor)* the work of the following group (or groups) of Insolvency Professionals in furthering the success of the implementation of the Insolvency & Bankruptcy Code, 2016? *(Please state the reason).*

* *Chartered Accountants*
* *Cost Accountants*
* *Company Secretaries*
* *Advocates*
* *Valuators*

Reasons

2. Which group (or groups) of insolvency professionals as mentioned in Question no. 1, do you think could do more to further the implementation of the Insolvency & Bankruptcy Code, 2016? *(Please state the reason).*

*3.* In the US, legal professionals are the leading group in furthering the aims of the US Bankruptcy Code. Do you agree that is the case in India also? *(Please state the reason).*

* *Strongly Agree*
* *Agree*
* *Neither Agree nor Disagree*
* *Disagree*
* *Strongly Disagree*

4. What do you perceive about the insolvency-specific expertise among the Insolvency Professionals in India?

* *Very competent*
* *Need Improvement*
* *Incompetent*

*5.* How satisfactory (options below) do you think is the quality of work of the NCLT and NCLAT panels in the context of insolvency and bankruptcy cases? *(Also, state your opinion on whether the members of the NCLT (and NCLAT) panels have received adequate training under this law?)*

*(Please tick)*

|  |  |  |
| --- | --- | --- |
|  | *NCLT* | *NCLAT* |
| *Not at all satisfied* |  |  |
| *Partly satisfied* |  |  |
| *Satisfied* |  |  |
| *More than satisfied* |  |  |
| *Very satisfied* |  |  |
| *(Please write)*  *Opinion on adequate training* |  |  |

*6.* Which are the areas under Insolvency & Bankruptcy Code, 2016 that needs the most legislative and regulatory attention in the current situation? *(Rank any three options below in the appropriate box to the left of your answer from 1-3, with 1 being the most important.)*

* *Section 29A*
* *Sales of claims by financial creditors to others generally*
* *Sales of claims by financial creditors to promotors*
* *Valuation/ Value destruction*
* *Indecisiveness of creditors*
* *Delays in the process*
* *Membership of Committees of Creditors (generally only financial creditors)*
* *Voting on Committees of Creditors (how should “non-votes” be tabulated)*
* *Lack of infrastructure (expertise of- tribunals, resolution professionals, etc.)*
* *Assessment of unpaid government dues of corporate debtor on buyers of assets of the CD*
* *Others (state\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

State what issues about these three areas need to be addressed? What solutions would you recommend?

7. The recent judgment of the Indian Supreme Court stated that *“in the working of the code, the flow of financial resource to the commercial sector in India has increased exponentially as a result of financial debts being repaid.”* How far do you agree with this statement?

* *Strongly Agree*
* *Agree*
* *Neither Agree nor Disagree*
* *Disagree*
* *Strongly Disagree*

8. How suitable do you think is the Insolvency & Bankruptcy Code, 2016 for addressing the stressed-assets challenges in the power sector and in Small and Medium scale Enterprise (SMEs)?

* *Very well suited*
* *Stands in need of some improvement*
* *Stands in need of substantial improvement*
* *Entirely unsuited*

9. The main aims of the Insolvency & Bankruptcy Code, 2016 as evident from its preamble are ‘resolution of corporate persons’ ‘in a time bound manner’ and ‘maximization of value of assets’. How well do you think has the Code performed in achieving the above stated goals until now?

* *Excellent*
* *Above average*
* *Average*
* *Below average*
* *Very poor*

10. Do you believe that the individual bankruptcy provisions of the Insolvency & Bankruptcy Code, 2016 will be notified by the end of 2020?

*Yes*

*No*

11. If the current regime of the individual bankruptcy provisions is notified, what do you anticipate of would be its effectiveness?

* *Very effective*
* *Somewhat effective*
* *About the same/ Neither*
* *Generally ineffective*
* *Completely ineffective*

12. In the US (and recently more nations) there is a strong property-rights system of personal property security interests available to all creditors that include (i) a public registry of such security interests, catalogued under the name of the debtor (ii) accessible to the public (including other potential secured creditors). Do you believe India could implement such a system?

*Yes*

*No*

*For what reasons?*

13. In the US, actions to recover preferential transfers and undervalued transaction are vigorously pursued with great success to increase assets for distribution to creditors. To what extent are RPs (and liquidation professionals) and approved resolution plans taking full advantage of these rights under the IBC?

*Always effectively*

*Generally effectively*

*In some proceedings effectively but in others ineffectively*

*Generally ineffectively*

*Completely ineffectively*

14. With the growth of multi-national business enterprises, do you believe India should adopt the UNCITRAL Model Law on Cross-Border Insolvency?

*Yes*

*No*

*For what reasons?*

*15. Committees of Creditors are seeking a speedy return for financial creditors and are failing to maximize distributions to all creditors.*

* *Strongly agree*
* *Agree*
* *Neither agree nor disagree*
* *Disagree*
* *Strongly disagree*

*16. The unilateral power of Committees of Creditors to replace resolution professionals leads RPs to act for the interests of financial creditors over the interests of operational creditors.*

* *Strongly agree*
* *Agree*
* *Neither agree nor disagree*
* *Disagree*
* *Strongly disagree*

*17. Financial creditors are failing to approve hiring professionals by resolution professionals and/or failing to fund the expenses of RPs in an adequate manner.*

* *Strongly agree*
* *Agree*
* *Neither agree nor disagree*
* *Disagree*
* *Strongly disagree*

*18. Over the course of the next two years, what percentage of proceedings do you believe will end in liquidation of the assets of the corporate debtor (rather than restructuring)?*

* *80%*
* *60%*
* *40%*
* *20%*

1. *Whether Insolvency Professionals (IP) are aware of the obligations of the Insolvency Professional Agency (IPA) towards IPs under IBC/IBBI rules and regulations?*
2. *Whether Insolvency Professionals are satisfied with the capacity development programme/ continuous professional development programme organized by their respective IPAs?*
3. *Whether Insolvency Professionals are satisfied with the knowledge enhancement, training, etc., provided by the IPAs?*
4. *How many cases currently under liquidation are pre-IBC cases or those transferred from Board for Industrial Financial Reconstruction (BIFR)?*

1. Do you believe that there is lack of clarity or inconsistency within the Insolvency & Bankruptcy Code, 2016 itself?

Yes

No

Kindly specify the areas. What changes would you recommend?

1. Whether you believe that there is lack of clarity in the Regulations under Insolvency & Bankruptcy Code, 2016?

*Yes*

*No*

Kindly specify the areas. What changes would you recommend?

1. Do you believe that there is any inconsistency between the Regulations and the Insolvency & Bankruptcy Code, 2016 itself? Kindly specify the areas

Yes

No

1. What issues, if any, do you feel as crucial in the proceedings against the individual guarantors to corporate debtors?
2. What issues, if any, do you feel as crucial to be considered in formulation of group insolvency norms in India?
3. We are likely to present part findings of this research in a working paper discussion during April at NLUD, in case you might be interested kindly drop in an email to [editor.ctcl@gmail.com](mailto:editor.ctcl@gmail.com)