



Conference on

Insolvency and Bankruptcy Code, 2016

Implications for the Infrastructure Sector

September 11, 2017, The Leela, Mumbai

Conference on

Arbitration in Infrastructure

September 12, 2017, The Leela, Mumbai

Organisers:



INSOLVENCY AND BANKRUPTCY CODE, 2016

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Mission

- ❖ Corporate insolvency has been a vexed issue in India, as the legal mechanism to deal with it has been fragmented under multiple laws.
- ❖ India ranks 136 in the World Bank's ranking for resolving insolvency. It takes over four years to resolve insolvency issues and the recovery rate is very low.
- ❖ A serious consequence of this has been a large amount of bad/restructured loans (worth about Rs 8 trillion) on bank books, over 40 per cent of which pertains to infrastructure and related sectors. Several schemes have been launched to address this issue - CDR, 5/25, SDR and S4A - all of which have met with limited success.
- ❖ The newly introduced Insolvency and Bankruptcy Code (IBC), 2016 seeks to address this issue by bringing in a consolidated legal framework for resolving defaults by infrastructure companies and partnership firms in a time-bound manner. The code, in force since December 2016, supersedes all extant insolvency laws.
- ❖ The criteria for cases to be referred under IBC 2016 are that the lenders' exposure must be at least Rs 50 billion, and that more than 60 per cent of this has been declared as an NPA (as of March 2016) by the lender.
- ❖ Both the debtor and the creditor are permitted to trigger the insolvency procedure under the code. As of May 2017, 67 cases have been initiated under IBC 2016.
- ❖ The enactment of IBC 2016 will shift the debtor-creditor dynamics from "debtor under possession" to "creditor in control". This has been further bolstered by the greater legislative powers given by the government to the Reserve Bank of India (RBI) through an ordinance to amend the Banking Regulation Act, 1949. The ordinance, introduced in May 2017, allows the central bank to issue directions to banks to initiate insolvency resolution procedures under the provisions of IBC 2016.
- ❖ Consequently, in June 2017, RBI identified 12 default accounts with Rs 2 trillion worth of bad loans (25 per cent of the total bad loans in the system) to be resolved under this route.
- ❖ While IBC 2016 is expected to play a key role in NPA resolution, much of its success would depend on its implementation, which seems challenging owing to a host of factors. For instance, a number of banks have reservations about IBC 2016, primarily on account of the requirement of accelerated provisioning and their belief that negotiations can best be carried out with the promoters. Some banks are looking at testing the code with small cases before bringing in large cases through this route.
- ❖ **The mission of this conference is to examine the impact of IBC, 2016 on resolving insolvency issues in India. The conference will highlight the key features and the various legal nuances of the code. It will also discuss the impact of the code on various infrastructure sectors, the execution challenges and the way forward for the enforcement of the code.**

AGENDA/STRUCTURE (Insolvency and Bankruptcy Code, 2016)

CURRENT SCENARIO - INSOLVENCY AND NPA CASES

- ❖ What is the current state of insolvency cases in India?
- ❖ What has been the trend with respect to bank NPAs?
- ❖ What have been the key issues and challenges?
- ❖ What is the outlook?

INTRODUCTION TO IBC 2016

- ❖ What are the key features of IBC 2016? What is the process for invoking the IBC 2016 provisions?
- ❖ What is its likely impact on various sectors?
- ❖ What are the key issues and challenges in its implementation?

EXPERIENCE WITH DEBT RESTRUCTURING SCHEMES

- What has been the experience with regard to debt restructuring with schemes such as CDR, 5/25, SDR and S4A?
- What have been the hits and misses?
- What have been the key challenges in implementing these schemes? How is IBC 2016 a better framework?

LENDERS' PERSPECTIVE

- How do the lenders perceive IBC 2016?
- How is the code expected to impact the debt recovery rate?
- What are the expected challenges in its execution?

BORROWERS' PERSPECTIVE: FOCUS ON KEY SECTORS (POWER, STEEL, CEMENT, CONSTRUCTION, ROADS, AVIATION, ETC.)

- How do the borrowers perceive IBC 2016?
- What are the challenges in triggering the insolvency process under the IBC?
- What are the grey areas in the code?

FOCUS ON REGULATORY ASPECTS

- What are the key regulatory aspects of the effective implementation of IBC 2016?
- What are the key issues? What are the possible remedies?
- What is the wishlist of key regulators?

LEGAL IMPLICATIONS

- What are the legal implications of the provisions of IBC 2016?
- What are the lacunae in the new framework? How can these be addressed?

ARBITRATION IN INFRASTRUCTURE

September 12, 2017, The Leela, Mumbai

Mission

- ❖ Infrastructure projects are complex in nature. The capital investment is high. The gestation period is long. There are multiple stakeholders involved. Contracts often do not clearly define the role and responsibilities of the parties involved. These projects are thus quite prone to disputes and litigation.
- ❖ Arbitration has long been a method of dispute resolution in India. However, it is often criticised for being costly, time consuming and ineffective. As per government estimates, around Rs 700 billion is tied up at various stages of arbitration across infrastructure sectors. More than 95 per cent of arbitration in India is “ad hoc” in nature, as against institutional arbitration globally.
- ❖ So far, only a few cases have been handled by domestic institutions such as the Indian Council of Arbitration (ICA) and the International Centre for Alternative Dispute Resolution (ICADR).
- ❖ As a result, many Indian companies approach foreign arbitration centres such as the Singapore International Arbitration Centre (SIAC) and the London Court of International Arbitration (LCIA), leading to the loss of arbitration business opportunity for India. At present, Indian parties account for around 30 per cent of the arbitration cases handled by SIAC and LCIA.
- ❖ The situation is set to change, with several new policy measures announced in the past one to two years. In a major development, the Indian Arbitration and Conciliation (Amendments) Act, 2015 came into force from October 23, 2015, repealing the two decades old Arbitration and Conciliation Act, 1996.
- ❖ The act provides for time-bound disposal of all arbitration matters. It also permits parties to opt for fasttrack arbitration, with the decision being granted within six months. Further, the scope of challenges to arbitral awards on public policy grounds has been reduced. The act also attempts to fix limits on the fee payable to the arbitrator. It, moreover, enables the parties to an international commercial arbitration with the seat of arbitration outside India to approach Indian courts and seek interim relief. The definition of “court” has been amended to refer to only high courts in the case of international commercial arbitrations.
- ❖ Subsequently, in September 2016, the government announced new measures for arbitration for the construction industry. Government agencies would have to pay 75 per cent of the arbitration award amount into an escrow account against a margin free bank guarantee, if the award is being challenged. The step is expected to significantly reduce the debt of construction/infrastructure firms (to the extent of 40-50 per cent), improve liquidity, and speed up infrastructure project execution.
- ❖ Moreover, steps are being taken to promote India as a preferred destination for resolving international business disputes. The first international arbitration centre was opened in Mumbai in October 2016. SIAC has signed an agreement to establish a representative office at GIFT City, Gujarat to resolve international commercial disputes.
- ❖ The goods and services tax (GST) could mean a significant lowering of total tax costs, and thus reduce tax disputes and litigation.
- ❖ The Indian industry has, for the most part, responded positively to the new policy measures. However, there is still much ground to cover. Adherence to timelines, minimisation of judicial interference and promotion of institutional arbitration will play a key role in making the arbitration process user friendly and cost effective in India.
- ❖ **The mission of this conference is to analyse the recent trends and developments in arbitration rules and regulations, discuss their impact, highlight the key unresolved issues and examine the way forward. The conference will also offer a platform for different stakeholders to share their experiences and exchange views and opinions.**

AGENDA/STRUCTURE (Arbitration in Infrastructure)

KEY TRENDS AND ISSUES

- ❖ What has been the arbitration experience with infrastructure projects in India?
- ❖ What are the key recent trends and developments?
- ❖ What are the biggest challenges?
- ❖ What are the key unresolved issues?

GOVERNMENT PERSPECTIVE: INITIATIVES FOR SPEEDIER ARBITRATION

- ❖ What is the government’s perspective on arbitration in infrastructure?
- ❖ What steps are being taken to fasttrack the process of arbitration in India?
- ❖ What policy and regulatory changes can we expect in the future?

ARBITRATION AND CONCILIATION (AMENDMENT) ACT, 2015: IMPACT ON INFRASTRUCTURE SECTOR

- ❖ What are the key features of the new Arbitration and Conciliation (Amendment) Act, 2015?
- ❖ What will be the impact of the new act on infrastructure sector projects and companies?
- ❖ What are the key unresolved issues?

DEVELOPER/OPERATOR PERSPECTIVE

- ❖ What has been the experience of infrastructure developers/operators across sectors with regard to arbitration in India and abroad?
- ❖ What will be the impact of the recent policy measures?
- ❖ What are their major issues and concerns?
- ❖ What are their expectations from the government and other stakeholders?

CONSTRUCTION CONTRACTORS’ PERSPECTIVE

- ❖ What has been the experience of construction contractors with regard to arbitration in India and abroad?
- ❖ What will be the impact of the recent policy measures?
- ❖ What are their major issues and concerns?
- ❖ What are their expectations from the government and other stakeholders?

ARBITRATION INSTITUTIONS’ VIEWPOINT

- ❖ What is the role of arbitration institutions in India (ICA, ICADR, etc.)?
- ❖ What is the view of these institutions on the arbitration process in India?
- ❖ What are the key challenges?
- ❖ What lessons can be learnt from global arbitration institutions?

ARBITRATION AGREEMENTS

- ❖ What are the various types of arbitration agreements?
- ❖ How have arbitration agreements evolved over the years? What role can FIDIC conditions play in the resolution of disputes?
- ❖ What has been the experience so far (across infrastructure sectors)?

ARBITRATORS’ PERSPECTIVE

- ❖ What has been the arbitrators’ perspective with regard to infrastructure projects in India?
- ❖ What are the key issues and challenges? What have been the lessons learnt?
- ❖ What can be done to improve the process of arbitration in India?

INTERNATIONAL ARBITRATION

- ❖ What has been the arbitration experience globally?
- ❖ What has been the role of foreign arbitration institutions (SIAC, LCIA, etc.)?
- ❖ What are the global best practices? Which of these are the most relevant for India?

IMPACT OF GST

- ❖ What are the key features of GST?
- ❖ What are the key positives and potential benefits?
- ❖ What will be its impact on infrastructure companies and projects?
- ❖ What are the key concerns and challenges? What are the unresolved issues?

COST AND TIME MANAGEMENT

- ❖ What are the key challenges in cost and time management?
- ❖ What strategies can be adopted to overcome these? What are the global best practices?
- ❖ Which of these are the most relevant for India?

Previous Participants

The participants at our other recent finance related conferences include: Adani Ports & SEZ, Adani Power, Aditya Birla Finance, AECOM, Afcons, ARCIL, ATC Telecom, Axis Bank, Axis Capital, AZB & Partners, Bhandari & Associates, Birla Sunlife Asset Management, BMR & Associates, BMR Advisors, BP India, BPCL, Brescon Corporate Advisors, Bridge & Roof, BRIDGE TO INDIA, BRNL, Brookfield Financial, Cairn India, CARE, CBRE, CMRC, Chhattisgarh RDC, CIDCO, CLP India, CLSA, CPPIB, CRISIL, Cyril Amarchand Mangaldas, DBS Bank, Deesha Power, Dhir & Dhir, Dhruva Advisors, Dilip Buildcon, Dolat Capital, DSK Legal, DSP Merrill Lynch, E&Y, ELP, Edelweiss ARC, Essar Power, Essel Infraprojects, Feedback Brisa, Feedback Infra, Gammon, GMR, HCC, HUDCO, ICICI Bank, ICRA, IDBI Trusteeship, IDEck, IDFC Alternatives, IDFC Bank, IFCI, IIFCL, IL&FS Investment Managers, ITNL, IL&FS Engg, IL&FS Financial Services, IL&FS Maritime, India Power, India Ratings, Indus Law, Indus Towers, Infrastructure Advisors, IPE Global, IRB, Iridis Advisory, IVRCL, J Sagar, J.M. Baxi, Jaipur Metro Rail, J&K SPDC, JNPT, Jaypee Infratech, Jindal Steel & Power, JM Financial, JMC Projects, Kalpataru Power, KRDC, Khaitan & Co, Kotak Mahindra, KPMG, L&T Financial Services, L&T IDPL, L&T Infrastructure Finance, Law Senate, Link Legal, Luthra & Luthra, Macawber Beekay, Madhu Developers, Masin Projects, Mazagon Dock, MEP Infra, MIAL, MMRCL, NHAJ, National Steel & Agro Ind, NHPC, Patel Engg, PNC Infratech, PowerGrid, PwC, PTC India, RVNL, Reliance Infra, Reliance Nippon Life Insurance, Power Transmission, RITES, S&P Global, Sadbhav Engg, SBI Cap Trustee, SBI Capital Markets, Shapoorji Pallonji, Shardul Amarchand Mangaldas, Shriram EPC, Simplex Infrastructures, Statkraft Markets, Sterlite Power, Tata Capital, Tata Cleantech Capital, TRIL Roads, Trust Group, Visakha Container, Vistra ITCL, Wadia Ghandy, etc.

Target Audience

The conference is a must-attend for officials/managers from:

- ❖ Infrastructure developers (roads, ports, airports, construction, water, metro rail, railways, power, renewable energy, urban infrastructure, oil and gas, townships/SEZs)
- ❖ Government and policymakers
- ❖ EPC firms
- ❖ Infrastructure-related government agencies
- ❖ State infrastructure development organisations
- ❖ Arbitration institutions
- ❖ Legal firms
- ❖ Practising Arbitrators
- ❖ Advocates, CA, CS
- ❖ Commercial banks and financial institutions
- ❖ Asset reconstruction companies
- ❖ Financial advisory firms
- ❖ Project executing agencies
- ❖ Insurance firms
- ❖ Tax and other sector consultants
- ❖ Bilateral and multilateral agencies
- ❖ Academic and research institutions
- ❖ Credit rating firms
- ❖ Equipment manufacturers
- ❖ Infrastructure fund managers
- ❖ Technology providers, etc.

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One delegate	Rs 29,500 or \$492
Two delegates	Rs 50,150 or \$836
Three delegates	Rs 70,800 or \$1,180
Four delegates	Rs 91,450 or \$1,524

BOTH CONFERENCES

One delegate	Rs 47,200 or \$787
Two delegates	Rs 80,240 or \$1,338
Three delegates	Rs 113,280 or \$1,888
Four delegates	Rs 146,320 or \$2,439

- Delegate fee is inclusive of 18 per cent GST.

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- Full payment must be received prior to the conference.
- Conference fees cannot be substituted for any other product or service being extended by India Infrastructure Publishing Pvt. Ltd.
- Conference fee includes lunch, tea/coffee and conference material.

Organisers

The conference is being organised by **India Infrastructure Publishing**, the leading provider of information on the infrastructure sectors. The company publishes **Indian Infrastructure** (a magazine on infrastructure policy and finance), **Power Line** (India's premier power magazine), **tele.net** (a magazine targeted primarily at telecom service providers and large enterprise customers) and **Renewable Watch** (covers the entire spectrum of renewable energy). It also publishes a series of research reports and weekly newsletters in the areas of **power, oil and gas, ports and shipping, roads and bridges, airports, urban infrastructure, telecom and railways.**

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