

Fish or cut Bait: Demystifying the timelines under the Insolvency and Bankruptcy Code

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ABSTRACT

The Insolvency and Bankruptcy Code (IBC) of 2016 has revolutionized India's insolvency landscape by introducing well-defined timelines crucial for expeditious resolution of distressed entities. The study elucidates the significance of these timelines within the IBC framework. Upon initiation of the Corporate Insolvency Resolution Process (CIRP), the National Company Law Tribunal (NCLT) must admit or reject it within fourteen days, averting delays. Within seven days of admission, a Resolution Professional (RP) takes control, ensuring a swift transition. The one-hundred-and-eighty-day timeline shields the debtor from litigation while a resolution plan is devised and approved by the Committee of Creditors (CoC). However, the adherence to the timelines outlined under Section 12 of the Code appears to be lacking or inconsistent considering the recent judgments in the said regard. The current study aims to explore the timeline effectiveness, evolution, and judicial interpretation in insolvency resolution. By utilizing secondary sources, this research delves into the evolution and consequences of IBC's timelines within insolvency cases. This study further examines how IBC's strict timelines expedite

Indian resolutions, explores amendment effects, anticipates adjustments for emerging challenges, and analyzes court interpretations for coherence.

Keywords: Insolvency and Bankruptcy Code, Timelines, Corporate Insolvency Resolution Process, National Company Law Tribunal, Resolution Professional

I. INTRODUCTION

Research has shown that insolvency reforms can aid in the quick recovery of an economy during a recession, as shown in Chile during the early 1980s and Columbia during the 1970s.¹ An effective insolvency resolution system can be a powerful tool as it keeps viable businesses operating and inhibits premature liquidation of sustainable businesses.² Therefore, it forms an important part of the Ease of Doing Business Index (EODB), which is a ranking system established by the World Bank Group. The EODB presents quantitative indicators on business regulation and it covers twelve areas covering- starting a business, dealing with construction permits, getting credit, paying taxes, protecting minority investors, trading across borders, enforcing contracts, and resolving insolvency.³ All these indicators are used to analyse economic

¹ Bergoing R and others, 'A Decade Lost and Found: Mexico and Chile in the 1980s' (2002) 5 Review of Economic Dynamics 166 <https://www.researchgate.net/publication/24047042_on_A_Decade_Lost_and_Found_Mexico_and_Chile_in> accessed 17 August 2023

² Sahoo MS and Guru A, 'Indian Insolvency Law' (2020) 45 Vikalpa: The Journal for Decision

Makers 69 <<https://journals.sagepub.com/doi/10.1177/0256090920939809>> accessed 17 August 2023

³ World Bank (Washington, DC: World Bank 2020) publication <<https://openknowledge.worldbank.org/entities/publication/130bd2f3-f4b5-5b77-8680-01e6d6a87222>> accessed 17 August 2023

outcomes and identify the reforms pertaining to the business that was successful.

In the EODB index, 'higher rankings' (a lower numerical value) indicate better, usually simpler, regulations for businesses and stronger protections of property rights.⁴ In the 2020 edition of the report, out of 190 economies India's ranking jumped 56 places to 52 in 2019 from 108 that year.⁵ One of the major contributors to improving its EODB ranking was the improved insolvency resolution process. The IBC has played a pivotal role in bringing reforms in the corporate sector by making a transformation in its very objective i.e., reorganization and revival of the companies would be the forte under IBC rather than liquidation.⁶ Liquidation would be the last resort under the regime of IBC. The enactment of the Code has repealed the Presidency Towns Insolvency Act, 1909, Provincial Insolvency Act, 1920, and Sick Industrial Companies Act, 1985, and further amended eleven other statutes including, the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), Recovery of Debt and Bankruptcy Act, 1993 and the Companies Act, 2013. This piece of legislation has created a regularised and time-bound mechanism for reorganisation and insolvency resolution which was marred by the presence of multifarious statutes creating chaos and multiplicity of

proceedings. The two basic objectives of the Code which are value maximisation of the assets and the time-bound resolution process are interconnected with each other in order to provide a resolution plan for the distressed company so that ultimately the company does not liquidate and shut down. On the other hand, there is a possibility of revival of the corporate debtor under IBC. With all these objectives in place, there is a need to abide by the internal time limits mentioned under different provisions of the Code and the outer time limit mentioned under Section 12 of the Code. The adherence to the timelines outlined in Section 12 of the IBC of 2016 is crucial for the effective functioning of the insolvency resolution process. However, there have been instances where the prescribed timelines within this section have not been followed as intended by the legislation.

II. Timelines in Practice

Time is said to be the essence of IBC.⁷ Value is usually dependent on the time taken to resolve the insolvency. There are concerns that delays for whatever reasons, may make reorganization impossible and may induce liquidation which ultimately may lead to value destruction.⁸ Where the insolvency regime facilitates a restructuring based on negotiations with creditors, the concern is that delaying tactics will extend the time set

⁴ Embassy of India, 'Embassy of India the Hague, The Netherlands' (*Embassy of India, Hague, Netherlands : Ease of doing business in India*, February 2021) <<https://www.indianembassynetherlands.gov.in/page/ease-of-doing-business-in-india/>> accessed 17 August 2023

⁵ Mondal D, 'How IBC Helped Improve India's Ease of Doing Business Rankings' *Business Today* (24 October 2019) <<https://www.businesstoday.in/latest/economy-politics/story/how-ibc-helped-improve-india-ease-of-doing-business-rankings-235937-2019-10-24#:~:text=over%20four%20years.,IBC%20has%20changed%20this.,down%20to%201%25%20post%20IBC.>>> accessed 17 August 2023

⁶ Hishikar S, 'A Socioeconomic History of Bankruptcy & Insolvency Laws in India' [2023] SSRN Electronic Journal <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4343671> accessed 17 August 2023

⁷ Rajasekaran V and Babulkar S, 'India: Time Is The Essence Of The Corporate Insolvency Resolution Process: Supreme Court Of India' <<https://www.mondaq.com/india/insolvency-bankruptcy/1050184/time-is-the-essence-of-the-corporate-insolvency-resolution-process-supreme-court-of-india>> accessed 17 August 2023

⁸ Rana S, 'Insolvency Proceedings India' <<https://ssrana.in/litigation/insolvency-and-bankruptcy/insolvency-proceedings-india/>> accessed 17 August 2023

for negotiations at the start.⁹ The internal time limits encapsulate the idea of small-time deadlines to be followed during the CIRP. At the stage of admission of an application for initiating insolvency proceedings, there is a time slot of 14 days for the NCLT to decide regarding admission or rejection of the CIRP application.¹⁰ Before rejecting an application, the NCLT is required to provide 7 days' time to the applicant to rectify defects, if any, in the application.¹¹ There was a lack of clarity with regard to whether these internal time limits are directory or mandatory in nature. In *JK Jute Mills Company Ltd. v. M/s Surendra Trading Company*,¹² the National Company Law Appellate Tribunal (NCLAT) held that time is of the essence under the Code, which requires the NCLT and all stakeholders to perform within the time limits prescribed except in exceptional circumstances. However, the NCLAT held that the 14-day timeline is a directive, and the NCLT has inherent powers to extend the 14-day period on a case-to-case basis in the interest of fairness and justice. It further observed that the 7-day time period provided for rectification of defects would have to be mandatorily complied with and no concession could be granted in this regard. On appeal, the Supreme Court¹³ confirmed the conclusion that the fourteen-day period would be directory and also set aside part of this order by holding that the 7 days period would also be directory in nature, given that *"it is well-settled principle of law that where a statutory functionary is asked to perform a statutory duty within the time prescribed therefor, the same would be directory and not mandatory."*

With regard to the outer time limit mentioned under Section 12 of IBC, it provides for a

strict timeline for the completion of the entire corporate insolvency resolution process. Section 12 of the Code states that *"(1) Subject to sub-section (2), the corporate insolvency resolution process shall be completed within a period of one hundred and eighty days from the date of admission of the application to initiate such process. (2) The resolution professional shall file an application to the Adjudicating Authority to extend the period of the corporate insolvency resolution process beyond one hundred and eighty days, if instructed to do so by a resolution passed at a meeting of the committee of creditors by a vote of sixty-six per cent of the voting shares.*

(3) On receipt of an application under sub-section (2), if the Adjudicating Authority is satisfied that the subject matter of the case is such that corporate insolvency resolution process cannot be completed within one hundred and eighty days, it may by order extend the duration of such process beyond one hundred and eighty days by such further period as it thinks fit, but not exceeding ninety days:

*Provided that any extension of the period of corporate insolvency resolution process under this section shall not be granted more than once."*¹⁴

After the expiry of 180 days (or 270 days as the case may be), in the event a resolution plan has not been submitted, or if submitted, and rejected under section 31 of the Code or even after the dismissal of an appeal filed under section 61 contesting rejection of a plan, the Code directs that the debtor initiate a liquidation process.¹⁵

However, the Supreme Court in *Arcelor Mittal India Pvt. Ltd. v. Satish Kumar Gupta*¹⁶ unequivocally held that the strict compliance of the timeline needs to be

⁹ Insolvency and Bankruptcy Board of India (2015) rep <https://ibbi.gov.in/BLRCReportVol1_04112015.pdf> accessed 17 August 2023

¹⁰ The Insolvency and Bankruptcy Code 2016, s 7 (4)

¹¹ The Insolvency and Bankruptcy Code 2016, s 7 (5)

¹² *JK Jute Mills Company Ltd. v. M/s Surendra Trading Company*, Company Appeal (AT) No. 09 of 2017. Decision date- 01.05.2017

¹³ *Surendra Trading Company v. Juggilal Kamalapat Jute Mills Company Limited &Ors.*, Civil Appeal No. 8400 of 2017. Decision date-19.09.2017

¹⁴ The Insolvency and Bankruptcy Code 2016, s 12

¹⁵ The Insolvency and Bankruptcy Code 2016, s 33.

¹⁶ *ArcelorMittal India Pvt. Ltd. v. Satish Kumar Gupta &Ors.*, C.A. Nos. 9402-9405 of 2017. Decision date- 04.10.2018

mandatorily followed and is not subject to any extension. It relied on the primary objective of the Code, which is to ensure a timely resolution process for a corporate debtor, and principles of statutory interpretation to hold that the literal language of section 12 mandates strict adherence to the time frame it lays down. To enable this adherence to the outer time limit provided in the Code, the court also held that the model timeline provided in Regulation 40A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 should be followed “as closely as possible”.

The NCLAT’s order in the case of *Quinn Logistics v. Mack Soft Tech*¹⁷ focussed upon exclusions rather than extensions. The order is stated as follows:

“...it is clear that if an application is filed by the ‘Resolution Professional’ or the ‘Committee of Creditors’ or ‘any aggrieved person’ for justified reasons, it is always open to the Adjudicating Authority/Appellate Tribunal to ‘exclude certain period’ for the purpose of counting the total period of 270 days, if the facts and circumstances justify exclusion, in unforeseen circumstances.

10. For example, for following good grounds and unforeseen circumstances, the intervening period can be excluded for counting the total period of 270 days of resolution process:-

(i) If the corporate insolvency resolution process is stayed by a court of law or the Adjudicating Authority or the Appellate Tribunal or the Hon’ble Supreme Court.

(ii) If no ‘Resolution Professional’ is functioning for one or other reason during the corporate insolvency resolution process, such as removal.

(iii) The period between the date of order of admission/moratorium is passed and the actual date on which the ‘Resolution Professional’ takes charge for completing the corporate insolvency resolution process.

(iv) On hearing a case, if order is reserved by the Adjudicating Authority or the Appellate Tribunal or the Hon’ble Supreme Court and finally pass order enabling the ‘Resolution Professional’ to complete the corporate insolvency resolution process.

(v) If the corporate insolvency resolution process is set aside by the Appellate Tribunal or order of the Appellate Tribunal is reversed by the Hon’ble Supreme Court and corporate insolvency resolution process is restored.

(vi) Any other circumstances which justifies exclusion of certain period. However, after exclusion of the period, if further period is allowed the total number of days cannot exceed 270 days which is the maximum time limit prescribed under the Code.”

These exclusions have been tactfully used before the adjudicating authority to indirectly extend the CIRP beyond 180 days which is the time frame according to Section 12 of the Code. However, these exclusions directly or indirectly defeat the very purpose of the said section leading to defeating the very objective of the Code which is “maximization of the value of the assets”.

III. Amendments and Evolution

Two more proviso to sub section (3) of Section 12 inserted by the Insolvency and Bankruptcy (Amendment) Act, 2019 stipulates:

“Provided further that the corporate insolvency resolution process shall mandatorily be completed within a period of three hundred and thirty days from the insolvency commencement date, including any extension of the period of corporate insolvency resolution process granted under this section and the time taken in legal proceedings in relation to such resolution process of the corporate debtor:

Provided also that where the insolvency resolution process of a corporate debtor is pending and has not been completed within the period referred to in the second proviso, such resolution process shall be completed

¹⁷ *Quinn Logistics India Pvt. Ltd. v. Mack Soft Tech Pvt. Ltd.*, Company Appeal (AT) (Insolvency) No. 185 of 2018. Decision Date- 08.05.2018

within a period of ninety days from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019.”

The overall timeline for the completion of CIRP is extended to 330 days from 180 days. Added to it the last proviso to Section 12 provides for 90 days more extension where the insolvency resolution process of a corporate debtor is pending and has not been completed within the period referred to in the second proviso. The only question that needs to be answered is whether the amendment of 2019 in terms of extending the time limit from 180 days to 330 days is contradictory to the main objective of the Code i.e., CIRP- a time-bound resolution process. With the passing of time the value maximization of the assets is in itself a question and keeping this in mind the Bankruptcy Law Reforms Committee has deliberated upon a strict timeline to be followed under the Code. The term “mandatorily” in the proviso inserted vide Insolvency and Bankruptcy (Amendment) Act, 2019 in practice stands debatable as fact or fiction to date.¹⁸

IV. Addressing Challenges

Navigating the challenges posed by Section 12 of the IBC involves addressing the perplexity surrounding its mandatory or discretionary nature. This dilemma stems from the precise wording of the section and the potential repercussions of non-compliance. The term “shall”, which typically denotes a mandatory directive, contrasts with the absence of explicit remedies for non-adherence, leading to uncertainty regarding its discretionary character.

To effectively overcome these challenges, a well-balanced approach is essential. Firstly, comprehensive legal interpretation plays a pivotal role. Collaborating with legal scholars and experts can yield a comprehensive understanding of legislative intent, previous judicial decisions, and the broader context of the IBC. Such insights can

help clarify whether Section 12 of the Code is strictly mandatory or encompasses elements of discretionary guidance. Issuing precise guidance and clarifications becomes crucial to mitigate confusion. Regulatory bodies and the judiciary can work collaboratively to craft explicit guidelines that elucidate the stance on the applicability of Section 12 of the Code. These guidelines could provide much-needed clarity on whether strict adherence is mandated or if there’s room for flexibility under specific circumstances.

While encouraging adherence to timelines, it is equally important to inject pragmatism. Recognizing the intricate nature of insolvency cases, a measure of flexibility might be allowed. Deviations from the stipulated timelines could be considered in exceptional cases, provided they are transparently justified and documented. In instances where confusion persists, deliberation regarding a potential review and amendment of the section could be contemplated. Such amendments could definitively categorize Section 12 of IBC as either mandatory or discretionary, thereby minimizing future uncertainties and offering a solid foundation for its application. Moreover, courts can play a pivotal role in clarifying this ambiguity. Through their judgments, courts can address specific instances of confusion, effectively establishing legal precedents that guide the consistent interpretation and application of Section 12 of the Code. Lastly, fostering active engagement with stakeholders is indispensable. By facilitating dialogue among creditors, debtors, insolvency professionals, and legal experts, a more holistic understanding of Section 12 of the Code’s nature can be attained, contributing to a more seamless and predictable insolvency resolution process.

Therefore, it can be said that the challenge posed by the dual nature of Section 12 necessitates a multifaceted strategy

¹⁸ Das A and others, ‘Insolvency and Bankruptcy Reforms: The Way Forward’ (2020) 45 Vikalpa: The Journal for Decision Makers 115

<<https://journals.sagepub.com/doi/10.1177/0256090920953988>> accessed 18 August 2023

involving legal interpretation, regulatory guidance, pragmatic flexibility, potential amendments, court precedents, and comprehensive stakeholder involvement. This approach aims to dispel confusion and establish a smoother, more predictable insolvency resolution process.

V. Judicial Interpretation

Judicial interpretation of Section 12 of the IBC has played a critical role in shaping its implementation and addressing the challenges associated with its mandatory or directory nature.¹⁹ Over time, courts have rendered decisions that have provided insights into the intended application of section 12 of the Code. Courts have recognized the use of the term “shall” in Section 12 of IBC as indicative of a mandatory requirement. This indicates that the prescribed timelines and procedures are meant to be followed diligently to ensure the efficient initiation of the CIRP. These judgments have emphasized that strict adherence to the timelines outlined in the section is crucial for maintaining the sanctity of the insolvency resolution process and protecting the interests of both creditors and debtors. However, courts have also acknowledged the practical complexities of insolvency cases. They have recognized that certain deviations might be necessary in exceptional circumstances, such as cases involving complex legal issues, genuine disputes, or instances where it is evident that the default is contested in good faith.²⁰ This recognition of practical challenges demonstrates a balance between the

mandatory nature of the section and the need for flexibility in specific situations.

Significant ruling by the Hon’ble Supreme Court in the case involving Committee of Creditors of *Essar Steel India Limited Through Authorised Signatory v. Satish Kumar Gupta & Ors.*,²¹ where the Court decided that the term “mandatorily” should be removed from the provision as it was deemed unreasonably arbitrary according to Article 14 of the Indian Constitution²² and posed an unjustifiable constraint on a litigant’s business rights as per Article 19(1)(g)²³ of the Constitution. This declaration’s outcome is that typically, the duration of the Corporate Insolvency Resolution Process CIRP should not exceed 330 days from the insolvency commencement date, encompassing extensions and legal proceeding durations. If the delay, or a substantial portion thereof, is caused by sluggish proceedings from the Adjudicating Authority (AA) and/or the NCLAT, they might have the option to extend this period in such instances. Such extensions are only permissible in exceptional scenarios, as the general principle dictates that the resolution of distressed assets of the Corporate Debtor must conclude within 330 days. If this deadline is surpassed, liquidation proceedings may be initiated.

In the case of *Ritu Rastogi RP of Benlon India Ltd. v. Riyal Packers*,²⁴ NCLAT determined that it was an appropriate instance to utilize its authority as the Appellate Tribunal, deviating from the usual rule of limiting the CIRP to 330 days as stipulated by law, which includes the period of judicial intervention. The NCLAT

¹⁹ Gupta A, ‘Insolvency and Bankruptcy Code, 2016: A Paradigm Shift within Insolvency Laws in India’ (2019) 36 The Copenhagen Journal of Asian Studies 75
<<https://rauli.cbs.dk/index.php/cjas/article/view/5650>> accessed 18 August 2023

²⁰ Vyas D, ‘Delay under Insolvency and Bankruptcy Code, 2016 (India)’ (2021) 11 SSRN Electronic Journal
<https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3964439> accessed 19 August 2023

²¹ *Essar Steel India Limited Through Authorised Signatory v. Satish Kumar Gupta* Civil Appeal No 8766-67 of 2019. Decision Date- 15.11.2019

²² Article 14 of the Indian Constitution assures every individual the right to equality before the law and guards them against legal prejudice

²³ Article 19(1)(g) of the Indian Constitution grants every citizen of the country the inherent right to engage in trade or business

²⁴ *Ritu Rastogi RP of Benlon India Ltd. v. Riyal Packers* [2020] ibclaw.in 175 NCLAT. Decision Date- 16.06.2020

believed that not exercising discretion in such a scenario would have severe consequences, jeopardizing the lawful concerns of all involved parties. The inevitable outcome would be the forced liquidation of the Corporate Debtor, an outcome that should be averted under all circumstances.

In another such case of *Mr. Ravi Sankar Deverakonda v. Committee of Creditors of Meenakshi Energy Limited*,²⁵ the NCLAT ruled that while the Adjudicating Authority has the power to extend the time period under section 12(3) of the IBC, this extension should only be carried out in exceptional or extraordinary circumstances. This discretion should be exercised judiciously, even if it contradicts a statutory provision of the Code. The primary objective is to utilize sound judicial discretion to arrive at a suitable resolution plan that prevents any miscarriage of justice.

In a similar case of the *Committee of Creditors of Trading Engineers International Ltd. v. Trading Engineers International Ltd. Through Resolution Professional*,²⁶ the NCLAT established that the Adjudicating Authority should have employed its discretion to grant the Resolution Professional's request for an extension of the time period beyond the standard 330 days. The NCLAT deemed this instance to be appropriate for the Appellate Tribunal's intervention in extending the timelines. This intervention was considered necessary to prevent the Corporate Debtor from being forced into liquidation and to enable the approval of a viable Resolution Plan by the CoC. The NCLAT asserted that allowing the appeal would serve the cause of justice.

Nevertheless, in the case of *Pioneer Rubchem Pvt. Ltd v. Vivek Raheja Resolution Professional, Trading Engineers*

(International) Ltd.,²⁷ a divergent perspective emerged. The NCLAT declined to extend the time period beyond 330 days. Instead, it emphasized that every effort should be directed towards completing the CIRP within 270 days, even though the procedural provision allows for a maximum duration of 330 days, accounting for the judicial proceedings. The NCLAT maintained that permitting the appeal would create a precedent for numerous similar applications, resulting in the disruption of CIRP proceedings and undermining the fundamental purpose of the Code, not only in the present case but potentially affecting other cases as well. As a result, the appeal was dismissed.

Overall, the judicial interpretation of Section 12 highlights the need for a nuanced approach. While the term "shall" indicate mandatory compliance, courts recognize the potential for exceptional circumstances that warrant flexibility. This interpretation not only upholds the integrity of the insolvency resolution process but also acknowledges the practical challenges that stakeholders might encounter. As courts continue to render judgments, they contribute to the evolving legal landscape surrounding Section 12 of the Code and provide guidance for consistent and equitable application.

VI. CONCLUSION AND FUTURE CONSIDERATIONS

In conclusion, the intricacies of the timelines established within the IBC have been unveiled in this study. By shedding light on the various provisions governing the duration of processes, this study has aimed to provide a clearer understanding of the temporal framework underpinning insolvency proceedings. The Code's stipulations, including extensions and legal proceedings,

²⁵ Mr. Ravi Sankar Deverakonda v. Committee of Creditors of Meenakshi Energy Limited (2021) ibclaw.in 155 NCLAT. Decision Date- 23.01.2023

²⁶ Committee of Creditors of Trading Engineers International Ltd. v. Trading Engineers International Ltd. Through Resolution Professional (2021) ibclaw.in 45 NCLAT. Decision Date- 2.02.2021

²⁷ Pioneer Rubchem Pvt. Ltd v. Vivek Raheja Resolution Professional, Trading Engineers (International) Ltd. Company Appeal (AT) (Insolvency) No. 706 of 2020. Decision Date- 25-09-2020

contribute to a comprehensive comprehension of how the resolution and liquidation trajectories are delineated. In essence, this discourse has demystified the temporal dimensions within the IBC, offering insights into the critical timeframes that govern the realm of insolvency proceedings.

The challenges surrounding the interpretation of Section 12 within the IBC have prompted a multi-layered approach that balances legal interpretation, practical considerations, and regulatory guidance. By dissecting the ambiguous language and exploring the nuances of the term “shall,” stakeholders have sought to ascertain whether this provision holds a strictly mandatory or flexible discretionary nature. To address these challenges, collaborative efforts between legal experts, regulatory bodies, and the judiciary have led to the formulation of guidelines that clarify the stance on adherence to Section 12 of the Code. While upholding the mandatory character of the provision, these guidelines also recognize the real-world complexities of insolvency cases and offer room for exceptional deviations, provided they are transparently documented.

However, in the realm of future considerations, the prospect of amendments to Section 12 of the Code emerges as a potential avenue for resolving this ongoing problem. Clear categorization of the section’s nature—either as strictly mandatory or allowing for pragmatic deviations—could offer a concrete foundation for its application, reducing uncertainties for all stakeholders involved. Additionally, the role of courts in establishing legal precedents and

providing consistent interpretations of Section 12 of the Code remains vital. Through judgments, courts can offer guidance and shape the evolution of the provision’s application, potentially shedding light on the nuances of its mandatory or discretionary nature. Lastly, active engagement with stakeholders remains a crucial aspect of the journey ahead. As the insolvency landscape evolves and cases continue to surface, ongoing dialogue between creditors, debtors, insolvency professionals, and legal experts will contribute to a more refined understanding of Section 12 of the Code’s implications.

In the future, the resolution of challenges pertaining to Section 12 of IBC’s interpretation hinges on a balanced approach that encompasses legal clarity, regulatory guidance, practical adaptability, legislative amendments, judicial influence, and comprehensive stakeholder involvement. This holistic strategy aims to solidify the understanding and application of Section 12 of the IBC, ultimately leading to a more effective and predictable insolvency resolution process.

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