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# **CORPORATE LOAN RESTRUCTURING: A LEGAL & PRACTICAL ANALYSIS**

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**2025-26**

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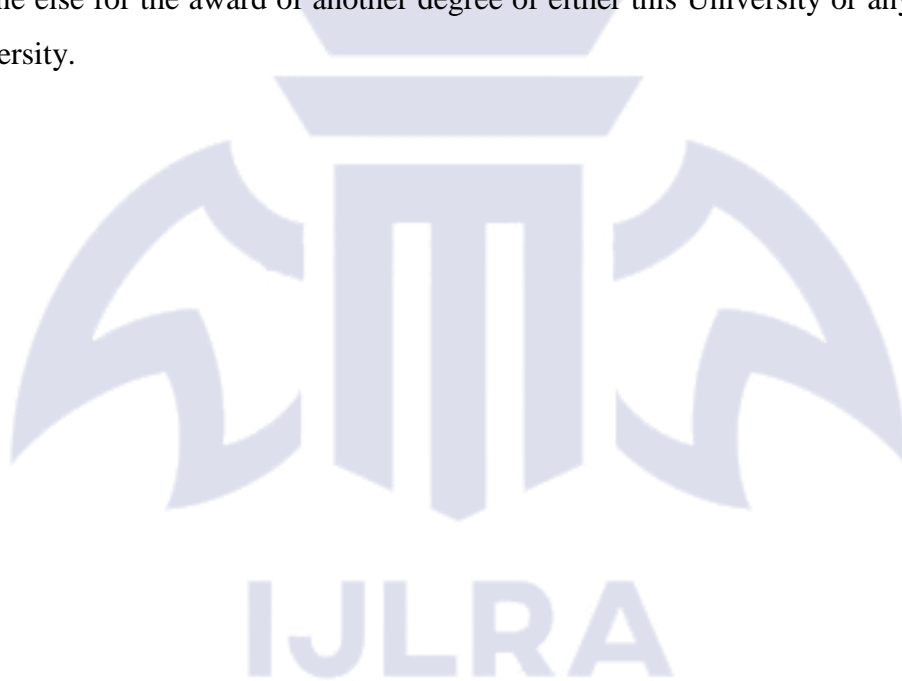
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Srijeeta Goswami

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## **CORPORATE LOAN RESTRUCTURING: A LEGAL & PRACTICAL ANALYSIS**

### **ABSTRACT**

Corporate loan restructuring has emerged as one of the most significant mechanisms adopted by financial institutions and regulatory authorities to address the growing problem of corporate financial distress and non-performing assets (NPAs). In a developing economy like India, where banks play a dominant role in financing industries and businesses, corporate debt restructuring has become essential for maintaining financial stability, protecting employment, and ensuring economic growth. Loan restructuring refers to the modification of the terms and conditions of existing loans granted to financially stressed companies in order to provide them temporary relief and improve their ability to repay debts. Such modifications may include extension of repayment periods, reduction of interest rates, conversion of debt into equity, moratoriums on payments, or settlement arrangements between borrowers and lenders.

The increasing level of stressed assets in the Indian banking sector, particularly after economic slowdowns, global financial crises, and industrial failures, has highlighted the importance of effective restructuring mechanisms. Traditional recovery methods often result in liquidation of companies, leading to loss of employment, decline in industrial productivity, and reduction in creditor recoveries. Loan restructuring therefore acts as a corrective mechanism intended to revive financially distressed but potentially viable businesses. The primary objective of restructuring is not merely recovery of debt but also preservation of business operations and safeguarding of the interests of stakeholders including banks, employees, shareholders, and creditors.

The legal framework governing corporate loan restructuring in India has evolved considerably over the years. Initially, restructuring was governed mainly through guidelines issued by the Reserve Bank of India (RBI). Various restructuring schemes such as Corporate Debt Restructuring (CDR), Strategic Debt Restructuring (SDR), Scheme for Sustainable Structuring of Stressed Assets (S4A), and Flexible Structuring of Long-Term Project Loans were introduced to assist banks in resolving stressed assets. These schemes were aimed at providing flexibility to lenders while simultaneously preventing the rapid

increase of NPAs in the banking sector. However, many of these frameworks faced criticism due to delays in implementation, lack of coordination among lenders, misuse by defaulting borrowers, and poor recovery outcomes.



The enactment of the Insolvency and Bankruptcy Code (IBC) in 2016 brought significant reforms in the area of corporate insolvency and restructuring. The IBC established a time-bound insolvency resolution process under the supervision of the National Company Law Tribunal (NCLT) and shifted control from defaulting promoters to creditors. The Code introduced a creditor-in-control model and empowered the Committee of Creditors (CoC) to determine the viability and restructuring plans of distressed companies. Landmark judicial decisions such as *Swiss Ribbons Pvt Ltd v Union of India*, *Innoventive Industries Ltd v ICICI Bank*, and *Essar Steel India Ltd v Satish Kumar Gupta* have clarified the scope and objectives of the IBC and strengthened the insolvency resolution framework in India. This study examines both the legal and practical dimensions of corporate loan restructuring. From a legal perspective, the research analyses the statutory framework governing restructuring, including RBI circulars, the SARFAESI Act, Recovery of Debts and Bankruptcy laws, and the Insolvency and Bankruptcy Code. The study also evaluates the role of courts, tribunals, and regulatory authorities in balancing the rights of creditors and borrowers. Judicial interpretation has played a major role in defining the powers of banks and financial institutions during restructuring and insolvency proceedings. From a practical perspective, the research focuses on the actual functioning and implementation of restructuring mechanisms. The study analyses the process through which stressed loans are identified, restructuring proposals are prepared, and negotiations are conducted among stakeholders. It also examines practical techniques used during restructuring, such as debt rescheduling, one-time settlements, debt-equity conversions, reduction in interest obligations, and haircut arrangements. The research further highlights the challenges faced in implementation, including delays in approvals, inter-creditor conflicts, lack of transparency, political interference, evergreening of loans, and misuse of restructuring schemes by wilful defaulters. The dissertation further evaluates the economic and social impact of loan restructuring. Effective restructuring mechanisms contribute to financial stability by reducing NPAs and preventing collapse of economically significant companies. At the same time, ineffective restructuring may increase the burden on banks, reduce investor confidence, and encourage irresponsible borrowing practices. Therefore, a balance must be maintained between providing relief to distressed companies and ensuring accountability and financial

discipline.

The research adopts a doctrinal method based on analysis of statutes, judicial precedents, RBI reports, research papers, books, and academic articles. Secondary data and legal analysis form the foundation of the study. The dissertation aims to critically evaluate whether the present restructuring framework in India successfully fulfils its objectives of corporate revival and debt recovery.



The study concludes that although India has made substantial progress in developing an organized restructuring and insolvency framework, several practical and legal challenges continue to exist. The effectiveness of corporate loan restructuring depends upon timely decision-making, efficient coordination among creditors, transparent regulatory supervision, and strict implementation of insolvency laws. Strengthening institutional mechanisms, improving accountability, and reducing procedural delays are necessary to ensure that restructuring serves as a genuine revival mechanism rather than merely postponing defaults.

**KEYWORDS:**

- Corporate Loan Restructuring
- Non Performing Asset
- Insolvency and Bankruptcy Code(IBC)
- Debt-Equity Swap
- Haircut
- Strategic Debt Restructuring (SDR)
- SARFAESI Act

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## CHAPTER 1- INTRODUCTION

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Corporate loan restructuring is a financial and legal process in which a company under stress works with its lenders to revise the terms of its existing debt. Rather than insisting on immediate repayment as originally agreed, restructuring permits adjustments like longer repayment periods, lower interest rates, converting debt into equity, or allowing temporary payment pauses. The central aim is to help the borrower regain financial footing while enabling lenders to recover their dues in a more workable and lasting way.

### **RESTRUCTURING VS INSOLVENCY**

At a fundamental level, corporate loan restructuring is quite different from insolvency. Restructuring is a preventive, corrective step taken when a company is still operating but experiencing financial pressure. Its purpose is to revive the business and prevent failure. Insolvency, on the other hand, occurs when a company can no longer meet its debt obligations, triggering formal legal action under laws such as the Insolvency and Bankruptcy Code, 2016. If resolution fails, insolvency can lead to liquidation, whereas restructuring seeks to preserve the company as a going concern. In that sense, restructuring is flexible and forward-looking, while insolvency is more rigid and reactive.

### **WHY COMPANIES DEFAULT**

Companies fall into loan defaults for many reasons, usually a mix of internal missteps and external pressures. Weak management choices like aggressive expansion, poor financial planning, or ineffective cost control—can erode financial stability. At the same time, wider economic shocks, including recessions or disruptions such as the COVID-19 pandemic, can sharply reduce revenues and strain liquidity. Shifts in the market changing demand, swings in commodity prices, or rising competition— add further pressure on cash flows. Put together, these issues make it difficult to service debt, often pushing firms toward restructuring or, in more serious situations, insolvency.<sup>1</sup>

### **ROLE OF BANKS AND REGULATORY ROLE OF RBI**

The restructuring process brings in several institutional players, each with a defined role. Banks and financial institutions act as primary stakeholders, evaluating the feasibility of

restructuring plans and renegotiating loan conditions. In India, the Reserve Bank of India sets the regulatory tone by issuing

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<sup>1</sup> The Institute of Company Secretaries of India, Governance, Risk Management, Compliances and Ethics (Study Material, Professional Programme, Module I, Paper 1), available at [ICSI Study Material PDF](#) (last visited on March 3, 2026).



frameworks for handling stressed assets, including the Prudential Framework for Resolution of Stressed Assets (2019). These rules promote transparency and careful decision-making, helping reduce systemic risk across the financial system. Courts and tribunals, such as the National Company Law Tribunal, step in when conflicts emerge or when restructuring moves into formal insolvency. Their oversight helps ensure fairness, safeguard stakeholder interests, and maintain legal compliance.

Corporate loan restructuring brings clear benefits, especially when it comes to preserving economic value. By steering clear of bankruptcy, companies can avoid losing assets, jobs, and their market standing. It gives businesses space to keep operating, sustain ties with customers and suppliers, and slowly rebuild financial strength. For lenders, restructuring often leads to better recovery than liquidation, where asset values can drop sharply. Beyond individual firms, it also supports broader economic stability by reducing the risk of large corporate failures that could affect banks and employment.<sup>2</sup>

In closing, corporate loan restructuring stands as an important mechanism in modern finance, aligning the interests of borrowers and lenders while supporting business continuity. It effectively bridges the gap between financial strain and recovery, giving companies a chance to stabilize and grow without facing the harsh outcomes tied to insolvency. With regulatory backing from bodies like the Reserve Bank of India and legal support through frameworks such as the Insolvency and Bankruptcy Code, restructuring has become a key part of corporate financial management in India.

### **1.1 SCOPE AND LIMITATION**

The current study concentrates on the laws and regulations that govern the corporate loan restructuring process in India, focusing specifically on the role played by the Reserve Bank of India (RBI). This paper highlights the development of restructuring frameworks put forward by the RBI, which have helped in tackling financial distress in the corporate sector through the use of measures like Corporate Debt Restructuring (CDR), Strategic Debt Restructuring (SDR), and Scheme for Sustainable Structuring of Stressed Assets (S4A).<sup>3</sup>

In addition, the study provides an insight into how the various restructuring frameworks operate in reality, detailing the processes, requirements, and results associated with each

framework. The study

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<sup>2</sup> World Bank Group, Resolving Insolvency, Doing Business Project, available at

<https://archive.doingbusiness.org/en/data/exploretopics/resolving-insolvency> (last visited on March 3, 2026).

<sup>3</sup> Reserve Bank of India, Corporate Debt Restructuring (CDR) Mechanism, available at <https://www.rbi.org.in> (last visited on March 3, 2026).



aims to demonstrate how restructuring frameworks seek to strike a balance between the needs of both borrowers and lenders while maintaining financial stability within the banking system. Finally, the study looks at how the previous restructuring frameworks have evolved into more sophisticated frameworks in light of the prudential norms established by the RBI recently. Another critical consideration of the scope relates to the effects of loan restructuring within corporations on the corporate sector. The study examines how the process aids corporations in dealing with their financial difficulties, avoiding bankruptcy, and operating their businesses. In addition, the study considers the broader effects of the restructuring process on the economy in terms of job retention, industrial stability, and minimizing NPAs.

### **Limitations of the Study**

Although the study captures essential elements of corporate loan restructuring, several limitations apply to it. First, the lack of availability of court cases and judgments poses a challenge since most of them entail confidential financial arrangements or settlements outside court proceedings. Although some court cases can be accessed at the National Company Law Tribunal, many others are confidential, making the study difficult.

Secondly, the changing policies of the RBI limit the scope of the research. The RBI regularly updates its guidelines and frameworks to reflect the ever-evolving economic landscape. In turn, certain restructuring schemes, such as the Corporate Debt Restructuring (CDR) scheme, the Scheme for Sustainable Structuring of Stressed Assets (SSSA), and the Scheme for Sustainable Structuring of Stressed Assets (S4A), among others, have been scrapped or revised. This may affect the future applicability of the study's findings.<sup>4</sup>

Thirdly, the study is limited by the unavailability of confidential banking data. Since loan restructuring involves confidential banking information, the researcher may find it difficult to assess the results of the process. The lack of such information makes it impossible to undertake an empirical assessment of loan restructuring.

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<sup>4</sup> Reserve Bank of India, Circular on Resolution of Stressed Assets – Revised Framework (Withdrawal of Restructuring Schemes and New Framework), dated February 12, 2018, available at <https://www.rbi.org.in> (last visited on March 6, 2026)



## 1.2 STATEMENT OF PROBLEM

Restructuring of corporate loans in India is increasingly becoming an important process for dealing with financial distress. However, it continues to encounter various structural issues.

The first challenge is the increase in NPAs in India's banking sector. Despite the adoption of various restructuring approaches by the Reserve Bank of India, problems with stressed assets persist, calling into question the efficacy of the processes involved.

Additionally, restructuring processes such as CDR, SDR, and S4A have been criticized for being inefficient. Several accounts under the restructuring process ended up defaulting once again, suggesting that restructuring only offered short-term relief.

Moreover, legal issues can delay the resolution of distressed assets in India. While the passing of the Insolvency and Bankruptcy Code in 2016 was expected to make the process easier, delays in proceedings before the NCLT remain a problem.

Finally, restructuring is complicated by the presence of different financial institutions with conflicting interests in the resolution process. In such situations, varying risk perceptions, recovery approaches, and decision-making processes can obstruct any restructuring effort.

## 1.3 RESEARCH OBJECTIVES

The present study aims to achieve the following objectives:

- 1 To analyze the legal framework governing corporate loan restructuring in India, including regulatory guidelines issued by the Reserve Bank of India.
- 2 To study the effectiveness of various restructuring schemes such as CDR, SDR, and S4A in resolving stressed corporate loans.
- 3 To examine the challenges faced by banks and borrowers during the restructuring process, including legal, financial, and operational issues.
- 4 To evaluate the role of the Insolvency and Bankruptcy Code, 2016 in complementing or replacing traditional restructuring mechanisms.

## CHAPTER-2

### LEGAL FRAMEWORK

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#### 2.1 EVOLUTION OF LOAN RESTRUCTURING IN INDIA

##### *Indian Banking Environment Pre-2000s and Crisis Situation*

Prior to the advent of the 2000s, the Indian banking system had been under considerable strain owing to poor credit evaluation procedures, risk management measures, and the absence of efficient recovery systems. Banks had a tendency to provide loans without conducting thorough evaluations, causing a rise in loan defaults. There was no established system for dealing with stressed assets, resulting in an increase in non-performing assets. The civil court system, which could have been a means of recovery, was found to be slow and inefficient. There was a need for restructuring mechanisms and institutional reforms to deal with corporate financial stress situations.

Following the worsening situation of NPAs, Reserve Bank of India came up with the **Corporate Debt Restructuring (CDR)** Scheme in the year 2001. The purpose of introducing such a scheme was to have a proper mechanism that could help in restructuring the debt of corporations out of the jurisdiction of the courts.

The introduction of such a scheme facilitated restructuring of corporate debts by more than one lender in order to avoid delays and increase in the rate of recovery.<sup>5</sup>

##### *NPAs' Growth and Requirement for an Enhanced Restructuring Strategy*

Although the implementation of CDR proved effective, the issue of NPAs persisted. Post the global financial meltdown in 2008 and economic downturns that followed, there was a significant increase in the number of restructured accounts which did not yield good results, thus indicating inadequacies in the framework adopted.

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<sup>5</sup> Reserve Bank of India, Revised Guidelines on Corporate Debt Restructuring (CDR) Mechanism, dated August 23, 2001, available at <https://www.rbi.org.in/upload/notification/pdfs/67158.pdf> (last visited on March 4, 2026).



In response to the shortcomings of the existing framework, enhanced restructuring strategies were formulated by the RBI.<sup>6</sup>

### ***Guidelines for Loan Restructuring Issued by RBI***

Reserve Bank of India has been playing a very important role in controlling and directing the process of loan restructuring in India through different prudential norms and restructuring guidelines.

### ***Prudential Norms***

Prudential norms laid down by the Reserve Bank of India are meant to create transparency and accountability in the process of restructuring. The norms are supposed to compel banks to:

- 1 Timely identification of non-performing loans
- 2 Make adequate provisions against the probable losses
- 3 Restructuring can be done only if the loan account is viable
- 4 Correct classification of the assets even after restructuring

These norms are required to ensure that restructuring is not misused and only distressed but viable enterprises benefit from it.<sup>7</sup>

## **RESTRUCTURING SCHEMES**

### **1. Corporate Debt Restructuring (CDR)**

#### **Objectives:**

To provide an alternative mechanism to facilitate the restructuring of debts owed by financially sound companies with ties to more than one bank.

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<sup>6</sup> International Monetary Fund, India: Financial Sector Assessment Program—Financial System Stability Assessment, IMF Staff Country Reports, Vol. 2025, Issue 055, dated February 28, 2025, available at

<https://www.imf.org/en/publications/cr/issues/2025/02/28/india-financial-sector-assessment-program-financial-system-stability-assessment-562815> (last visited on March 8, 2026).

<sup>7</sup> Reserve Bank of India, Master Circular on Prudential Norms on Income Recognition, Asset Classification and Provisioning Pertaining to Advances, dated July 1, 2014, available at <https://www.rbi.org.in/commonman/Upload/English/Notification/PDFs/74MIR010714FL.pdf> (last visited on March 8, 2026)



**Operation:**

CDR involves the examination of the debtor's financial condition by a committee of banks, after which they develop a debt restructuring scheme. Such schemes may involve the extension of loan maturity periods, lowering interest rates, or turning debts into equity. The decision-making process is done through a simple majority vote among the creditors.

**2. Strategic Debt Restructuring (SDR)**

**Objectives:**

Assist banks in recovering their money through the process of debt conversion to equity ownership and gaining control of the company.

**Process:**

Launched by RBI for the first time in 2015, the SDR allows banks to exchange their loans with equity ownership, where the majority of equity ownership enables the bank to restructure the company's management and introduce new promoters to revitalize the company's performance.

**3. Scheme for Sustainable Structuring of Stressed Assets (S4A)**

**Objective:**

Separate the debt of a stressed enterprise into sustainable and unsustainable portions, ensuring its sustainability in the long run.

**Implementation:**

In accordance with the S4A, the sustainable debt will be repaid according to its original terms, while the unsustainable debt will be transformed into equity and quasi-equity instruments. This will reduce the burden of repayment and ensure that the lenders become partners in the recovery of the troubled business.<sup>8</sup>

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<sup>8</sup> The Economic Times, ET in the Classroom: S4A, New Restructuring Scheme, dated July 19, 2016, available at <https://economictimes.indiatimes.com/news/economy/policy/et-in-the-classroom-s4a-new-restructuring-scheme/articleshow/53275568.cm> (last visited on March 10, 2026)



#### 4. 5/25 Refinancing Scheme

##### **Objective:**

Resolve the problem of asset-liability mismatch in critical infrastructures and industries through the extension of repayment tenure.

##### ***Implementation:***

The 5/25 scheme permits banks to extend repayment to 25 years, with periodic refinancing evaluations at five-year intervals. This allows for projects with long gestation periods to receive financing without facing undue pressure of repayment.

##### ***RBI Withdrawal of Restructuring Schemes***

In 2018, the Reserve Bank of India had withdrawn previous restructuring schemes such as CDR, SDR, S4A, JLF, and 5/25 because they were ineffective and misused.

##### ***Reasons for Withdrawal***

- 1 NPAs even after restructuring
- 2 Loan evergreening by banks
- 3 Lack of proper timeline
- 4 No coordination among various lenders
- 5 Restructuring of unsound enterprises

##### ***What Was There In Place Of It?***

#### **1. Prudential Guidelines for Resolution of Stressed Assets (2019)**

Timely resolution (within 180 days)  
Compulsory coordination among lenders (ICA)

Provisioning requirements



## *2. Insolvency and Bankruptcy Code, 2016 (IBC)*

Insolvency resolution process by law within time frame<sup>9</sup>

### **INSOLVENCY AND BANKRUPTCY CODE, 2016**

The Code of Insolvency and Bankruptcy was brought about in order to consolidate and amending laws regarding insolvency and bankruptcy in India. The main purpose of bringing about this code is that it would help in establishing a time bound and creditors' driven process in solving the problem of corporate insolvency. This way, the value of assets would be maximized.

This code was developed in order to sort out the inefficiencies that existed in other methods before. It helps in improving credit culture in India and disciplining debtors and borrowers.

### **CORPORATE INSOLVENCY RESOLUTION PROCESS(CIRP)**

The Corporate Insolvency Resolution Process (CIRP) can be seen as a "rescue operation" for a distressed business firm that is unable to pay its creditors. The process aims to continue the life of the firm as a "going concern" rather than dissolving it instantly, which will result in a better outcome.

**Following is an explanation of the process:**

#### **1. Admission to CIRP**

This marks the beginning of the insolvency resolution process.

Financial Creditors: Financial institutions or banks (the default amount should be ₹1 crore).

Operational Creditors: Employees or suppliers (a notice is required beforehand). Corporate Applicant: The company itself (voluntary insolvency).

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<sup>9</sup> The Economic Times, RBI Withdraws CDR, SDR, S4A, JLF Schemes to Restructure Defaulted Loans, dated February 13, 2018, available at <https://economictimes.indiatimes.com/news/economy/policy/rbi-withdraws-cdr-sdr-s4a-jlf-schemes-to-restructure-defaulted-loans/articleshow/62891543.cms> (last visited on March 10,2026)



## **2. Moratorium ("The Shield")**

This is called the "cooling-off period." After starting the process, a protective shield is erected around the company to stop any creditors from filing lawsuits against the company, seizing its property, and ending important contracts.

## **3. The Resolution Professional(RP)**

The management (Board of Directors) is on hold.

The Interim Resolution Professional (IRP), and subsequently the Resolution Professional (RP), take over.

- 1 They manage the running of the affairs.
- 2 They ensure the safety and maintenance of the value of the assets.
- 3 They invite "Resolution Applicants" (outsiders) to submit their plans for the revival of the business.

## **4. The Committee of Creditors(CoC)**

It is the most powerful entity within the CIRP framework. Its members include mainly the Financial Creditors.

- 1 Decision-Making Authority: The CoC determines whether the company survives or not.
- 2 Voting: Key decisions (such as the approval of the resolution plan) need a two-thirds majority. Routine decisions need a simple majority.
- 3 Business Judgment Rule: Courts do not usually meddle in the CoC's "business judgment" about whether the resolution plan is feasible.

## **5. The Resolution Plan**

A Resolution Plan is not just a repayment plan; it is a turnaround plan for the company.

It typically includes the following:

- Debt restructuring.



- Capital infusion through a new investor.
- Management change.

### **6. The Timeline**

IBC is very stringent on speed to ensure that the value of the business does not deteriorate.

- Standard Timeline: 180 days.
- Extension: Single extension of up to 90 days.
- Maximum Duration: 330 days (legal hold-ups included).

### **NCLT AND ITS ROLE**

The National Company Law Tribunal (NCLT) functions as both the “**traffic controller**” and the “**final decision-maker**” in the insolvency process. While the Committee of Creditors (CoC) handles commercial judgments, the NCLT makes sure those choices stay within the bounds of the law.

Here’s a closer look at how the NCLT operates across the full life cycle of an insolvency proceeding:

#### ***1. The Gatekeeper: Admission or Rejection:***

The NCLT is where everything begins. It doesn’t investigate the reasons behind a company’s failure; its focus is limited to confirming whether a default has occurred.

**The 14-Day Rule:** Under the IBC, the NCLT is expected at least in principle to confirm the existence of a default within 14 days of receiving the application.

**Verification:** It checks whether the debt is “due and payable” and whether it crosses the statutory threshold (currently ₹1 crore). If documentation is complete and

default is established, admission isn't optional—the NCLT is required to accept the case.



## ***2. The Shield-Bearer: Declaring Moratorium:***

Once the case is admitted, the NCLT issues a public notice and enforces a Moratorium (Section 14). This legal pause is essential. It does several things at once:

Prohibits filing new cases or continuing existing legal proceedings against the company. Stops creditors from seizing collateral or enforcing any security interests.

Keeps the business running as a “going concern” while the Resolution Professional takes over management.

## ***3. Supervision of Professionals:***

The NCLT appoints the Interim Resolution Professional (IRP), usually based on the creditor’s recommendation.

**Oversight:** If an Insolvency Professional (IP) shows bias or fails in their duties, the NCLT can step in—either by replacing them or referring the matter to the IBBI (Insolvency and Bankruptcy Board of India) for disciplinary review.

**Fee Disputes:** It also steps in to assess whether the costs and fees charged during the CIRP are reasonable.

## ***4. The Final Seal:***

**Approval of Resolution Plans.** This is arguably the NCLT’s most crucial function. After the CoC

clears a resolution plan with at least 66% voting share, it is sent to the NCLT for final approval.

**Scope of Review:** The NCLT doesn’t question the commercial wisdom of creditors—it won’t,

for instance, argue that a different financial outcome would have been better.

**Legal Compliance:** Its role is to ensure the plan satisfies Section 30(2), meaning

operational creditors are treated fairly, the plan is workable, and no existing laws (such as Competition Law or FEMA) are breached.

**Binding Nature:** Once approved, the plan becomes binding on everyone involved—creditors, employees, government authorities, and other stakeholders alike.



### 5. *The “Executioner”:*

Ordering Liquidation, If no resolution plan is finalized within the 330-day window, or if the CoC

determines revival isn't viable, the NCLT issues a liquidation order. It appoints a Liquidator.

### **SARFAESI ACT, 2002**

SARFAESI Act 2002 is arguably one of the most robust acts in India's financial landscape. It effectively tilted the scales of advantage from the defaulter borrower **back in favor of the lender (Bank and Financial Institution)** without requiring cumbersome litigation proceedings to enforce recovery of the secured amount.

#### *Overview and Purpose*

Prior to 2002, in case the borrower defaulted on a loan, the bank had to file for a civil case in a civil court or a debt recovery tribunal (DRT) which used to take years, resulting in the funds getting stuck up in the NPAs of the bank.

The SARFAESI Act 2002 was introduced to:

- Facilitate Speedier Recovery: Enable banks to cut through the court system to take control of their collaterals.
- Enhance Liquidity: With recovery of the bad loans being quicker, banks are left with more funds to loan to other sections of the economy<sup>10</sup>

#### ***Key Pillars of the Act***

There are three key ways in which the Act functions:

- Securitization: Banks are able to package many loans and sell them as financial instruments to interested investors.
- Asset Reconstruction: Banks are allowed to transfer NPAs to specialized firms, known as Asset Reconstruction Companies (ARCs), who recover the NPA independently, leaving the bank's books free from liabilities.

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<sup>10</sup> The Economic Times, RBI Withdraws CDR, SDR, S4A, JLF Schemes to Restructure Defaulted Loans, dated February 13, 2018, available at <https://economictimes.indiatimes.com/news/economy/policy/rbi-withdraws-cdr-sdr-s4a-jlf-schemes-to-restructure-defaulted-loans/articleshow/62891543.cms> (last visited on March 13 (The Economic Times, RBI Withdraws CDR, SDR, S4A, JLF Schemes to Restructure Defaulted Loans,, 2018), 2026)



- Enforcement of Security Interest: This is the most famous clause of the Act, which permits banks to seize and sell the asset (property/land/factory/building) that was used as security for the loan.

### ***Recovery Under Section 3: Enforcing Powers***

To recover using the powers granted by SARFAESI, the following pre-conditions must be fulfilled:

- The loan must be Secured (meaning there should be some mortgage/collateral involved).
- It must have been officially declared an Non-Performing Asset by the bank.
- The debt must be worth more than ₹1 Lakh, and at least 20% more than the total loan amount must be due.

### ***The Statutory Notice (Section 13(2))***

The bank gives a statutory notice of 60 days. This notice calls for the payment of total liabilities. During these 60 days, the borrower can raise any objection to this notice. It is mandatory for the bank to respond to these objections within 15 days.

### ***Possession (Section 13(4))***

If the borrower does not pay within 60 days, then the bank may do the following:

- Take symbolic or real possession of the asset against which credit was provided.
- Manage the business of the borrower.
- Manage the asset through some other person appointed by the bank.

### *Sale of Asset*

Once the bank has taken possession of the asset, a 30-day public auction notice is issued. The asset is then sold to the highest bidder to recoup the dues. The leftover amount after deducting the dues from the bank is paid to the borrower.<sup>11</sup>

### *Remedies Available to the Borrower under the SARFAESI Act, 2002*

The SARFAESI Act, 2002 gives extensive rights to banks while providing safety to borrowers against any abuse of power.

The borrower can contest the action taken by the bank through the Debt Recovery Tribunal under Section 17 of the Act. Where the borrower feels that the bank did not follow proper procedures, such as wrong notice, improper valuation, or even wrongful possession, then the borrower can approach the DRT.

#### *The DRT may:*

- Ascertain the validity of the action taken by the bank
- Order restoration of the possession of assets when the action was unlawful
- Award relief to the borrower

Moreover, in case the borrower feels aggrieved with the order made by **the DRT, he can file an appeal to the Debt Recovery Appellate Tribunal (DRAT)**. It should be noted that the borrower must deposit a certain percentage of the amount owing (25%-50%) to file an appeal.<sup>12</sup>

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<sup>11</sup> Legal Service India, Law, Lawyers and Legal Resources, available at <https://www.legalserviceindia.com/> (last visited on March 13 2026).

<sup>12</sup> Department of Financial Services, Ministry of Finance, Government of India, available at <https://financialservices.gov.in/> (last visited on March 13, 2026).



### *SARFAESI Act*

However, there are some definite exceptions in the case of SARFAESI Act, 2002:

#### *Agricultural Land*

This act is not applicable to the agricultural land. The farmers are safe from this legislation, and no bank can auction the agricultural land under SARFAESI.

#### *Unsecured Loans*

SARFAESI is applicable only on secured loans (loans with some security). It cannot be used for unsecured loans like credit card bills or personal loans without any security.

#### *Small Value Loans*

This Act will not be applicable in cases where either of the following criteria applies:

- The amount outstanding on the loan is below ₹1 lakh, or
- The amount due on the loan is under 20% of the original amount.

#### *Insufficient Collateral Security*

Where there is no legally binding security, banks cannot use SARFAESI provisions.

#### *Cases Involving Disputed Title*

When the ownership of a secured asset is under legal dispute, banks often have to seek relief through the courts rather than proceeding directly under SARFAESI.

### **CASE LAWS**

*1. Mardia Chemicals Ltd. v. Union of India (2004)*



**Facts:**

The SARFAESI Act's constitutional validity was contested, with the argument that it granted banks overly broad powers while lacking sufficient protections for borrowers.

***Judgment:***

The Supreme Court of India affirmed the Act's validity. At the same time, it invalidated the condition requiring borrowers to deposit 75% of the claimed debt before approaching the DRT, holding it unconstitutional.

***Key Principle:***

SARFAESI stands as valid law, yet borrowers must be given meaningful and fair access to legal remedies.

The ruling preserved a balance between the authority of banks and the rights of borrower<sup>13</sup>

2. ***Transcore v. Union of India (2006)***

***Facts:***

The central question was whether banks were allowed to pursue action under both the SARFAESI Act and the Recovery of Debts Due to Banks and Financial Institutions Act (RDDBFI Act) at the same time.

***Judgment:***

The Supreme Court of India determined that these two remedies work alongside each other rather than excluding one another.

***Key Principle:***

Banks are permitted to initiate and continue multiple recovery processes in parallel This ruling reinforced the position and powers of creditors<sup>14</sup>

3. ***Harshad Govardhan Sondagar v. International Assets Reconstruction Co. Ltd. (2014) Facts:***

This matter concerned the rights of tenants living in a property that had been

taken over under the SARFAESI Act.

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<sup>13</sup> Mardia Chemicals Ltd. v. Union of India, (2004) 4 SCC 311, decided on April 8, 2004 (Supreme Court of India), available at <https://indiankanoon.org/doc/1059476/> (last visited on March 15, 2026).

<sup>14</sup> M/s Transcore v. Union of India & Anr., (2008) 1 SCC 125, decided on November 29, 2006 (Supreme Court of India), available at <https://indiankanoon.org/doc/1511187/> (last visited on March 15 2026)



***Judgment:***

The Supreme Court of India ruled that bona fide tenants cannot be removed at will when their tenancy is legally valid.

***Key Principle:***

Protects the rights of third parties (tenants)

Banks are required to confirm the status of tenancy before proceeding with eviction

***4. Indian Overseas Bank v. Ashok******Saw Mill (2009) Facts:***

Can the DRT order restoration of possession of the property in case bank's actions are illegal?

***Decision:***

Supreme Court of India ruled that DRT has the power to restore possession of property in case bank's actions are considered illegal.

***Important Legal Doctrine:***

- Helps borrowers protect their rights
- DRT has vast powers<sup>15</sup>

***5. Authorized Officer, Indian Bank v. D.******Visalakshi (2019) Facts:***

Concerned procedural compliance in asset seizure under SARFAESI.

***Judgment:***

The Supreme Court of India emphasized **strict compliance with procedure** before taking possession of assets.

***Key Principle:***

- Banks must follow **due process strictly**
- Any violation can invalidate recovery action<sup>16</sup>

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<sup>15</sup> Indian Overseas Bank v. Ashok Saw Mill, (2009) 8 SCC 366, decided on September 1, 2009 (Supreme Court of India), available at

<https://www.casemine.com/judgement/in/5609029be4b0149711159901> (last visited on March 15 2026)

<sup>16</sup> The Authorised Officer, Indian Bank v. D. Visalakshi & Ors., Civil Appeal No. 6295 of 2015 along with connected matters, decided on September 23, 2019 (Supreme Court of India), available at

<http://student.manupatra.com/Academic/Studentmodules/Judgments/MANU-SC-1303-2019-JUD.pdf> (last visited on March 13 2026)



## **ROLE OF RBI AND COURTS IN CORPORATE LOAN RESTRUCTURING**

### **Role of RBI in corporate loan restructuring framework**

The Reserve Bank of India has an important and pivotal role in designing the corporate loan restructuring framework. As the monetary regulator of the country, it ensures that the banks maintain prudence and financial stability during times when the stressed assets or non-performing assets are on the rise.

In previous years, the RBI had created several forms of restructuring like Corporate Debt Restructuring (CDR), Strategic Debt Restructuring (SDR), Scheme for Sustainable Structuring of Stressed Assets (S4A), and 5/25 refinancing scheme in order to help the banks manage their financially distressed customers and ensure that the asset values are preserved without any liquidations. But owing to its flaws and misuse, the RBI eventually withdrew all these mechanisms and introduced the more disciplined process of Prudential Framework for Resolution of Stressed Assets (2019).

These guidelines issued by the RBI become instrumental in ensuring sound restructuring activities. It ensures that any restructuring activity must be preceded by proper asset classification, sufficient provisioning, and the viability of the borrower company.

Through the issuance of such guidelines, the RBI ensures that restructuring does not become a strategy used by companies to maintain their non-viable and non-performing positions. With strict timelines and ICAs required in the new guidelines, accountability in the process of restructuring becomes more robust than ever before.<sup>17</sup>

Additionally, RBI can indirectly influence the process of restructuring with the use of its monetary policies. In situations where the economy faces certain challenges, as was the case during the coronavirus pandemic period, the RBI introduced measures such as moratoriums on the payment of debts, among others, to facilitate restructuring.

## **JUDICIAL INTERVENTION IN LOAN RESTRUCTURING AND RECOVERY**

<sup>17</sup> Reserve Bank of India, Master Circular on Wilful Defaulters, RBI/2014-15/73 DBR.No.CID.BC.22/20.16.003/2014-15, dated July 1, 2014, available at <https://www.rbi.org.in/commonman/english/scripts/Notification.aspx?Id=559> (last visited on March 15, 2026).



Whereas the RBI acts as a regulator, it is the judiciary that ensures that the process of restructuring and recovery takes place according to law. Various courts and tribunals, including the Supreme Court of India, the High Courts of India, and the National Company Law Tribunal (NCLT), are vital in interpreting laws, safeguarding the interests of stakeholders, and settling disputes.

A classic case on this issue is that of **Mardia Chemicals Ltd. v. Union of India (2004)**, in which the Supreme Court held that the SARFAESI Act was constitutional but rejected the provision requiring the deposit of 75% of the debt amount before filing a case at the Debt Recovery Tribunal. The court made it clear that while it is essential for banks to be able to recover their dues effectively, it is equally important that the borrower receives justice.

In **Transcore v. Union of India (2006)**, the Supreme Court made it clear that remedies available under the SARFAESI Act and the Recovery of Debts Due to Banks and Financial Institutions Act could be pursued concurrently. This judgment made the task easier for the creditors as it empowered them to adopt a multi-pronged strategy.

The role of the judiciary in the matter was again highlighted with respect to the IBC. The Supreme Court in **Swiss Ribbons Pvt. Ltd. v. Union of India (2019)** upheld the constitutional validity of the IBC and noted the significance of the Code in resolving insolvency in a timely manner. It further noted the importance of a creditors' driven approach, especially in terms of commercial decision-making by the Committee of Creditors (CoC).<sup>18</sup>

The next milestone decision is in the case of **Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta (2019)**. The Supreme Court held again that judicial intervention should only take place if there is a breach of law and not just because the creditor's commercial decision-making has been affected.

### **BALANCING REGULATORY AND JUDICIAL ROLES**

The synergy between the RBI's policy-making process and the judiciary's monitoring role contributes to

an optimal environment for corporate debt restructuring. On the one hand, the RBI develops policies to

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<sup>18</sup> Reserve Bank of India, Guidelines on Wilful Defaulters, DBOD.No.CID.BC.57/20.16.003/2006-07, dated February 23, 2007, available at <https://www.rbi.org.in/commonman/english/scripts/Notification.aspx?Id=3225> (last visited on March 15, 2026)



mitigate financial problems, while on the other hand, the judiciary monitors the proper implementation of these policies.

Nevertheless, judicial interference may become too intensive and cause delays in the decision-making process, especially due to lengthy litigation procedures. Nevertheless, without the monitoring role of the judiciary, the arbitrary conduct of the bank could not be avoided, and the interests of the borrower could not be protected.

## **CHAPTER-3**

### **PRACTICAL ASPECTS OF CORPORATE LOAN RESTRUCTURING**

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#### **PROCESS OF LOAN RESTRUCTURING**

Corporate loan restructuring is a structured process through which financially troubled companies negotiate with lenders to revise existing loan terms so they can regain financial stability and avoid insolvency. The process usually moves through several stages, starting with the detection of financial distress and ending with execution of the restructuring package. Its broader purpose is to balance the interests of both borrowers and lenders while preserving the business's economic value.

#### **IDENTIFICATION OF FINANCIAL STRESS**

Identification of financial stress forms the very first step of restructuring loans. This happens if the borrower is not in a position to pay back the borrowed money because of his/her low income levels, insufficient cash, poor business performance, small market size, or poor economy. Financial indicators include overdue payments, declining profits, lower cash flow, and bad credit records.

In view of its policies being effectively implemented, the Reserve Bank of India (RBI) introduced prudential guidelines for the timely identification of stressed assets. Early detection of stress was very important to prevent any delay from the bank's side which can turn the account into NPA status.



The need for early detection was highlighted through Prudential Framework for Resolution of Stressed Assets introduced by the Reserve Bank of India (RBI). There were several procedures in place for detecting and reporting default cases. In addition, there were guidelines related to concerted efforts by the banks and developing a resolution plan.

### **PROPOSAL SUBMISSION**

Once the signs of financial stress have been established, the borrower will present a restructuring proposal to the lending banks or other financial institutions. The proposal will normally include information on financial statements, cash flow projections, revival plans, and changes recommended to the repayment terms.

The borrower should prove that the financial problems are temporary in nature and that the firm continues to be a commercially viable entity in the long run. The banks need to determine whether restructuring leads to a better recovery than liquidation or bankruptcy.

When there are multiple lenders involved, the restructuring proposal is usually negotiated through the consortium method.

### **BANK APPROVAL**

After considering the proposal, banks check its viability by assessing it on various parameters including financial feasibility, risk, asset valuation, and future earnings capacity. The decision-making process follows consensus among the lenders.

As per the earlier process of CDR, approval was subject to the consent of lenders who represented at least 75% of total debt value and 60% of the number of creditors. Currently, under the prudential framework, lenders sign an Inter-Creditor Agreement (ICA).

The factors considered by banks are:

- Earnings capacity of the business firm

- Capability of management
- Industry conditions
- Collateral available
- Recovery chances through other processes like IBC

### **FORMULATION OF RESTRUCTURING PLAN**

Following its approval, the restructuring plan is then drawn up. This includes provisions for a new payment schedule, lower interest rates, debt to equity conversions, new financing needs, and other necessary structural changes.

The primary goal of the restructuring process is to achieve financial stability for the borrowing party and maximize lender recoveries. The restructuring program might involve:

Extension of  
repayment  
period  
Repayment  
moratorium  
Interest rate  
reduction  
Debt to  
equity  
conversion  
Increase in  
working  
capital Asset  
liquidation

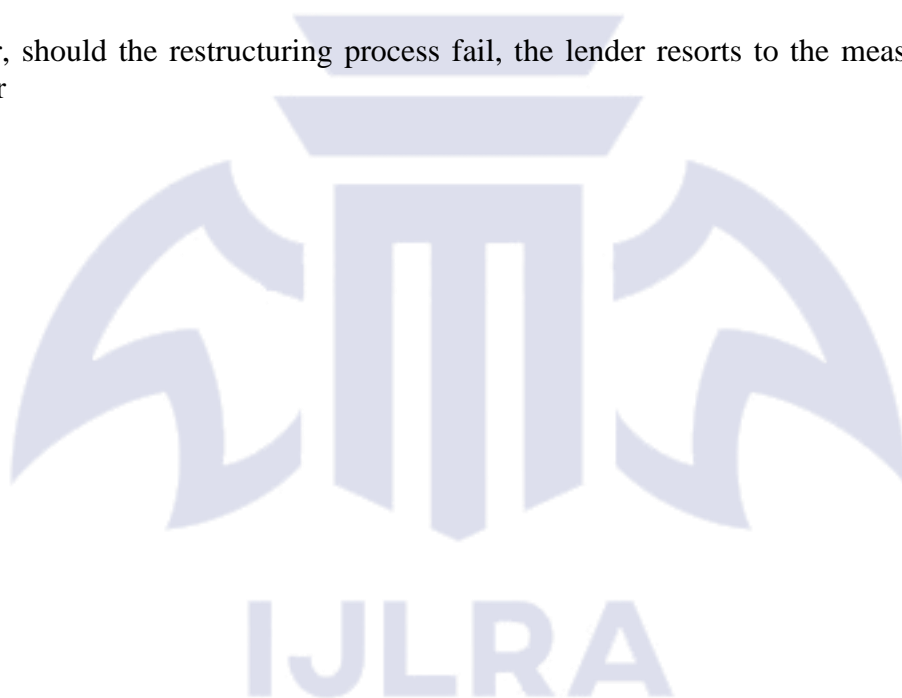
In some cases, it might be recommended that management changes be made.

## **IMPLEMENTING THE PLAN**

The final step consists of implementing the plan of restructuring which entails the execution of new agreements, the monitoring of payments, and supervision by the lenders.

This is the most difficult stage in the process since the success of restructuring mainly depends on the ability of the company to improve its performance and create sustainable cash flows. The banks ensure compliance through reports and performance monitoring.

However, should the restructuring process fail, the lender resorts to the measures provided for under



SARFAESI Act, 2002 or Insolvency and Bankruptcy Code, 2016.

Proper implementation of the plan became apparent in **Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta (2019)**.

## **TECHNIQUES USED IN LOAN RESTRUCTURING**

Various restructuring procedures can be adopted by banks and financial institutions based on the financial situation of the debtor and type of loan.

### **Rescheduling of Loans**

This is the process through which the repayment schedule of a loan is either extended or modified. This includes extension of the repayment period, moratorium, or reduction of installments.

The main objective is to alleviate immediate financial burden and match the repayment of debts with the cash flow forecasted for the future. It is extensively practiced especially when financing infrastructural and long-term projects, where profits may not be realized until several years later.

Through the 5/25 refinancing program instituted by the Reserve Bank of India (RBI), loans could be repaid over an extended period of 25 years with refinancing every five years.

However, excessive rescheduling of loans leads to “evergreening” of loans.

### **Interest Rate Reduction**

Another common restructuring technique involves interest rate reduction. The bank can reduce the interest rate applicable on its loan to make repayment easier for the company and facilitate better cash flow management.

Such a move is very helpful for financially distressed firms since the reduced interest liability will enable them to keep up with their operations and avoid bankruptcy. However, this should not



compromise the profit-making ability of the banks.

Interest rate reduction is particularly useful in cases of economic downturn or sector-specific problems.

### **Debt-to-Equity Swap**

Debt-to-equity swaps occur when a part of the debt is swapped for equity stocks of the debtor firm. In this process, lenders become stockholders in the firm.

Under the Strategic Debt Restructuring (SDR) policy adopted by the RBI in 2015, banks could take majority equity and manage defaulting firms.

The idea behind this was to enhance corporate governance and bring about a change in management when the existing promoters could not turn around the firm.

However, banks were often not skilled enough to handle firms, and many SDR operations ended in failure due to the absence of buyers/investors.

### **Haircuts**

Haircut refers to a reduction in the amount that is recoverable by the lenders. This involves creditors agreeing to accept partial repayment in lieu of complete debt outstanding.

Haircuts are prevalent in cases involving insolvency resolution under the Insolvency and Bankruptcy Code, 2016. Creditors tend to opt for partial payment by way of restructuring than risking bigger losses from liquidation.

That said, haircuts have been receiving criticism due to the fact that it could create a negative perception about the banking sector, which can cause heavy losses to banks.

This topic gained much popularity in connection with the Essar Steel insolvency resolution process wherein lenders opted for partial payment of debt outstanding.



## **CHALLENGES IN LOAN RESTRUCTURING**

Although there are different methods of restructuring available, the process does face some legal and financial difficulties.

### **Delays in Approval Process**

Among the key challenges of loan restructuring, the one that can be mentioned is delay in the approval process. The presence of many lenders, negotiations and regulatory issues can make the entire procedure quite lengthy.

Such delays lead to devaluation of distressed assets and lower success rates of revival attempts. In addition, by the time of approval of the reorganization plan, the financial condition of the borrower can change considerably.

### **Lack of Cooperation Among Creditors**

In loan restructuring, it usually happens that several financial institutions work together to lend to a common borrower through the form of consortium lending. This leads to clashes between different financial institutions due to differences in risk perception, recovery potential, and policy issues.

While some financial institutions might favor loan restructuring, others might like to recover immediately or through insolvency. Lack of coordination will hinder the restructuring process.

The Joint Lenders' Forum mechanism introduced by the RBI failed due to various issues, leading to its discontinuation.

### **Legal Disputes**

Legal disputes can be expected when restructuring takes place. Borrowers might contest debt recovery proceedings against them before the DRTs, High Courts, and the Supreme Court.

Creditors can also dispute valuations, distribution of proceeds, or the priority of claims. The resulting



lawsuits cause more delays.

The Supreme Court in **Mardia Chemicals Ltd. v. Union of India (2004)** affirmed the constitutionality of the SARFAESI Act while considering the interests of borrowers.

Similarly, the Supreme Court in **Swiss Ribbons Pvt. Ltd. v. Union of India (2019)** upheld the constitutionality of the Insolvency and Bankruptcy Code while stressing the significance of insolvency resolution.

### ***Moral Hazard***

Moral hazard is yet another significant problem. The borrower may intentionally default with the expectation of restructuring benefits like lower interest costs or forgiveness of the loan.

If restructuring takes place continuously without imposing discipline, the culture of credit would be negatively affected.

The bank could also abuse the restructuring process to evade classifying poor quality loans as NPAs, which is referred to as "**evergreening.**"

It is imperative that the banks adopt sound lending practices and classify their assets carefully to avoid abuse of the restructuring scheme.

## **IMPACT OF LOAN RESTRUCTURING ON ECONOMY**

Corporate Loan Restructuring Has Major Economic Consequences Since It Impacts Banks, Businesses, Employment, and Financial Stability.

### ***Decrease in Non-Performing Assets (NPAs)***

A key goal of loan restructuring is the decrease in Non-Performing Assets (NPAs).

Through the modification of terms and conditions, restructuring enables borrowers to maintain payment on their debt without falling into NPA status.



Less Non-Performing Assets mean better financial standing for banks and improved capability in financing profitable business ventures.

On the other hand, the abuse and misuse of loan restructuring could lead to stressed accounts being converted back into NPAs.

### *Stability in the Banking System*

A successful restructuring process enhances stability in the banking industry. A high volume of non-performing assets lowers profitability, deters investment, and impedes loan disbursement.

Through enabling recovery and maintaining asset values, restructuring relieves stress from banks and improves the functioning of the economy.

The regulatory policies formulated by the RBI strive to achieve a delicate balance between the two.

### *Corporate Sustainability*

The restructuring process ensures that companies experiencing financial problems can sustain their operations and prevent closure. It aids in retaining jobs, securing investments, and sustaining the functioning of the production chain.

Sustaining corporations holds greater significance for the economy as large corporations fuel associated industries, employees, and economic growth.

Restructuring processes facilitate corporate sustainability during economic crises.

### ***Growth and Employment***

Restructuring can facilitate growth in the economy because of the continuity that it provides to the productive business entities. The liquidation of major corporations will lead to job losses, reduced output, and economic instability.

For this reason, restructuring is considered a key factor in maintaining economic stability.

## **FAILURE OF RESTRUCTURING SCHEMES**

Though India had various instruments of restructuring including CDR, SDR, S4A, and 5/25 restructuring, most of them could not achieve the desired results.

### ***Ineffective Implementation***

The first factor that contributed to the failure of most of these instruments was the ineffective implementation of the programs. There were instances where the restructuring program would be delayed, inadequately supervised, or based on unrealistic premises.

There were cases where banks would approve restructuring without conducting an adequate analysis of its commercial viability. This led to defaults despite the restructuring programs.

### ***Political Interference***

Another factor that affected the effectiveness of the restructuring program was political interference. Some times corporate borrowers had an advantage because of their political or economic clout.

Public sector banks were pressurized at times to lend and restructure even when the fundamentals of their financial position were not favorable.

Thus, bad loan problem increased due to politically motivated lending, adversely affecting the image of the banking system.



The political aspect of lending was a serious problem during the investigation of the increasing NPAs in public sector banks.

### **Evergreening of Loans**

Evergreening means altering or renewing the loans so that the loans would remain non-NPA.

Instead of solving financial distress situations, banks resorted to repeated restructuring to escape recognition as a NPA loan. This caused an artificial impression of healthy loan portfolio whereas in reality, there were still underlying financial problems.

This practice was highly criticized by the RBI which eventually scrapped the previous restructuring scheme in 2018.

Prudential Framework for resolution of Stressed Assets was introduced to stop the practice of evergreening.

### **Absence of Business Viability**

Several corporations that had undergone the process of restructuring were not commercially viable in the long run. In some instances, the restructuring process was just a delay in an imminent failure and could not bring about business viability.

Without achieving business viability through structural changes, financial restructuring would not be enough for reviving businesses.

### **Poor Reorganization Mechanisms**

Before the passage of the Insolvency and Bankruptcy Code, recovery was poor and disjointed. The inefficiency of such a process stemmed from prolonged legal proceedings.

For this reason, the Insolvency and Bankruptcy Code was enacted.

In the case of Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta, the Supreme Court focused on timeliness of insolvency resolution and minimal judicial interference in business decisions.

## **ADDITIONAL DETAILED ANALYSIS ON PRACTICAL ASPECTS OF CORPORATE LOAN RESTRUCTURING**

### ***Stressed Asset Development in India - Historical Perspective***

The problem of stressed assets in India came about as a result of gradual developments in the past few decades. In the era of liberalization during the 1990s, banks in India started to lend more money to companies involved in infrastructure, steel, power, telecommunications, aviation, and real estate. The mood of optimism resulted in reckless lending practices by the banks. However, poor assessment of creditworthiness, unrealistic assumptions regarding the profitability of projects, and weak governance eventually caused a high level of defaulting.

Between 2008 and 2015, the NPAs in the Indian banking sector grew significantly. Many corporate borrowers were unable to repay their loan dues due to delays in policies, problems with environmental clearances, global economic recession, and poor decision-making within the company. The banking institutions kept on trying to restructure their loans using methods like CDR, SDR, and the S4A program.

Unfortunately, most of the accounts could not be salvaged. This phase revealed the shortcomings in the existing framework of restructuring in India and highlighted the need for a robust insolvency law. Therefore, the government of India promulgated the Insolvency and Bankruptcy Code in 2016.

### *Viability Evaluation in Restructuring*

One of the fundamental aspects of loan restructuring is the evaluation of viability. Banks need to ascertain whether the distressed borrower will be able to survive and create future cash flows.

These include:

- Analysis of financial statements
- Cash flow analysis
- Demand analysis
- Industry trend analysis
- Management skill evaluation
- Valuation of assets
- Debt service capacity

When a borrower does not have the long-term viability, restructuring merely delays eventual default and increases losses for the creditors. Contemporary approaches to loan restructuring thus focus on evaluating the viability of borrowers before restructuring.

In several circulars, the Reserve Bank of India has reiterated that restructuring is to be done only for viable firms undergoing temporary stress and not unviable firms.

### *Role of Consortium Lending in Restructuring*

Large corporate borrowers often raise funds from several banks by engaging in consortium lending transactions. Consortium lending distributes risks among several lenders and facilitates large-scale project funding.

Yet, consortium structures pose practical issues during restructuring since various banks can have divergent interests and recovery objectives.

Public sector banks might opt for restructuring to safeguard employment and prevent loss recognition, while private banks could insist on quick recovery. Divergent legal strategies could be adopted by foreign lenders as well, delaying decision-making.

The Joint Lenders' Forum (JLF) concept was developed as a mechanism to ensure coordination between lenders. In such an arrangement, all banks cooperated to develop a plan of corrective actions. However, disagreements among creditors made prompt resolutions difficult.

The Inter-Creditor Agreement (ICA) under the RBI's Prudential Framework was formulated to solve

this problem by compelling minority lenders to accept majority decisions.

### ***Operational Restructuring and Financial Restructuring***

The concept of loan restructuring is not limited to changing the payment structure only. For successful restructuring, operational restructuring is equally important.

Financial restructuring comprises:

- Lowering interest rates
- Increasing repayment duration
- Moratoria
- Converting debt to equity
- Haircuts
- Fresh capital

infusion Operational

restructuring consists

of:

- Cutting down costs
- Selling off non-strategic assets
- Streamlining staffing
- Managing improvements
- Broadening business activities



- Upgrading technology

In isolation, financial restructuring will not be able to revive an enterprise if operational problems persist. Consequently, restructuring demands efforts from both realms.

## **SECTOR WISE IMPACT OF LOAN RESTRUCTURING**

### **Infrastructure Sector**

Infrastructure deals require lengthy gestation periods and substantial investment in capital. Delayed government approvals, problems in acquiring land, and policy uncertainties may cause financial distress.

RBI launched the 5/25 refinancing scheme precisely to overcome asset-liability mismatching in infrastructure finance.

### **Steel and Manufacturing Sectors**

The steel sector was highly stressed due to global fluctuations in prices and overproduction. Many prominent steel firms have sought restructuring and bankruptcy.

Essar Steel's bankruptcy filing is one of the most famous cases of corporate debt resolution under the Insolvency and Bankruptcy Code.

### **Aviation Industry**

There have been many instances of failure of finance in the aviation industry due to high operating costs and unstable fuel prices.

Kingfisher Airlines emerged as an instance where restructuring failed due to mismanagement and unsustainable business practices despite several attempts at

restructuring by various banks.

**Power Industry**



There was pressure on power sector projects due to fuel shortage, uncertainties in regulations, and delays in payment from electricity distribution companies.

Many power sector loans had been restructured under various RBI programs.

### *Ethical Issues in Corporate Loan Restructuring*

Several ethical issues can be found in corporate loan restructuring.

For one, there is an ethical issue relating to preferential treatment of large corporate borrowers. It has been criticized that large corporations usually enjoy loan restructuring facilities while smaller borrowers are treated strictly in recovery.

Secondly, there is an ethical problem concerning the involvement of public sector banks in using the funds of taxpayers in order to cover the losses caused by corporate defaults.

In addition, crony capitalism is another issue related to the frequent restructuring of politically connected borrowers.

### *Approach to Corporate Restructuring Internationally*

Several nations have developed their own approaches and procedures relating to restructuring and insolvency proceedings.

#### *United States*

Chapter 11 is followed in the United States. Chapter 11 provides that financially troubled firms may continue their operations while attempting to restructure debt obligations.

The debtor continues as “debtor in possession” most of the time.

### *United Kingdom*

Administration and CVA are followed in the United Kingdom as forms of corporate rescue operations.

### *Singapore*

Singapore has contemporary insolvency laws which are informed by best practices of the international community. Singapore now finds itself at the forefront of Asian restructuring.

Several aspects of international best practices found their way into India's Insolvency and Bankruptcy Code.

### **Interpretation by Courts on Restructuring & Insolvency Laws**

In India, the interpretation of laws relating to restructuring and insolvency by courts has been significant.

**Swiss Ribbons Pvt. Ltd. vs. Union of India (2019)** case saw the validation of the constitutionality of the Insolvency and Bankruptcy Code.

The Court took note that timely resolution is required for preserving the value of assets.

**In Committee of Creditors of Essar Steel India Ltd. vs. Satish Kumar Gupta (2019)** case, the Supreme Court highlighted the paramount importance of the commercial wisdom of the creditors.

The decision ensured that judicial intervention was limited to commercial affairs. The **Supreme Court decision in Innoventive Industries Ltd. vs. ICICI Bank (2017)** case clarified that after default is confirmed, proceedings will be pursued under IBC.

These cases have greatly influenced India's law on restructuring and insolvency.

### *Impact of COVID-19 on Loan Restructuring*

The outbreak of the novel coronavirus brought about unforeseen financial pressure on companies from various industries.

Lockdowns, disruptions to the supply chain, and reduced customer spending had a serious impact on company earnings.

To address this situation, the Reserve Bank of India implemented specific restructuring programs like:

- Loan moratorium
- Emergency loans
- Restructuring under COVID guidelines
- Loosening asset classification criteria

All of these policies were intended to ensure that a mass bankruptcy phenomenon did not occur amid the economic turmoil.

On the other hand, there was apprehension that these short-term solutions would bring about hidden stress for banks.

### *Role of Asset Reconstruction Companies (ARCs)*

Asset Reconstruction Companies (ARCs) are significant players in the process of dealing with distressed assets.

Banks pass their distressed loans to ARCs, who try to recover by restructuring, settlement, or selling of the assets.

The SARFAESI Act is the statutory framework for securitization and asset reconstruction.

ARCs assist banks in clearing their balance sheets and concentrating on their core banking operations.

Nonetheless, there are difficulties associated with ARCs, including valuation issues, lack of investors' participation, and delayed recoveries.

### ***Restructuring Problems in Public Sector Banks***

Public sector banks have their fair share of stressed assets in the Indian

banking system. The issues faced by such banks include:

- Pressure from politics
- Bureaucracy
- Intimidation by vigilance authorities
- Lack of capital
- Slow decision-making process

There is hesitation on the part of bank officials to sanction restructuring due to fear of being investigated later on.

It results in delayed decisions, making restructuring less effective.

### ***Private Sector Banks and Recovery Strategy***

Private banks usually adhere to strict appraisal and

recovery strategies. They are more proactive about

instituting cases through the IBC process.

Nevertheless, private banks have problems reconciling their recovery process with maintaining good business relationships in the long term.

### ***Insolvency Professionals and Their Responsibilities***

There is an important part played by insolvency professionals according to the provisions of the Insolvency and Bankruptcy Code.

These include:

- Managing the debtor firm
- Protecting the assets
- Making resolution proposals
- Working with the creditors

The success of the insolvency resolution process is determined by the competence of the insolvency professional.

### ***Problems in Cross-Border Insolvency***

The effects of globalization have brought about cross-border lending practices and also made companies multinational.

In cases where multinational companies go bankrupt, there are issues such as jurisdiction, recognition of foreign proceedings, and distribution of assets.

India has been formulating a system for dealing with cross-border insolvencies using the UNCITRAL Model Law.

### ***Economic Ramifications of Failure to Restructure***

Failure to restructure could lead to many problems. Such include:

- Lay-offs of employees
- Reduction in the amount of industrial output
- Loss of confidence among investors

- Growth of NPAs
- Instability within banks
- Less credit availability

Failure of huge corporations may have an impact throughout the supply chain and even on a wider scale.

### *Insolvency and Haircuts Criticisms*

An area of contention regarding insolvency proceedings concerns the sizeable haircuts taken by creditors.

Critics claim that overly high haircuts create losses for government-owned banks and thus place a burden on taxpayers.

On the other hand, advocates claim that receiving part of their loan amounts is better than total loss through liquidation.

The discussion highlights the difficult trade-off between recovery efforts and practical considerations in the real world.

### *Reforms Required for the Restructuring Framework*

Even though India has achieved notable success in its insolvency and restructuring laws, more reforms are required.

Some of the suggested changes are:

- Improving court efficiency
- Enhancing coordination among creditors
- Refining credit assessment procedures
- Increasing borrower and lender accountability
- Empowering DRTs and NCLT
- Improved management of restructured accounts
- Transparency in lending decisions

An effective restructuring structure is critical for sustaining financial stability and economic development.

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