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EVALUATING THE EFFECTIVENESS OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016: A CRITICAL STUDY WITH SPECIAL REFERENCE TO ODISHA

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ABSTRACT

The Insolvency and Bankruptcy Code, 2016 (IBC) replaced a fragmented, debtor-friendly and court-centric regime with a time-bound, creditor-in-control process for the resolution of corporate distress. A decade after its enactment, and following the most extensive revision of the Code through the Insolvency and Bankruptcy Code (Amendment) Act, 2026, this paper evaluates whether the Code has delivered on its three statutory promises: timely resolution, maximisation of asset value, and the preference for rescue over liquidation. Adopting a doctrinal-cum-empirical method, the study analyses the statutory scheme, leading decisions of the Supreme Court, the National Company Law Appellate Tribunal, the Orissa High Court and the Cuttack Bench of the National Company Law Tribunal, together with Insolvency and Bankruptcy Board of India data up to 30 June 2026. It then applies the same criteria to Odisha, a mineral- and steel-intensive State whose large insolvencies (Bhushan Steel, Bhushan Power and Steel, Odisha Slurry Pipeline, OCL Iron and Steel) shaped national jurisprudence.

The findings are mixed. Of 9,166 corporate insolvency resolution processes admitted nationally, 4,227 debtors were rescued, and creditors realised 30.52 per cent of admitted claims but 166.58 per cent of liquidation value. Yet resolution takes an average of 633 days against a 330-day outer limit, and liquidations still outnumber approved plans by roughly two to one. In Odisha, large steel resolutions recovered well above the national average, but the single-court Cuttack Bench, recurring post-resolution demands by State authorities, mining-lease and licence risks, and a thin local professional ecosystem dilute outcomes. The 2026 amendments, particularly mandatory admission, the exclusion of statutory charges from

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"security interest" and licence protection after plan approval, address several of these constraints, though key reforms remain un-notified. The paper concludes with calibrated recommendations for the Union, the IBBI and the Government of Odisha.

Keywords: Insolvency and Bankruptcy Code, 2016; Corporate Insolvency Resolution Process; IBC (Amendment) Act, 2026; NCLT Cuttack; Odisha; Committee of Creditors; clean slate; State dues; resolution plans; liquidation

1. Introduction

1.1 Background

Before 2016, the Indian law of corporate failure was distributed across the Sick Industrial Companies (Special Provisions) Act, 1985, the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and the winding-up provisions of company law.[1] Multiple fora, overlapping jurisdictions and a debtor-in-possession culture produced long delays and low recoveries. The Bankruptcy Law Reforms Committee diagnosed the problem as one of institutional design rather than mere procedure, and recommended a single, collective and time-bound process in which control passes to creditors on default.[2] The Insolvency and Bankruptcy Code, 2016 ("IBC" or "the Code") gave effect to that design.[3]

The Code rests on three objectives stated in its Preamble: reorganisation and insolvency resolution in a time-bound manner, maximisation of the value of assets, and balancing the interests of all stakeholders. In *Swiss Ribbons* the Supreme Court read these objectives as making resolution, not recovery, the Code's primary aim and liquidation a last resort.[4] Ten years on, the Code has been amended seven times. The latest and widest revision, the Insolvency and Bankruptcy Code (Amendment) Act, 2026, received Presidential assent on 6 April 2026, and most of its provisions came into force on 26 May 2026.[5] The moment is therefore apt for a critical evaluation.

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[1]The Sick Industrial Companies (Special Provisions) Act, 1985 (Act 1 of 1986); The Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (Act 51 of 1993); The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (Act 54 of 2002); The Companies Act, 1956 (Act 1 of 1956), ss. 433–560.

[2]Bankruptcy Law Reforms Committee, *The Report of the Bankruptcy Law Reforms Committee, Volume I: Rationale and Design* 9–12 (Ministry of Finance, Government of India, November 2015).

[3]The Insolvency and Bankruptcy Code, 2016 (Act 31 of 2016), Preamble.

[4]*Swiss Ribbons (P) Ltd.* v. *Union of India*, (2019) 4 SCC 17, para 28.

[5]The Insolvency and Bankruptcy Code (Amendment) Act, 2026 (Act 6 of 2026); Ministry of Corporate Affairs, Notification S.O. 2625(E) (May 22, 2026).

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1.2 Why Odisha?

National data mask regional variation. Odisha is among India's leading producers of iron ore, chromite, bauxite and steel, and its industrial base is concentrated in capital-intensive sectors exposed to commodity cycles. Some of the largest corporate insolvencies of the first IBC wave, Bhushan Steel (Angul) and Bhushan Power and Steel (Jharsuguda), involved plants located in the State, and the Government of Odisha was itself a litigant before the Supreme Court in the latter case.[6] Odisha also hosts a dedicated adjudicatory forum: the Cuttack Bench of the National Company Law Tribunal ("NCLT"), which began functioning on 18 March 2019 with a single court room and exercises jurisdiction over Odisha and Chhattisgarh.[7] The State therefore offers a useful lens through which to test whether a national statute performs evenly across regions.

1.3 Research Problem, Objectives and Questions

The research problem is whether the IBC, as amended up to 2026, achieves its statutory objectives and whether the institutional and legal conditions prevailing in Odisha enable or obstruct those outcomes. The objectives are: (i) to analyse the statutory and judicial architecture of the Code, including the 2026 amendments; (ii) to measure national outcomes on timeliness, value and rescue; (iii) to examine Odisha-specific jurisprudence and institutional capacity; and (iv) to propose reforms. Accordingly the paper asks: RQ1 — Has the Code delivered time-bound, value-maximising resolution? RQ2 — How have courts shaped (or strained) the creditor-in-control model? RQ3 — What features of Odisha's economy and adjudicatory infrastructure affect outcomes? RQ4 — To what extent does the 2026 Amendment Act respond to these problems?

The working hypothesis is that the IBC has substantially improved creditor discipline and value realisation relative to liquidation, but that its effectiveness is constrained less by the text of the Code than by adjudicatory capacity and by friction between insolvency law and State-level regulatory claims, constraints that are pronounced in Odisha.

1.4 Methodology and Limitations

The study is doctrinal and analytical, supplemented by descriptive statistics. Primary sources include the Code, the 2026 Amendment Act and its commencement notification, IBBI

[6] *Kalyani Transco* v. *Bhushan Power & Steel Ltd.*, 2025 INSC 621 (Supreme Court of India, May 2, 2025) (State of Odisha among the appellants).

[7] National Company Law Tribunal, *Cuttack Bench – About Us*, available at: https://nclt.gov.in/cuttack-bench/about-us (last visited on Nov. 3, 2026).

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regulations, and judgments of the Supreme Court, NCLAT, Orissa High Court and NCLT Cuttack. Quantitative data are drawn from IBBI Quarterly Newsletters (up to April–June 2026), parliamentary answers, rating-agency analyses and stock-exchange disclosures. Two limitations must be acknowledged. First, the IBBI does not publish State-wise outcome series in its newsletter; the Odisha analysis therefore relies on a purposive sample of significant cases with an Odisha nexus rather than a complete census. Second, realisation figures exclude CIRP costs and post-approval value accretion, and are reported as provided by insolvency professionals. Figure 1 sets out the analytical framework that structures the evaluation.[8]

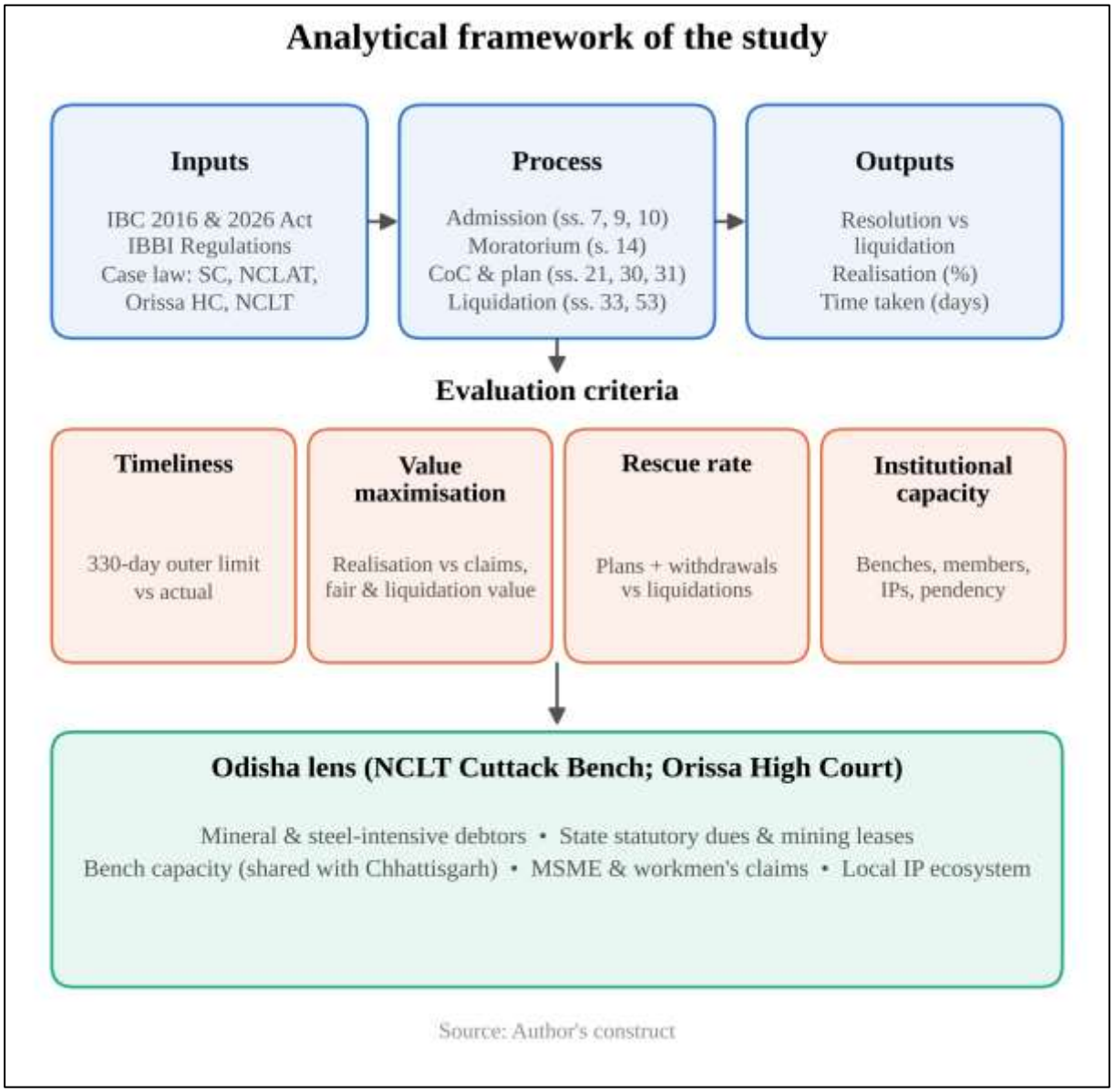


Figure 1: Analytical framework of the study

[8]Insolvency and Bankruptcy Board of India, *The Quarterly Newsletter of the Insolvency and Bankruptcy Board of India*, Vol. 39, April–June 2026 (IBBI, New Delhi, 2026), available at: https://ibbi.gov.in/uploads/whatsnew/2a6b0d98890fdf684bb77baa10b131bc.pdf (last visited on Nov. 3, 2026), Part C (notes to Table 1).

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2. Literature Review

2.1 Theoretical Foundations

Modern insolvency theory begins with Jackson's "creditors' bargain": a collective proceeding is justified because it prevents a value-destroying race among individual creditors and replicates the bargain creditors would strike ex ante.[9] Baird questioned whether judicially supervised reorganisation adds value at all when markets can sell a going concern.[10] Warren, by contrast, argued that bankruptcy must also distribute the losses of failure among stakeholders who never bargained, including employees and communities.[11] LoPucki's critique of the debtor-in-possession model under Chapter 11 of the US Bankruptcy Code supplied the comparative case for shifting control to creditors.[12] The IBC sits at the intersection: it is creditor-controlled (Jackson, LoPucki) but carries distributive commitments to workmen and operational creditors (Warren). The UNCITRAL Legislative Guide offers the global benchmark for that balance.[13]

2.2 Indian Scholarship and Official Reviews

Van Zwieten's study of the pre-IBC era showed how courts, through expansive interpretation of the sick-company and winding-up regimes, had turned rescue procedures into instruments of delay.[14] Sengupta, Sharma and Thomas mapped the fragmented pre-reform framework and identified time-to-resolution as its central failure.[15] Practitioner treatises explain the mechanics of the new process.[16] The Insolvency Law Committee (2018) recommended course corrections, including the recognition of homebuyers as financial creditors.[17] The Standing Committee on Finance warned in 2021 that excessive haircuts, delay and tribunal vacancies threatened the credibility of the Code.[18] Most recently, the Select Committee on the 2025 Bill recommended

[9]Thomas H. Jackson, *The Logic and Limits of Bankruptcy Law* 7–19 (Harvard University Press, Cambridge, Mass., 1986).

[10]Douglas G. Baird, "The Uneasy Case for Corporate Reorganizations" 15 *Journal of Legal Studies* 127 (1986).

[11]Elizabeth Warren, "Bankruptcy Policy" 54 *University of Chicago Law Review* 775 (1987).

[12]Lynn M. LoPucki, "The Debtor in Full Control – Systems Failure Under Chapter 11 of the Bankruptcy Code?" 57 *American Bankruptcy Law Journal* 99 (1983).

[13]United Nations Commission on International Trade Law, *Legislative Guide on Insolvency Law* 10–14 (United Nations, New York, 2005).

[14]Kristin van Zwieten, "Corporate Rescue in India: The Influence of the Courts" 15 *Journal of Corporate Law Studies* 1 (2015).

[15]Rajeswari Sengupta, Anjali Sharma and Susan Thomas, "Evolution of the Insolvency Framework for Non-financial Firms in India" IGIDR Working Paper No. WP-2016-018 (Indira Gandhi Institute of Development Research, Mumbai, 2016).

[16]Sumant Batra, *Corporate Insolvency: Law and Practice* (Eastern Book Company, Lucknow, 2017).

[17]Ministry of Corporate Affairs, *Report of the Insolvency Law Committee* 25–34 (Government of India, March 2018).

[18]Standing Committee on Finance (2021–22), *Thirty-Second Report: Implementation of Insolvency and Bankruptcy Code – Pitfalls and Solutions* (Lok Sabha Secretariat, New Delhi, August 2021).

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safeguards against conflicts of interest of resolution professionals and stronger IBBI oversight.[19]

2.3 Empirical Assessments

Empirical literature converges on a two-sided verdict. IBBI data show a high realisation relative to liquidation value but a modest one relative to admitted claims.[20] Rating agencies corroborate this pattern: ICRA records that realisations fell to about 23 per cent of admitted claims in the fourth quarter of 2025–26, driven by lower recovery in large accounts, while CareEdge reports a sequential recovery to 28.6 per cent in the first quarter of 2026–27 amid continuing delay.[21] These studies, however, are national aggregates.

2.4 Regional Literature and the Research Gap

Regional analysis of IBC outcomes is sparse. Commentary from Odisha-based institutions, such as the Centre for Corporate Law at National Law University Odisha, has engaged with the interaction between moratorium and public-purpose land acquisition, but has not offered a systematic State-level evaluation.[22] No study combines the 2026 amendments, Supreme Court developments up to late 2026, and the Orissa High Court's jurisprudence on State dues with the institutional realities of the Cuttack Bench. This paper fills that gap. Table 1 summarises the literature reviewed.

Table 1: Summary of literature reviewed

Author / Source	Focus	Key insight	Relevance / gap
Jackson (1986)	Creditors' bargain theory	Collective process prevents value-destroying races	Normative basis of CoC control
Baird (1986); Warren (1987)	Rationale of reorganisation	Efficiency vs distributive goals	Frames OC & workmen debate

[19]Select Committee on the Insolvency and Bankruptcy Code (Amendment) Bill, 2025, *Report* (Lok Sabha Secretariat, New Delhi, December 17, 2025); PRS Legislative Research, *The Insolvency and Bankruptcy Code (Amendment) Bill, 2025*, available at: https://prsindia.org/billtrack/the-insolvency-and-bankruptcy-code-amendment-bill-2025 (last visited on Nov. 3, 2026).

[20]Ibid.; Insolvency and Bankruptcy Board of India, *The Quarterly Newsletter of the Insolvency and Bankruptcy Board of India*, Vol. 39, April–June 2026 (IBBI, New Delhi, 2026), available at: https://ibbi.gov.in/uploads/whatsnew/2a6b0d98890fdf684bb77baa10b131bc.pdf (last visited on Nov. 3, 2026).

[21]ICRA Limited, *Performance Update: Insolvency and Bankruptcy Code* (ICRA Research, May 2026), available at: https://www.icra.in/Rating/DownloadResearchSpecialCommentReport?id=6952 (last visited on Nov. 3, 2026); CareEdge Ratings, *IBC Recovery Gains Momentum in Q1FY27, Despite Continued Delays* (August 2026).

[22]Centre for Corporate Law, National Law University Odisha, *CCL Newsletter* (March 2025), available at: https://ccl.nluo.ac.in (last visited on Nov. 3, 2026).

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Author / Source	Focus	Key insight	Relevance / gap
LoPucki (1983)	Chapter 11 critique	Debtor-in-possession breeds delay	Justifies creditor-in-control
van Zwieten (2015)	Pre-IBC courts	Judicial expansion stalled rescue	Warns against judicial overreach
Sengupta, Sharma & Thomas (2016)	Pre-reform framework	Fragmentation and delay	Baseline for comparison
BLRC (2015); ILC (2018)	Design and review	Time-bound, creditor-led process	Policy intent
Standing Committee (2021)	Implementation	Haircuts, delay, vacancies	No regional analysis
IBBI, ICRA, CareEdge (2025–26)	Empirical outcomes	High value vs liquidation; long delays	National aggregates only
NLU Odisha CCL (2025)	Regional commentary	Moratorium vs public purpose	No State-level evaluation

Source: Author's compilation.

3. Analysis and Discussion

3.1 The Statutory Architecture after the 2026 Amendment

The corporate insolvency resolution process ("CIRP") may be triggered by a financial creditor, an operational creditor or the corporate debtor on a default of at least ₹1 crore.[23] On admission a moratorium freezes proceedings against the debtor, an interim resolution professional takes over management, and a committee of creditors ("CoC") composed of financial creditors approves or rejects resolution plans by a 66 per cent vote.[24] If no plan is approved within the time limit, the debtor is liquidated and proceeds distributed under the waterfall in Section 53.[25] The 2026 Amendment Act alters this architecture in significant respects (Table 2). The Adjudicating Authority must now decide applications under Sections 7, 9 and 10 within

[23]The Insolvency and Bankruptcy Code, 2016 (Act 31 of 2016), ss. 4, 7, 9, 10; Ministry of Corporate Affairs, Notification S.O. 1205(E) (Mar. 24, 2020).
[24]Id., ss. 14, 17, 21, 30(4).
[25]Id., ss. 12, 33, 53.

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fourteen days, and on a financial creditor's application no ground other than default, completeness and the absence of disciplinary proceedings against the proposed professional may be considered.[26] Withdrawal under Section 12A is barred before constitution of the CoC and after the first invitation of resolution plans.[27] The Explanation to Section 3(31) excludes from "security interest" a charge created merely by operation of law, and the Explanation to Section 53(1)(e)(i) confines government dues at that rank to the two years preceding liquidation.[28] The CoC now supervises liquidation and can replace the liquidator, while a resolution professional is barred from becoming liquidator of the same debtor.[29] Notably, the much-publicised creditor-initiated insolvency resolution process ("CIIRP"), group insolvency and cross-border insolvency have been enacted but not yet notified.[30]

Table 2: Key changes under the IBC (Amendment) Act, 2026 and their commencement status

Provision of the Code	**Change**	**Status (Nov. 2026)**
s. 7(5)	Admission within 14 days; no ground beyond default, completeness and IRP eligibility; IU record proves default (reverses *Vidarbha*)	In force, 26 May 2026
s. 12A	Withdrawal barred before CoC constitution and after first invitation of plans; 90% threshold unchanged	In force
s. 3(31), s. 53	Statutory charge is not a "security interest"; government dues limited to two years at s. 53(1)(e) (reverses *Rainbow Papers*)	In force
ss. 26, 43–47	Avoidance window anchored to initiation date; proceedings survive plan approval; creditors may apply directly	In force

[26]The Insolvency and Bankruptcy Code (Amendment) Act, 2026 (Act 6 of 2026), substituting s. 7(5) of the Code (with Explanations I and II).

[27]Id., substituting s. 12A of the Code.

[28]Id., amending ss. 3(31) and 53 of the Code; Priyanka Agarwal, "IBC Amendment Act 2026: What Changes for Creditors and Resolution Professionals" *iPleaders* (July 20, 2026), available at: https://blog.ipleaders.in/ibc-amendment-act-2026-what-changes-for-creditors-and-resolution-professionals/ (last visited on Nov. 3, 2026).

[29]The Insolvency and Bankruptcy Code (Amendment) Act, 2026 (Act 6 of 2026), inserting ss. 21(11), 34(4) and 34A in the Code.

[30]Ministry of Corporate Affairs, Notification S.O. 2625(E) (May 22, 2026), read with ss. 40, 42 and 71 of The Insolvency and Bankruptcy Code (Amendment) Act, 2026 (Act 6 of 2026).

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Provision of the Code	Change	Status (Nov. 2026)
ss. 21(11), 34(4), 34A, 54	CoC supervises liquidation; can replace liquidator (66%); RP cannot be liquidator; liquidation in 180 + 90 days	In force
s. 31(5)–(6)	Licences and concessions protected after plan approval; clean slate retrospective	In force
Ch. IV-A (ss. 58A–58K)	Creditor-initiated insolvency resolution process (CIIRP)	Enacted, not notified
Ch. V-A; s. 240C	Group insolvency; cross-border insolvency	Enacted, not notified

Source: Act 6 of 2026; MCA Notification S.O. 2625(E) dated May 22, 2026; Agarwal (2026).

3.2 Judicial Construction: Consolidation, Strain and Legislative Correction

(a) Constitutional foundation and creditor primacy. *Swiss Ribbons* upheld the classification between financial and operational creditors and the eligibility bar in Section 29A.[31] In *Essar Steel* the Court held that the CoC's commercial wisdom is non-justiciable, subject only to limited review under Sections 30(2) and 31.[32] *Ghanashyam Mishra* then declared that an approved plan extinguishes all claims not included in it, including those of the Central and State Governments — the "clean slate" principle.[33] These rulings gave resolution applicants the certainty required to bid.

(b) Admission: from Innoventive to Vidarbha and back. *Innoventive Industries* held that once default is established, admission must follow.[34] *Vidarbha Industries* reinterpreted "may" in Section 7(5)(a) as discretionary, allowing tribunals to look at the debtor's overall viability.[35] Although later clarified as confined to its facts, *Vidarbha* generated uncertainty at the threshold. The 2026 Act has legislatively restored the *Innoventive* position. For operational creditors, the filter of a pre-existing

[31] *Swiss Ribbons*, supra note 4.
[32] *Committee of Creditors of Essar Steel India Ltd.* v. *Satish Kumar Gupta*, (2020) 8 SCC 531; see also *K. Sashidhar* v. *Indian Overseas Bank*, (2019) 12 SCC 150.
[33] *Ghanashyam Mishra & Sons (P) Ltd.* v. *Edelweiss Asset Reconstruction Co. Ltd.*, (2021) 9 SCC 657.
[34] *Innoventive Industries Ltd.* v. *ICICI Bank*, (2018) 1 SCC 407.
[35] *Vidarbha Industries Power Ltd.* v. *Axis Bank Ltd.*, (2022) 8 SCC 352.

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dispute in *Mobilox* remains unaffected.[36]

(c) The State as creditor. In *Rainbow Papers*, a two-judge bench treated a statutory first charge for State tax dues as a "security interest", elevating the tax department to the rank of secured creditor and requiring plans to provide for it.[37] *Paschimanchal Vidyut Vitran Nigam* soon confined that ruling, ranking government dues under Section 53(1)(e).[38] The ensuing uncertainty mattered acutely for resource-rich States such as Odisha, whose claims for royalty, sales tax, electricity duty and land premia are typically statutory. The 2026 Explanation to Section 3(31) resolves the conflict in favour of the *Paschimanchal* view.

(d) Finality of plans: the Bhushan Power and Steel saga. On 2 May 2025 a two-judge bench set aside JSW Steel's fully implemented ₹19,700 crore resolution plan for Bhushan Power and Steel Ltd. ("BPSL") and directed liquidation under Article 142, five years after NCLT approval.[39] On review, the Court recalled that judgment on 31 July 2025, and on 26 September 2025 dismissed the appeals and upheld the plan, restoring the binding effect of the CoC's decision.[40] For a debtor whose principal plant is at Jharsuguda, the episode demonstrated how judicial reopening of completed resolutions can threaten investor confidence in Odisha's industrial assets. Parliament responded with new Sections 31(5) and 31(6), protecting licences, permits and concessions after plan approval and making the extinguishment of prior claims retrospective to the commencement of the Code, save where matters have attained finality.[41]

(e) Developments in 2026. The Supreme Court has continued to refine the Code. In *ICICI Bank* v. *Era Infrastructure* it addressed simultaneous CIRPs against a principal borrower and its corporate guarantor.[42] In *Torrent Power* v. *Ashish Arjunkumar Rathi* and *S. Rajendran* v. *Deputy Commissioner of Income Tax* it examined the treatment of utility and tax claims in insolvency.[43] In *EPFO* v. *Rachna Jhunjhunwala* it held that

[36]*Mobilox Innovations (P) Ltd.* v. *Kirusa Software (P) Ltd.*, (2018) 1 SCC 353.

[37]*State Tax Officer* v. *Rainbow Papers Ltd.*, (2023) 9 SCC 545.

[38]*Paschimanchal Vidyut Vitran Nigam Ltd.* v. *Raman Ispat (P) Ltd.*, (2023) 10 SCC 60.

[39]*Kalyani Transco*, supra note 6.

[40]*Punjab National Bank* v. *Kalyani Transco*, 2025 SCC OnLine SC 1634 (Review Petition (C) No. 1432 of 2025); *Kalyani Transco* v. *Bhushan Power & Steel Ltd.*, 2025 INSC 1165 (Civil Appeal No. 1808 of 2020, decided on Sept. 26, 2025).

[41]The Insolvency and Bankruptcy Code (Amendment) Act, 2026 (Act 6 of 2026), amending s. 31 of the Code; Agarwal, supra note 28.

[42]*ICICI Bank* v. *Era Infrastructure (India) Ltd.*, 2026 INSC 201.

[43]*Torrent Power Ltd.* v. *Ashish Arjunkumar Rathi*, 2026 INSC 206; *S. Rajendran* v. *Deputy Commissioner of Income Tax*, 2026 INSC 187.

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provident fund dues are protected but that unadjudicated interest and damages need not be provided for in a plan.[44] The cumulative trend is towards protecting plan finality while preserving core employee claims. Figure 2 traces this legislative and judicial evolution.

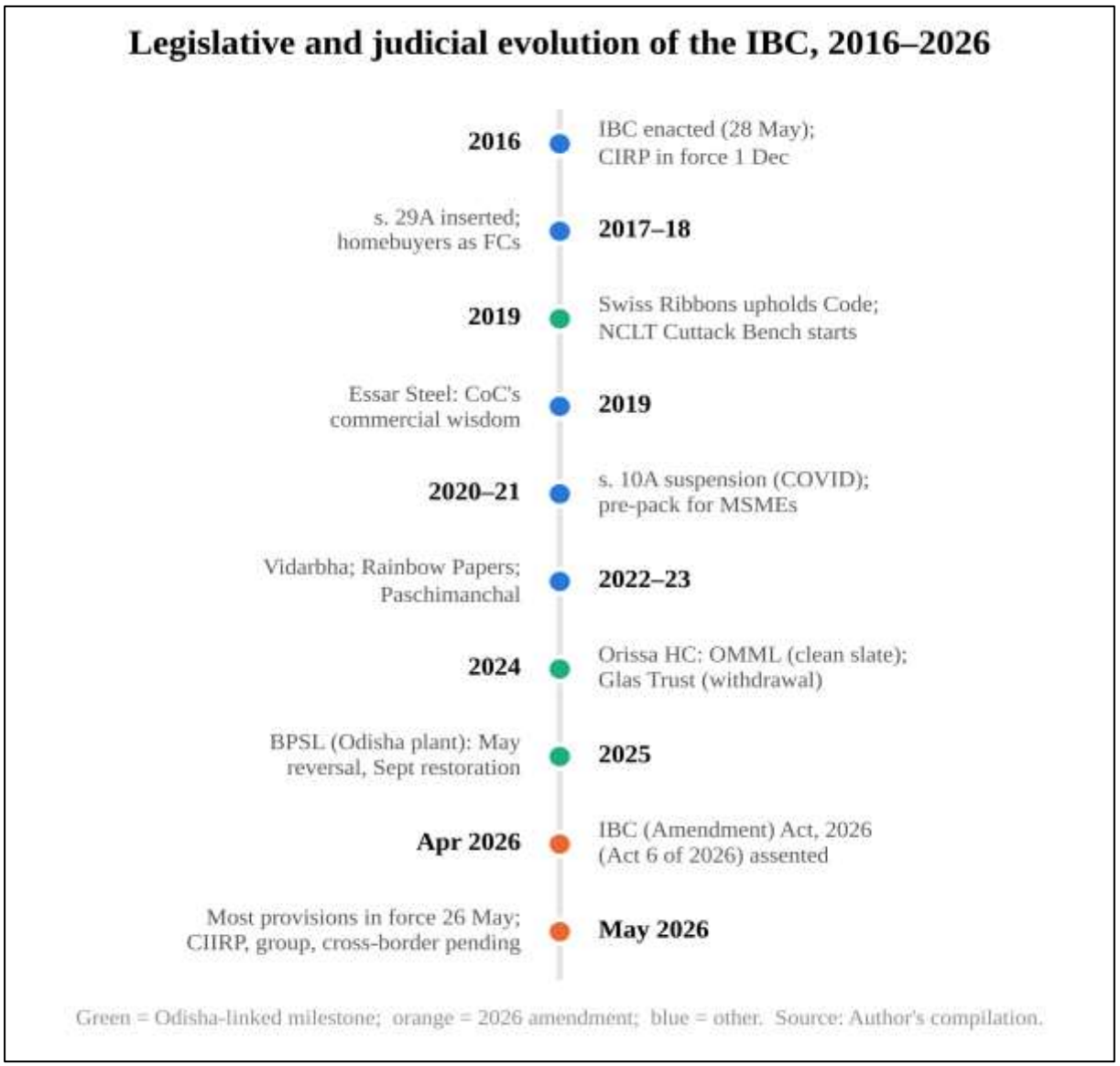


Figure 2: Legislative and judicial evolution of the IBC, 2016–2026 (Odisha-linked milestones highlighted)

3.3 National Performance: What the Data Show

Scale and rescue. By 30 June 2026, 9,166 CIRPs had been admitted, 7,301 closed and 1,865 remained ongoing.[45] Figure 3 shows the steady growth of admissions and approved plans. Of

[44] *Employees Provident Fund Organisation* v. *Rachna Jhunjhunwala*, 2026 LiveLaw (SC) 749 (Civil Appeal No. 9768 of 2026).

[45] Insolvency and Bankruptcy Board of India, *The Quarterly Newsletter of the Insolvency and Bankruptcy Board of*

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closed cases, 4,227 corporate debtors (58 per cent) were rescued through resolution plans (1,484), appeal, review or settlement (1,410) or withdrawal under Section 12A (1,333), while 3,074 ended in liquidation (Figure 4).[46] The ratio of liquidations to approved plans (about 2.07:1) is often cited as evidence of failure, but it must be read with the fact that many debtors admitted were already defunct; IBBI data consistently show that a large share of debtors ending in liquidation were defunct or had earlier been before the BIFR.[47]

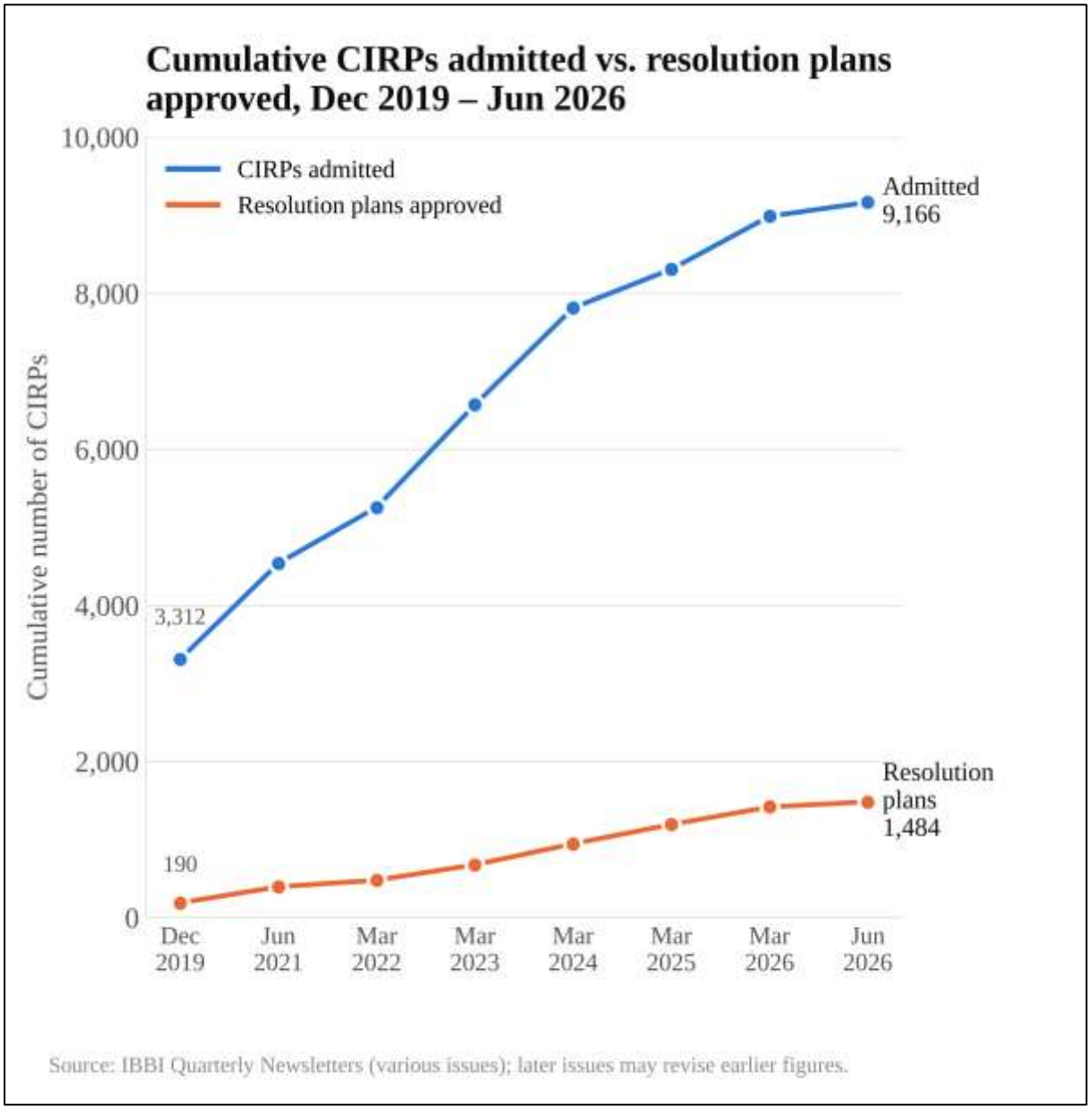


Figure 3: Cumulative CIRPs admitted and resolution plans approved, December 2019 – June 2026

India, Vol. 39, April–June 2026 (IBBI, New Delhi, 2026), available at: https://ibbi.gov.in/uploads/whatsnew/2a6b0d98890fdf684bb77baa10b131bc.pdf (last visited on Nov. 3, 2026), Table 1.

[46]Ibid.; ICSI Institute of Insolvency Professionals, *IBC Update-2/2026* (Aug. 21, 2026).

[47]Insolvency and Bankruptcy Board of India, *The Quarterly Newsletter*, Vol. 39, supra (notes on liquidation).

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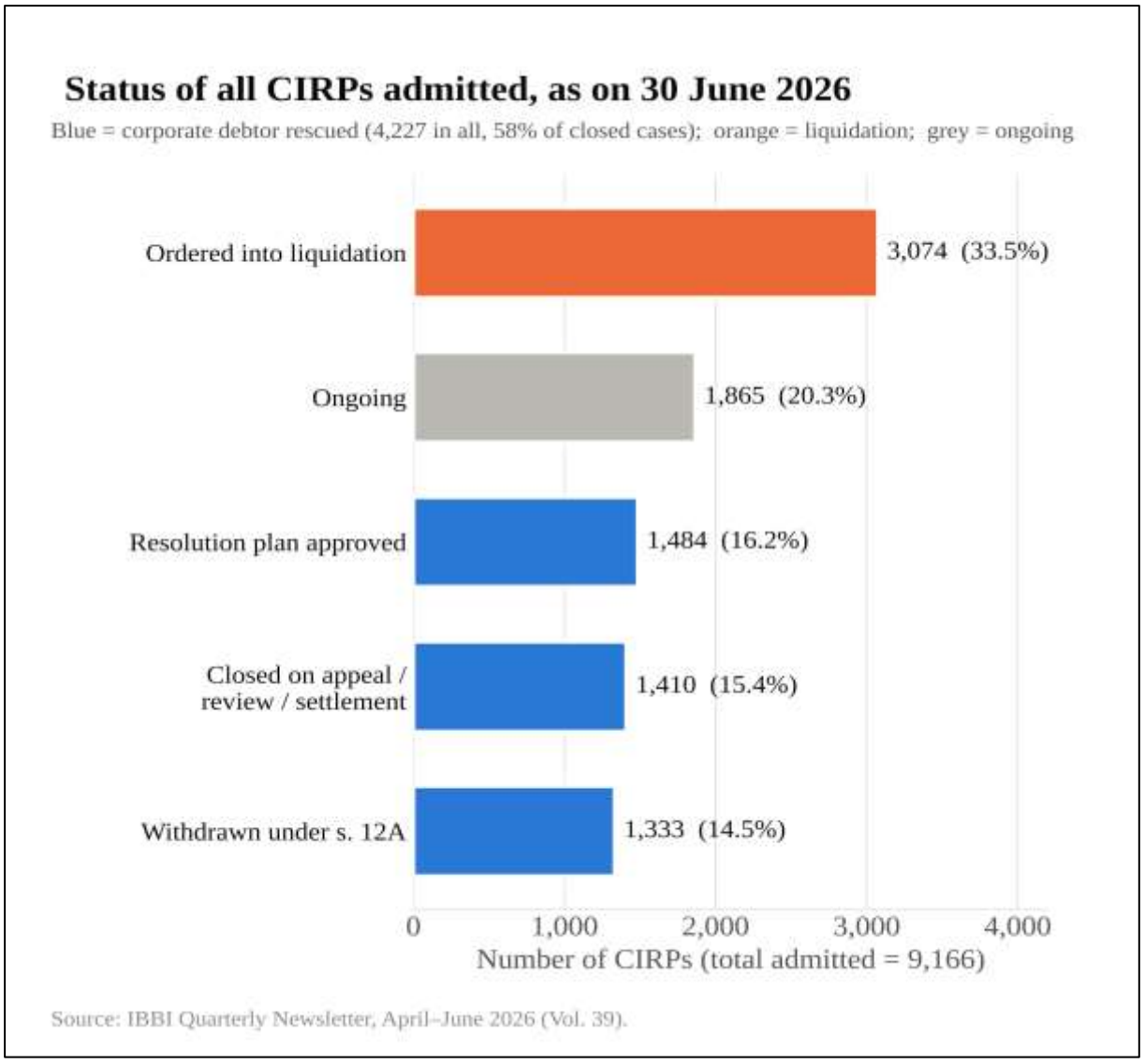


Figure 4: Status of all CIRPs admitted as on 30 June 2026 (n = 9,166)

Value. Creditors realised about ₹4.35 lakh crore under resolution plans, equal to 30.52 per cent of admitted claims, 94.72 per cent of fair value and 166.58 per cent of liquidation value (Figure 5).[48] The modest share of claims reflects the advanced state of value erosion before admission, a symptom of delayed initiation rather than of the process itself. By contrast, completed liquidations realised 86.73 per cent of liquidation value, but against claims of ₹5.11 lakh crore and assets of only ₹0.22 lakh crore, a ratio of about 23 to 1.[49] The personal guarantor framework has been far weaker: repayment plans have yielded roughly 1 per cent of admitted claims.[50]

[48]Insolvency and Bankruptcy Board of India, *The Quarterly Newsletter of the Insolvency and Bankruptcy Board of India*, Vol. 39, April–June 2026 (IBBI, New Delhi, 2026), available at: https://ibbi.gov.in/uploads/whatsnew/2a6b0d98890fdf684bb77baa10b131bc.pdf (last visited on Nov. 3, 2026); CareEdge Ratings, supra note 21.

[49]Ibid.

[50]Ibid.

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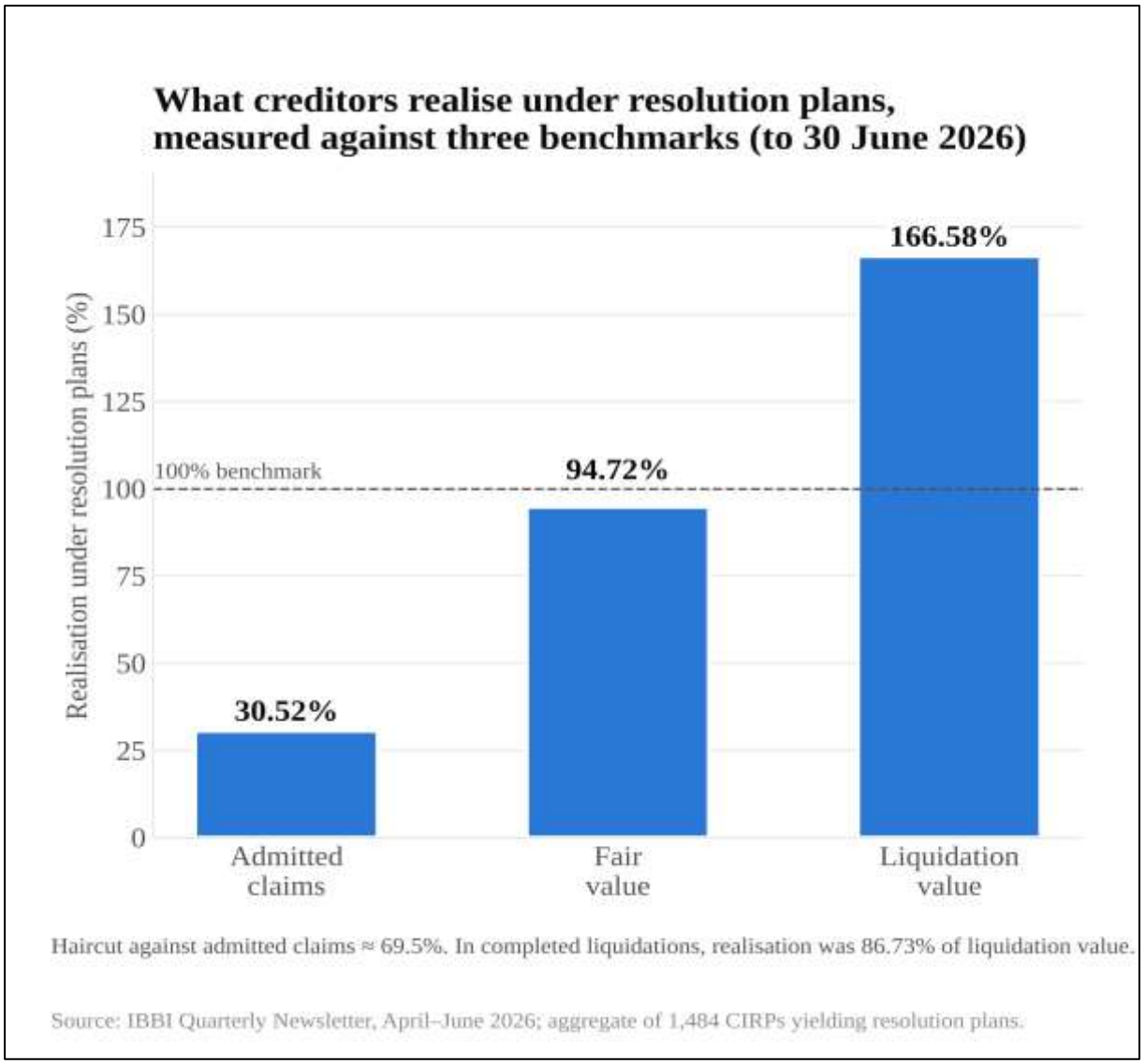


Figure 5: Realisation under resolution plans measured against admitted claims, fair value and liquidation value (to 30 June 2026)

Time. Timeliness is the Code's weakest dimension. CIRPs yielding plans took on average 597 days by March 2025, 621 days by March 2026 and 633 days by June 2026, against an outer limit of 330 days (Figure 6).[51] ICRA estimated that almost 78 per cent of ongoing CIRPs had exceeded 270 days as on 31 March 2026.[52] In April 2026 the Supreme Court took suo motu notice of delays in approving resolution plans and was informed of more than 360 approval applications pending, with delays ranging from 48 to 738 days.[53] Delay has a direct price: value

[51]IBBI, *Quarterly Newsletter*, January–March 2025 (IBBI, New Delhi, 2025); IBBI, *Quarterly Newsletter*, January–March 2026 (IBBI, New Delhi, 2026); Insolvency and Bankruptcy Board of India, *The Quarterly Newsletter of the Insolvency and Bankruptcy Board of India*, Vol. 39, April–June 2026 (IBBI, New Delhi, 2026), available at: https://ibbi.gov.in/uploads/whatsnew/2a6b0d98890fdf684bb77baa10b131bc.pdf (last visited on Nov. 3, 2026).

[52]ICRA Limited, supra note 21.

[53]Supreme Court of India, suo motu proceedings on delay in approval of resolution plans (2026), as reported in Agarwal,

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decays while the process runs, and the Code's defining promise of time-bound resolution is not being met.

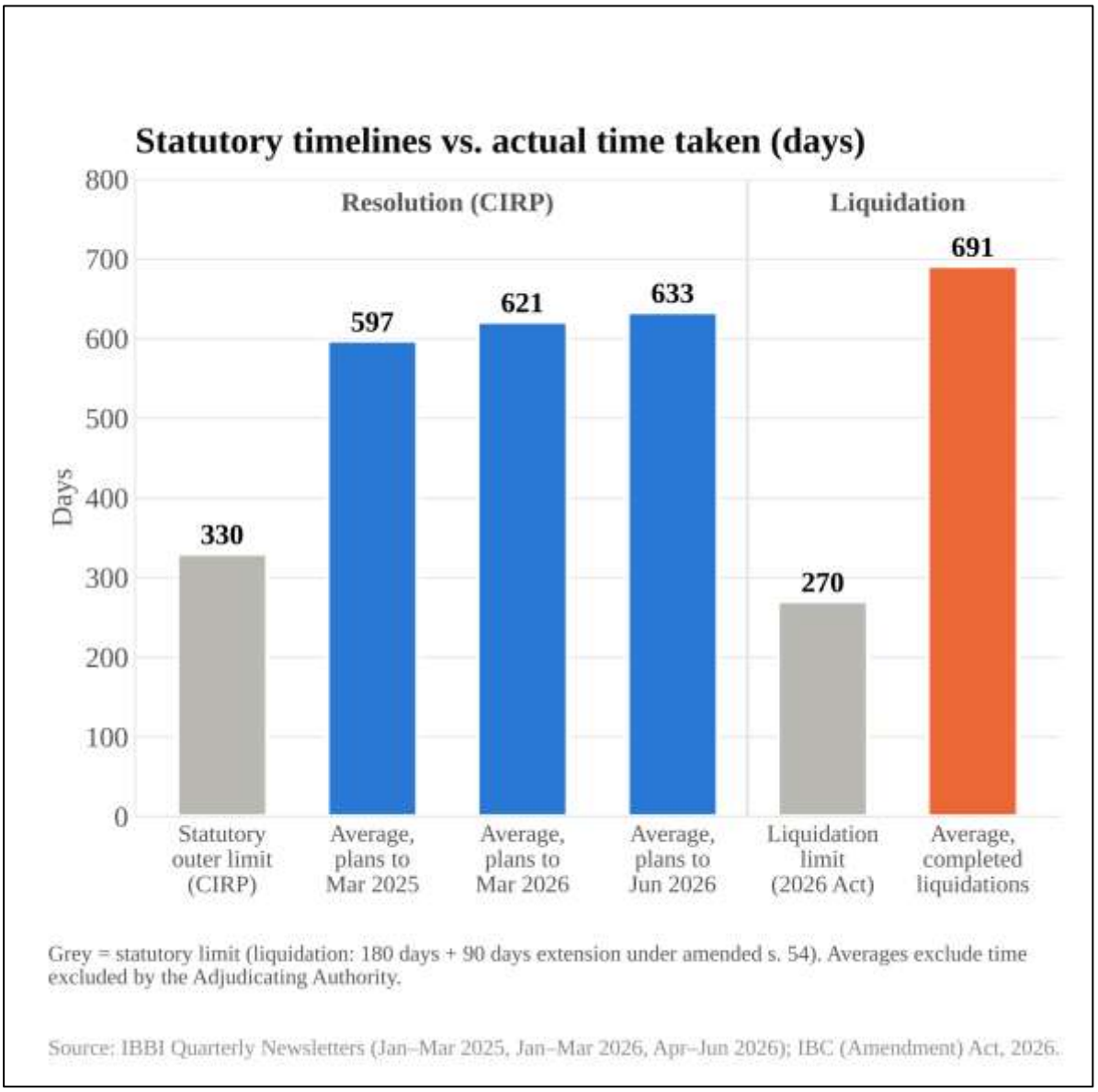


Figure 6: Statutory timelines versus actual average time taken for resolution and liquidation (days)

Capacity. As on March 2025, 6,988 IBC cases were pending before the NCLT, and the Government informed Parliament that there was no proposal to increase the number of benches.[54] The professional ecosystem is also thinner than headline numbers suggest: of 4,656 registered insolvency professionals, only 1,983 held a valid authorisation for assignment on 31

supra note 28; see also the Registrar's report available at: https://ibbi.gov.in/uploads/order/cf5f990f9fe3388b5f6a0029dddd6fce.pdf (last visited on Nov. 3, 2026).

[54]Ministry of Corporate Affairs, Rajya Sabha Unstarred Question No. 210, *Backlog of Cases under IBC* (answered on July 22, 2025).

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March 2026.[55] The data thus support the hypothesis that the binding constraint is adjudicatory and professional capacity rather than statutory design.

3.4 The Odisha Experience

(a) Economic setting. Odisha's industrial debtors are disproportionately in steel, sponge iron, ferro-alloys, mining services and infrastructure contracting. These enterprises hold mineral concessions, IDCO-allotted land, captive power arrangements and environmental clearances whose value depends on continuity of licences. Their creditor profile typically includes State instrumentalities (for royalty, district mineral foundation contributions, electricity dues and taxes), workmen, and a long tail of MSME suppliers. Each feature places pressure on a different provision of the Code: Sections 14, 31 and 53.

(b) The adjudicatory forum. Before 2019, Odisha cases were heard by the Kolkata Bench. The Cuttack Bench was constituted in 2018 and began work in March 2019, inheriting transferred petitions such as those in *OCL Iron and Steel*, originally filed in Kolkata.[56] The bench has functioned with one court for two States. NCLT's own statement of member strength in February 2025 recorded that the Cuttack and Guwahati courts were sitting only two days a week, on a half-day basis, owing to non-availability of members.[57] Cause lists record further suspensions of sittings when the sole technical member was on leave.[58] A forum operating at a fraction of capacity cannot meet fourteen-day admission or thirty-day approval timelines, however mandatory the statutory language.

(c) Case studies. Table 3 and Figure 7 summarise significant resolutions with an Odisha nexus. Two patterns emerge. First, large, operational steel assets attracted strategic bidders and high recoveries: Tata Steel's acquisition of Bhushan Steel realised about 63 per cent of admitted claims, and JSW's plan for BPSL about 42 per cent, both far above the national mean. Secondly, mid-sized cases before the Cuttack Bench, such as *Odisha Slurry Pipeline*, *OCL Iron and Steel* and *ARSS Infrastructure*, were resolved,

[55]Agarwal, supra note 28, citing IBBI, *Quarterly Newsletter*, January–March 2026.

[56]IBBI, *Corporate Processes: OCL Iron and Steel Limited* (CP (IB) No. 183-CB-2020; TP No. 07-CTB-2019, earlier CP (B) No. 160-KB-2019), available at: https://www.ibbi.gov.in/en/claims/order-process/L27102OR2006PLC008594 (last visited on Nov. 3, 2026).

[57]National Company Law Tribunal, *Status of Members* (Feb. 12, 2025), available at: https://nclt.gov.in/sites/default/files/2025-02/Status%20of%20Members%2012.02.2025.pdf (last visited on Nov. 3, 2026).

[58]NCLT Cuttack Bench, *Daily Cause List* (Jan. 17, 2025).

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but only after protracted litigation, including remission of the ARSS plan by the NCLAT to the CoC before its approval on 29 August 2025.[59] In 2026 the Bench approved a plan for Goyal Energy and Steel yielding about 28 per cent of admitted claims, and censured the resolution professional for altering a creditor's claim in the compliance certificate without a revised claim.[60]

Table 3: Selected insolvency matters with an Odisha nexus

Matter	Forum / year	Outcome	Significance
Bhushan Steel Ltd. (Angul plant)	NCLT Principal Bench, 2018	Acquired by Tata Steel; c. 63% of admitted claims realised	Flagship early success
Bhushan Power & Steel Ltd. (Jharsuguda)	NCLT 2019; SC 2025	JSW plan (₹19,700 cr; c. 42%) set aside May 2025, upheld Sept. 2025	Plan finality; s. 31(5)–(6)
Odisha Slurry Pipeline Infrastructure Ltd.	NCLT Cuttack, 2020	ArcelorMittal plan approved; NCLAT dismissed appeals	First major Cuttack resolution
OCL Iron & Steel Ltd. (Rajgangpur)	NCLT Cuttack, 2023	Plan by Indrani Patnaik approved after transfer from Kolkata	Mining-linked revival
ARSS Infrastructure Projects Ltd.	NCLT Cuttack, 2025	Plan approved Aug. 29, 2025 after NCLAT remission to CoC	Delay through appeals
Orissa Manganese & Minerals Ltd.	Orissa HC, 2024	Post-plan State demands (incl. MMDR s. 21(5)) quashed	Clean slate vs State dues
Varsha Fabrics (Hirakud)	SC, 2019	HC-ordered auction set aside as violating moratorium	Workmen vs s. 14

[59] *IDBI Bank* v. *Odisha Slurry Pipeline Infrastructure Ltd.*, NCLT Cuttack Bench, order dated Mar. 2, 2020, affirmed by NCLAT; ARSS Infrastructure Projects Ltd., *Disclosure under Regulation 30, SEBI (LODR) Regulations, 2015* (Sept. 3, 2025) (approval by NCLT Cuttack Bench by order dated Aug. 29, 2025).

[60] *Goyal Energy and Steel Ltd.* (CIRP), NCLT Cuttack Bench (2026), reported in *LiveLaw* (June 30, 2026).

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Matter	Forum / year	Outcome	Significance
Goyal Energy & Steel Ltd.	NCLT Cuttack, 2026	Plan approved; c. 28% realisation; RP censured	Claim-verification discipline

Source: IBBI case records, stock-exchange disclosures, reported judgments; author's compilation.

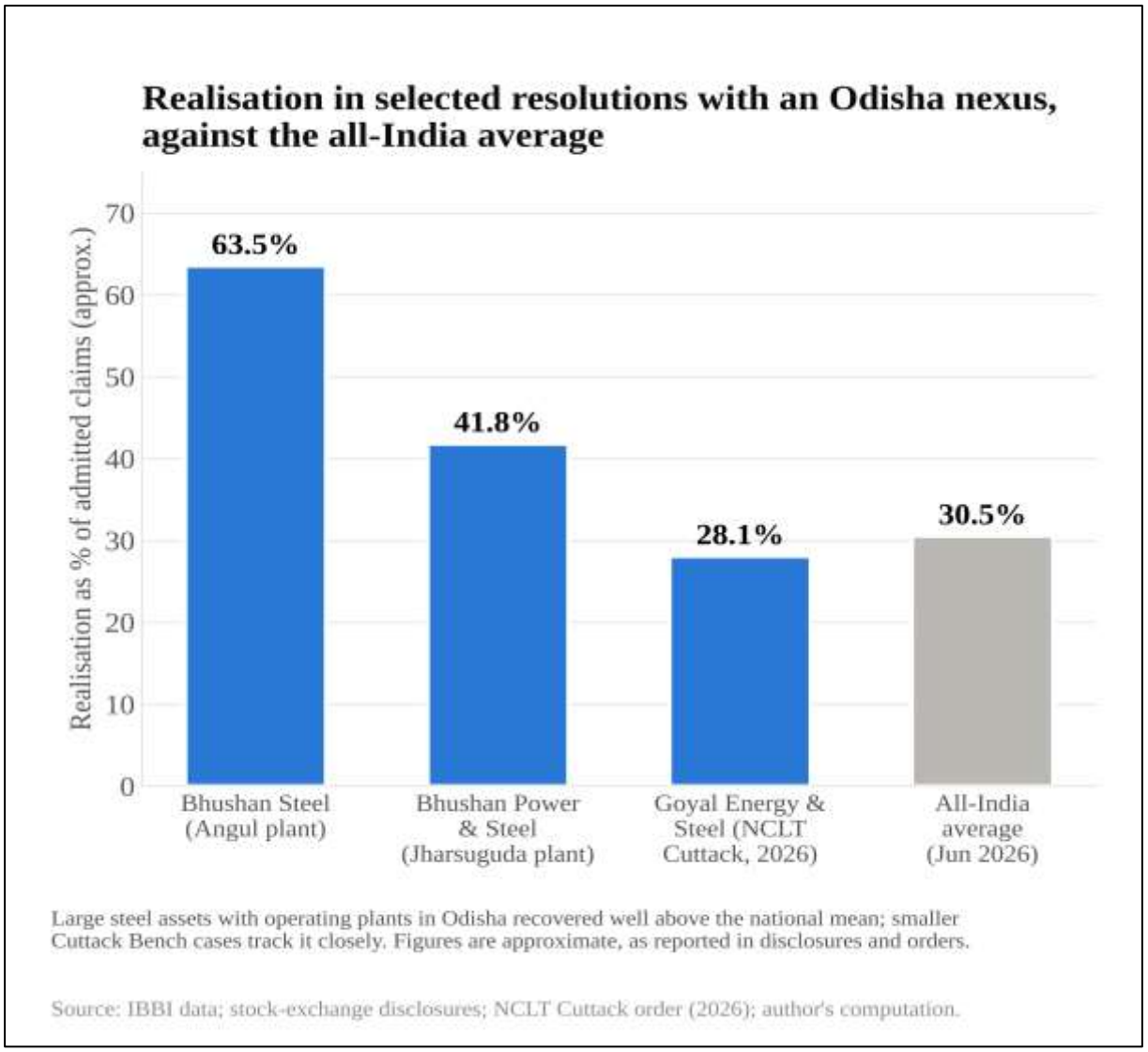


Figure 7: Realisation in selected resolutions with an Odisha nexus compared with the all-India average

(d) The State of Odisha as claimant: the Orissa High Court's contribution. The most distinctive Odisha jurisprudence concerns post-resolution demands by State authorities. In *Orissa Manganese & Minerals Ltd.* v. *State of Odisha*, the State raised demands after approval of the plan, including compensation under Section 21(5) of the Mines and Minerals (Development and Regulation) Act, 1957, flowing from *Common Cause*, and

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relied on *Lalit Kumar Jain*. A Division Bench quashed the demands, holding that all claims not part of the approved plan stood extinguished under Section 31.[61] The High Court had earlier applied the clean-slate principle against State demands in *Sree Metaliks*, and similar challenges arose in *Adhunik Metaliks*.[62] These decisions protect resolution applicants, but their recurrence reveals an administrative problem: State departments often do not file claims during the CIRP and pursue recovery afterwards, generating writ litigation that the Code was designed to avoid.

(e) Moratorium, workmen and parallel proceedings. The tension between welfare litigation and the moratorium surfaced in *Anand Rao Korada*, where the Orissa High Court, acting on a workers' petition concerning the Hirakud unit of Varsha Fabrics, directed the auction of the debtor's assets during the CIRP. The Supreme Court set aside those directions as contrary to Section 14 and the overriding effect of Section 238.[63] The case illustrates the Code's distributive deficit for workmen in long-defunct units, an issue of particular importance in Odisha's older industrial clusters. The Supreme Court's 2026 holding that the moratorium protects only the corporate debtor, and not promoters or other respondents, confirms that collateral remedies against third parties remain available.[64]

(f) Mining leases and licences. Odisha's mineral concessions are governed by the MMDR Act and State rules, and their lapse or non-transfer can strip a debtor of most of its value. The *Embassy Property* decision held that the NCLT cannot adjudicate disputes arising from the exercise of sovereign power over mining leases, which must be pursued in public-law fora.[65] This creates a jurisdictional seam through which Odisha cases frequently pass. The new Section 31(5) partly bridges it by preventing suspension or termination of licences after plan approval where obligations are met, but it does not protect the asset during the CIRP itself. Figure 8 maps these Odisha-specific constraints to their effects and to available reform levers.

[61] *Orissa Manganese & Minerals Ltd.* v. *State of Odisha*, W.P.(C) No. 1497 of 2024 with W.P.(C) Nos. 2304 and 2307 of 2024 (Orissa High Court, Oct. 1, 2024); *Common Cause* v. *Union of India*, (2017) 9 SCC 499; *Lalit Kumar Jain* v. *Union of India*, (2021) 9 SCC 321.

[62] *Sree Metaliks Ltd.* v. *State of Odisha*, W.P.(C) No. 8259 of 2019 (Orissa High Court, June 21, 2021); *Adhunik Metaliks Ltd.* v. *State of Odisha*, W.P.(C) No. 1553 of 2022 (Orissa High Court, Dec. 8, 2022).

[63] *Anand Rao Korada* v. *Varsha Fabrics (P) Ltd.*, (2020) 14 SCC 198.

[64] Supreme Court of India, judgment of Vikram Nath and Sandeep Mehta, JJ. (July 2026), reported in *SCC Times* (Aug. 5, 2026).

[65] *Embassy Property Developments (P) Ltd.* v. *State of Karnataka*, (2020) 13 SCC 308.

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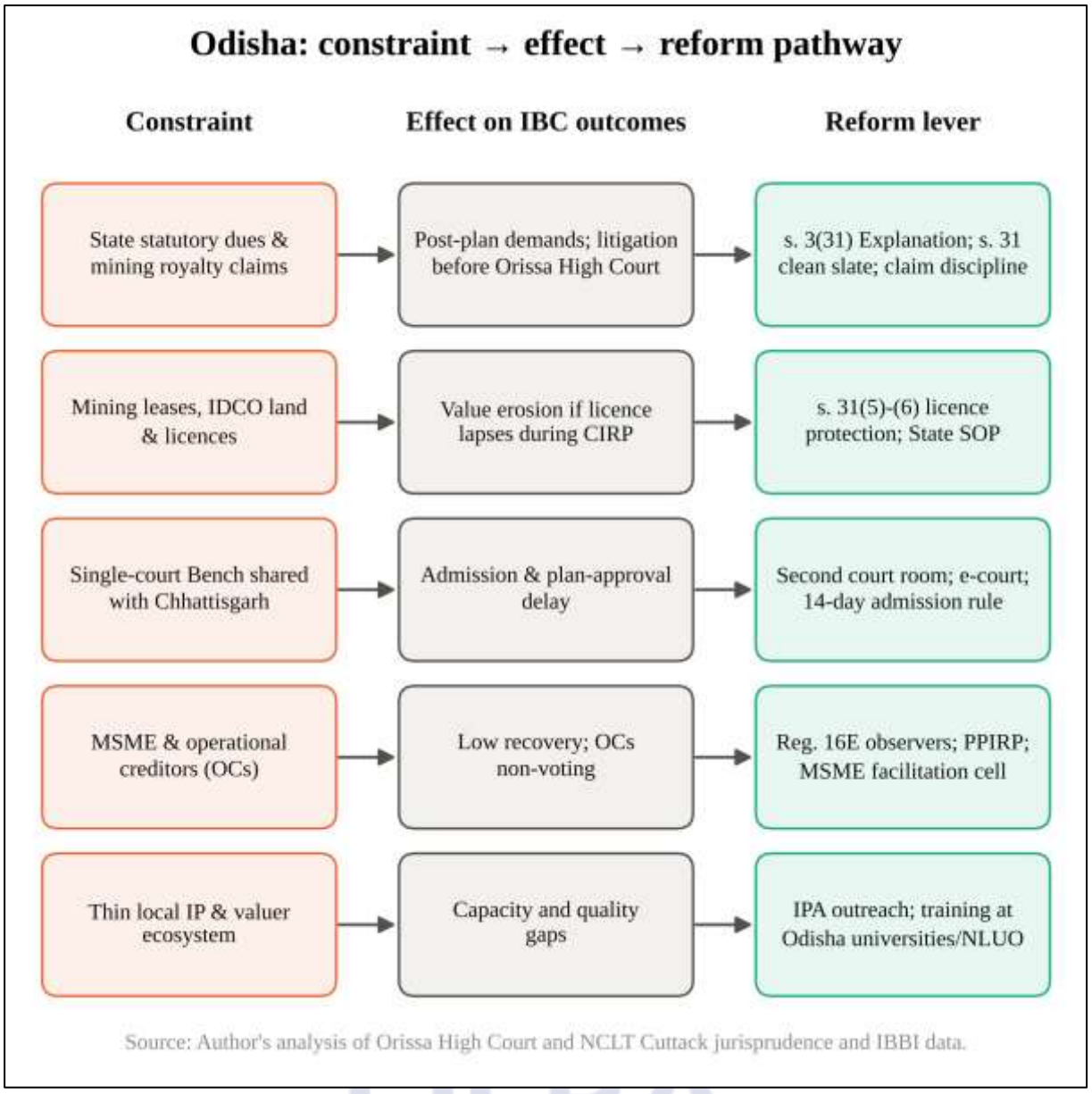


Figure 8: Odisha: constraints, effects on IBC outcomes, and reform levers

3.5 Critical Appraisal

Measured against its objectives, the Code's record is uneven. On **value**, it outperforms liquidation decisively, and in Odisha's large steel cases it outperformed the national mean. On **rescue**, 58 per cent of closed processes ended with the debtor surviving. On **timeliness**, the Code fails: average durations are nearly double the statutory limit, and the gap widened between 2025 and 2026. On **distributive balance**, operational creditors and workmen remain marginal: they do not vote, and Regulation 16E, which since June 2026 admits the largest operational creditors and statutory authorities to CoC meetings as observers, gives them a voice

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but not a vote.[66]

The 2026 amendments are responsive but asymmetric. They legislate discipline onto litigants and professionals (mandatory admission, narrowed withdrawal, doubled penalties, avoidance duties) without a matching legislative commitment to tribunal capacity. Deadlines are not self-executing; where a tribunal misses them, it need now only record reasons. Moreover, the fast-track process has been omitted while its intended replacement, the CIIRP, awaits notification, leaving smaller debtors — the bulk of Odisha's caseload — without a tailored route.[67] The hypothesis is therefore largely confirmed: the Code's text is now broadly sound; its effectiveness turns on capacity and on coordination with State authorities.

4. Findings

1. **Value realisation:** Resolution plans have yielded 30.52 per cent of admitted claims but 166.58 per cent of liquidation value and 94.72 per cent of fair value, confirming that the Code preserves value compared with liquidation, even though haircuts average about 70 per cent.
2. **Rescue culture:** 4,227 of 7,301 closed CIRPs (58 per cent) ended with the debtor rescued; yet liquidations (3,074) still outnumber approved plans (1,484), largely because many debtors entered the process already defunct.
3. **Delay:** Average time to resolution rose to 633 days by June 2026, nearly double the 330-day limit; completed liquidations average 691 days. Timeliness is the Code's principal failure.
4. **Judicial oscillation and correction:** Decisions such as *Vidarbha*, *Rainbow Papers* and the May 2025 BPSL judgment created uncertainty; the review of BPSL and the 2026 Act (ss. 3(31), 7(5), 31(5)–(6)) have substantially restored predictability.
5. **Odisha outcomes:** Large steel resolutions with Odisha plants recovered 42–63 per cent of claims, well above the national mean, while mid-sized Cuttack Bench cases track the national average and suffer prolonged litigation.
6. **Institutional bottleneck in Odisha:** A single-court Cuttack Bench serving two States, at times sitting only two half-days a week, is structurally unable to meet the new statutory deadlines.
7. **State as creditor:** Recurring post-resolution demands by Odisha authorities, struck down

[66]IBBI (Insolvency Resolution Process for Corporate Persons) (Fourth Amendment) Regulations, 2026 (notified June 8, 2026), reg. 16E.

[67]Agarwal, supra note 28; The Insolvency and Bankruptcy Code (Amendment) Act, 2026 (Act 6 of 2026), s. 39.

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by the Orissa High Court in OMML and earlier cases, show that State departments are not integrated into the CIRP claim process.

8. **Unfinished reform:** CIIRP, group insolvency and cross-border insolvency remain un-notified; the fast-track process has been repealed, leaving a gap for small debtors.

5. Recommendations

4.1 For the Union Government and the IBBI

1. **Capacity first:** Sanctioned NCLT posts should be filled on a rolling basis, with a statutory or administrative commitment to a minimum member-to-caseload ratio; benches serving two States should have at least two court rooms.
2. **Notify the pending reforms with sequencing:** Notify the CIIRP together with its eligibility thresholds and regulations, so that MSME-heavy regions such as Odisha are not left without a fast route after the repeal of the fast-track process.
3. **Time-stamped accountability:** Publish bench-wise and State-wise dashboards of admission and plan-approval times, enabling empirical oversight of the new 14-day and 30-day limits.
4. **Strengthen the personal guarantor and pre-pack regimes:** The 1 per cent recovery from personal guarantors warrants review of procedure and valuation standards; the pre-pack threshold reduction should be accompanied by awareness programmes for MSMEs.
5. **Professional quality:** Expand authorisation for assignment, enforce the bar on a resolution professional acting as liquidator, and develop specialised valuer panels for mining and steel assets.

4.2 For the Government of Odisha

1. **State insolvency claims cell:** Establish a nodal cell in the Finance Department to monitor public announcements of CIRPs involving Odisha debtors and to file consolidated, documented claims for all departments (Steel & Mines, Commerce & Transport, Energy, IDCO) within the claim period.
2. **Standard operating procedure on licences:** Issue an SOP that preserves mining leases, land allotments and clearances during the CIRP where the resolution professional complies with ongoing obligations, mirroring Section 31(5).
3. **Avoid post-plan litigation:** Direct departments to refrain from raising pre-CIRP demands after plan approval, in conformity with *Ghanashyam Mishra* and the Orissa High Court's decisions.

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4. **Infrastructure support to the Cuttack Bench:** Offer premises and e-court facilities to enable a second court room and hybrid hearings.
5. **Capacity building:** Partner with National Law University Odisha, Utkal University and professional institutes to train insolvency professionals, valuers and bank officers in the State.

4.3 For Creditors and Insolvency Professionals

1. Banks should initiate proceedings earlier, using information-utility records now deemed sufficient proof of default, to arrest value erosion.
2. Resolution professionals should verify and value claims rather than merely collate them, and pursue avoidance transactions, which now survive plan approval.

5. Conclusion

The Insolvency and Bankruptcy Code, 2016 has transformed the relationship between debtors and creditors in India. It has shifted control on default, disciplined promoters through Section 29A, and preserved value far beyond what liquidation would yield. Its jurisprudence, built by the Supreme Court in *Swiss Ribbons*, *Essar Steel* and *Ghanashyam Mishra*, has largely held, and where courts wavered, as in *Vidarbha*, *Rainbow Papers* and the May 2025 BPSL decision, Parliament and the Court itself have restored coherence. The 2026 Amendment Act represents a legislative coming of age.

Yet the Code remains a time-bound statute operating in time-unbound institutions. National averages of more than 600 days, and a Cuttack Bench at times sitting for two half-days a week, show that the binding constraint is capacity, not text. Odisha's experience adds a second constraint: the incomplete integration of State authorities into the collective process, visible in recurring post-resolution demands and licence risks. The State's large steel resolutions show what the Code can achieve when assets are viable and process is final; its mid-sized cases show what delay costs. The effectiveness of the IBC in the next decade will depend less on further amendment than on investment in adjudication, professional quality, and cooperative federalism in insolvency administration. Future research should test these conclusions against bench-level datasets once the IBBI publishes them.

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