

CORPORATE INSOLVENCY RESOLUTION PROCESS: A COMPREHENSIVE OVERVIEW

➤ INTRODUCTION:

The Insolvency and Bankruptcy Code, 2016 (IBC), is a landmark legislation in India designed to address insolvency and bankruptcy concerns efficiently. Part II of the Code governs the Corporate Insolvency Resolution Process (CIRP) and liquidation for corporate persons, applicable for defaults of ₹1 crore or more. It empowers financial creditors, operational creditors, and corporate applicants to initiate the process under defined frameworks. With its structured approach, the IBC aims to ensure timely resolution while safeguarding stakeholders' interests.

Part II of the Insolvency and Bankruptcy Code, 2016 deals with the insolvency resolution and liquidation for corporate persons. Section 4 of the Insolvency and Bankruptcy Code, 2016 provides that Part II of the Code shall apply to matters relating to the insolvency and liquidation of corporate debtors where the minimum amount of the default is one crore rupees. The default amount has been increased from INR 1,00,000 to INR 1,00,00,000 vide MCA notification dated 24th March, 2020.

➤ PERSONS WHO MAY INITIATE A CIRP (Section-6 of The IBC, 2016)

- 1) a financial creditor,
- 2) an operational creditor or
- 3) the corporate debtor

➤ Initiation of Corporate Insolvency Resolution Process by Financial Creditor (Section-7 of The IBC, 2016)

- The **Application u/s 7 of the IB Code, 2016** can be filed by -
- a. A financial creditor by itself;
 - b. A financial creditor jointly with other financial creditors;
 - c. Any other person on behalf of the financial creditor.

However, an application for initiation corporate insolvency resolution process against the corporate debtor shall be filed jointly by **not less than 100 of such creditors in the same class or not less than 10 % of the total number of such creditors** in the same class, whichever is less.

FURTHER, IF THE NCLT FINDS THAT -

- a) The Application is incomplete, or
- b) The Resolution Professional whose name is suggested is not eligible, or
- c) Default has not occurred;

It may return the application to the applicant. The applicant has duration of 7 days to rectify the mistakes and resubmit the application to the NCLT failing which, the application shall be rejected.

ADMISSION OF APPLICATION

If the National Company Law Tribunal is satisfied as to the existence of the default and has ensured that the application is complete and no disciplinary proceedings are pending against the proposed resolution professional, it shall admit the application. The National Company Law Tribunal is not required to look into any other criteria for admission of the application.

➤ **INITIATION OF CORPORATE INSOLVENCY RESOLUTION PROCESS BY AN OPERATIONAL CREDITOR (SECTION 8 AND 9)**

The process to be followed by the operational creditors in order to file an application for initiation of a CIRP against a corporate debtor is dealt with by two sections -

- **SECTION 8 -**

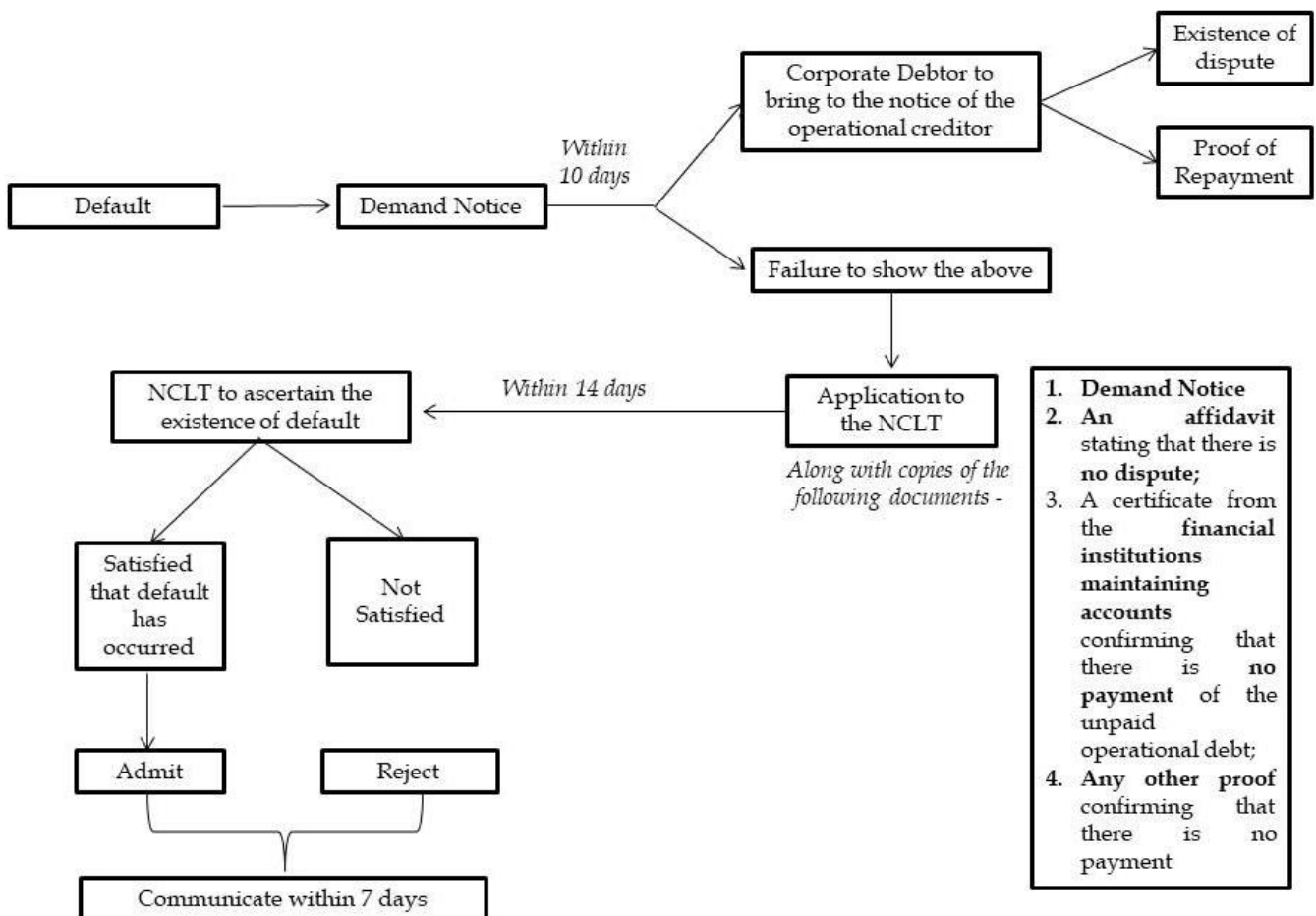
Section 8 lays down the various rules related to the issuance of demand Notice to the Corporate Debtor by the Operational Creditor.

A “demand notice” means a notice served by an operational creditor to the corporate debtor demanding payment of the operational debt in respect of which the default has occurred.

- **SECTION 9 -**

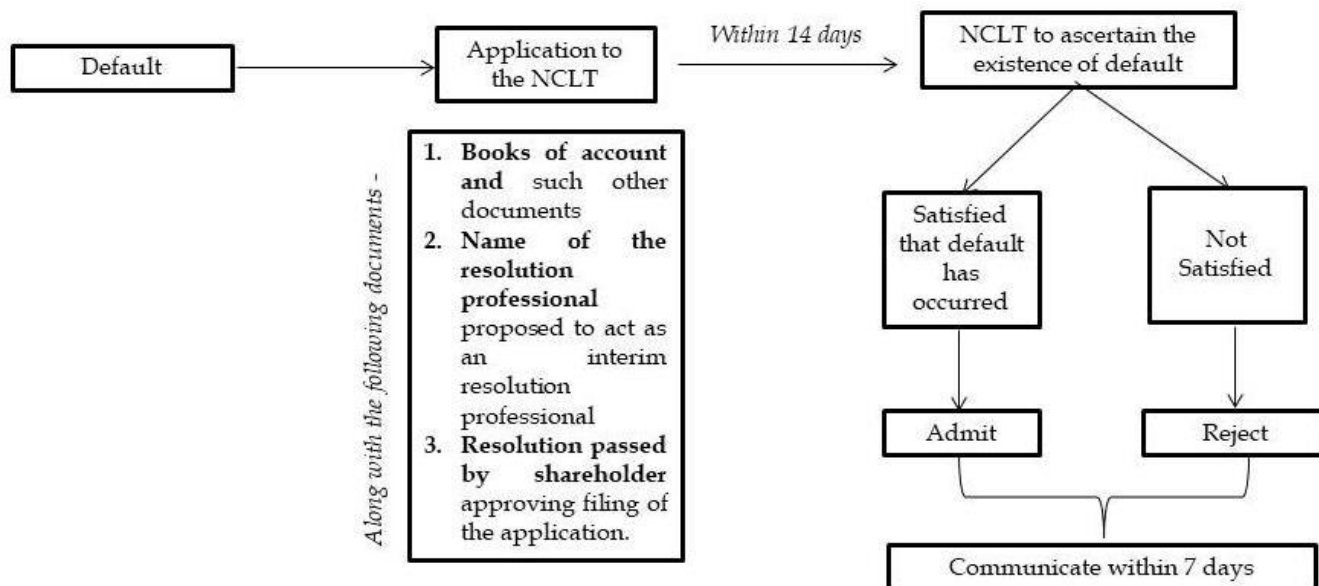
Section 9 lays down the procedure that needs to be followed by the Operational Creditor after the Demand Notice has been issued.

THE FOLLOWING CHART SHOWS THE PROCEDURE THAT NEEDS TO BE FOLLOWED -



INITIATION OF CORPORATE INSOLVENCY RESOLUTION PROCESS BY THE CORPORATE APPLICANT (SECTION 10)

It is to be noted that initially when the IB Code, 2016 was enacted, the power to file an application under section 10 was given to the Corporate Debtor only. This was subsequently amended and the term Corporate Applicant was inserted in the section. This was done in order to widen the scope and ambit of the Section.



TIME-LIMIT FOR COMPLETION OF INSOLVENCY RESOLUTION PROCESS - SECTION 12

Time Limit - The Corporate Insolvency Resolution Process shall be completed within a period of 180 Days from the date of admission of the application to initiate such process.

Extension of time- The Resolution Professional shall file an application to the NCLT to extend the abovementioned period if authorised by a resolution passed at a meeting of the committee of creditors by a vote of 66% of the voting shares. This extension can be granted only once for a maximum period of 90 days.

However, the Insolvency and Bankruptcy Code (Amendment) Act, 2019 has laid down that the corporate insolvency resolution process shall mandatorily be completed within a period of 330 days from the insolvency commencement date including any extension of the period of corporate insolvency resolution process granted and the time

➤ CONCLUSION

The IBC, 2016, has transformed the insolvency landscape in India by establishing a streamlined and time-bound CIRP mechanism. It ensures asset preservation, equitable creditor treatment, and financial stability. By mandating strict timelines and fostering creditor confidence, the Code plays a pivotal role in promoting economic growth and corporate governance.