

**Fast Track Webinar Series**  
*for*  
**IBBI Limited Insolvency Exam (New)**  
**Day 5**  
**Individuals & Partnership Firms**  
Part III - Chapter I to VII (except II)



भारतीय दिवाला और शोधन अक्षमता बोर्ड  
Insolvency and Bankruptcy Board of India



Friday ♦ 9<sup>th</sup> Jun 2023 ♦ 08:00 AM to 10:00 AM ♦ [www.3spro.blogspot.com](http://www.3spro.blogspot.com)

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RBI classifies household (HH) sector credit into three categories. These are credit to:

1. **individual borrowers,**
2. **proprietary concerns, joint families and unregistered partnerships, and**
3. **joint liability groups (JLG), NGOs and trusts.**

HH sector credit is large, both in terms of value and accounts.

In September, 2016, credit to the HH sector was **Rs.32.2 trillion (32.2 Lakh Crores)**, accounting for **44.3% of the total credit given by banks.**

In terms of number of loan accounts, **HH sector accounts were 98% of the total accounts (14.02 crores) of the banking system.** Within the HH sector, credit to single individual borrowers was the largest component, both in terms of value and in terms of accounts.



**Table 1: Household sector credit in India**

<b>Categories</b>	<b>Loan accounts (Rs. million)</b>	<b>Loan value (Rs. trillion)</b>
Total bank credit	143.7	72.7
O/w credit to HH sector	140.2	32.2
- Individuals	134.3	25.2
- Proprietors/ partnerships	3.0	6.3
- JLGs, NGO, Trusts	2.9	0.7

*Source: RBI Quarterly BSR-1: Outstanding Credit of Scheduled Commercial Banks (March, 2014 till September, 2016, BSR I, Table 1.6)*

The total PAN allotment as on June 29, 2021 stood at **50.95 crore**, as per the tweet.

# Personal Insolvency v/s Corporate Insolvency

Point of difference	Personal Insolvency	Corporate Insolvency
Distinction between creditors	No classification w.r.t. type of creditor i.e. operational or financial	Three classes of creditors – financial, operational, other
Withdrawal of Application	Yes Requires 90% consent of creditors	Yes Requires 90% consent of CoC
CoC	No concept of CoC- a general list of creditors is formed	Constitution of CoC mandatory- shall comprise of financial creditors only.
Meeting of Creditors	Not Mandatory- shall be conducted if deemed necessary by the RP – <b>subject to conditions</b>	Mandatory to conduct the CoC
Moratorium	Yes	Yes
Interim Moratorium	Yes	No
Approval of Plan	Requires 75% assent of creditors present and voting	Requires 66% assent of CoC
Rejection of plan	Application for bankruptcy <b>may be</b> filed	Leads to compulsory liquidation
Role of the IP	Pre-scrutiny of the insolvency application and repayment plan by the RP	RP does not come into picture until admission

# Personal Insolvency Resolution v/s Bankruptcy

Point of difference	Insolvency Resolution	Bankruptcy
Necessary condition	Default by the debtor.	Rejection of application for insolvency resolution; or rejection of repayment plan; or premature termination of the repayment plan.
Eligible applicants	Debtor/creditor.	Debtor/creditor; in some circumstances, only creditor – section 100(4).
Dominant Aspect	Preparation of Repayment plan	Administration, liquidation and distribution of estate
Interim-moratorium	Yes	Yes
Role of insolvency professional	Resolution Professional	Bankruptcy Trustee
Moratorium on creditors	Yes, includes restrictions on creditors too.	Assets of the bankrupt vest in the hands of trustee. Secured creditors may sell
Vesting of estate	No	Yes
Committee of Creditors	Not mandatory	Established u/s 134
Period of Discharge	No default period specified; on implementation of the repayment plan.	Earlier of 1 year or completion of administration is approved by the committee of creditors.
Phases	Insolvency → Resolution → Failure → Bankruptcy/Liquidation → Dissolution	Insolvency → Repayment Plan → Failure → Bankruptcy → Discharge

## 1.1 PAN ALLOTMENT-TAX PAYER STATUS

TAXPAYERS STATUS	PAN ALLOTMENT UP TO 31/03/2019	PERCENTAGE
ASSOCIATION OF PERSONS	12,11,226	0.27
BODY OF INDIVIDUALS	73,074	0.02
COMPANY	17,41,192	0.39
FIRM	44,32,922	0.99
GOVERNMENT	28,205	0.01
HINDU UNDIVIDED FAMILY	20,20,148	0.45
ARTIFICIAL JURIDICAL PERSON	37,248	0.01
LOCAL AUTHORITY	77,193	0.02
INDIVIDUALS	43,52,48,341	97.65
TRUST	8,47,834	0.19
<b>TOTAL</b>	<b>44,57,17,383</b>	<b>100.00</b>

### Notes :-

1. "Taxpayers status " means the status of taxpayers as per PAN database of Income Tax Department.
2. "Percentage" means percentage of number of PAN allotted for a given status with respect to total number of PAN allotted.
3. Up to 31.03.2019 total 24,90,68,879 PANs have been linked with the Aadhar.

## 1.7 NUMBER OF RETURNS FILED (Including Revised Returns)

Category	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
AOP	1,01,290	1,06,848	1,47,693	1,62,455	2,07,218
BOI	4,283	4,178	5,556	5,546	6,963
COMPANY	7,15,013	7,53,514	7,80,470	8,03,962	9,42,821
FIRM	9,60,678	9,92,192	11,10,823	11,81,296	13,93,762
GOVERNMENT	10	35	75	108	238
HUF	9,55,504	9,66,554	10,42,561	11,60,871	12,86,075
AJP	8,654	8,786	10,384	10,889	11,440
LOCAL AUTHORITY	2,818	2,631	3,396	3,480	3,957
INDIVIDUAL	3,50,44,548	3,74,10,677	4,29,27,250	5,21,16,096	6,43,88,028
AOP (TRUST)	1,83,756	1,88,199	2,75,837	2,64,383	2,92,008
<b>TOTAL</b>	<b>3,79,76,554</b>	<b>4,04,33,614</b>	<b>4,63,04,045</b>	<b>5,57,09,086</b>	<b>6,85,32,510</b>

### Abbreviations:

AOP: Association of Persons  
BOI: Body of Individuals  
HUF: Hindu Undivided Family  
AJP: Artificial Juridical Person

# NCLT

- The tribunal has **sixteen** benches, six at New Delhi (one being the principal bench) and two at Ahmedabad, one at Allahabad, one at Bengaluru, one at Chandigarh, two at Chennai, one at Cuttack, one at Guwahati, three at Hyderabad of which one is at Amaravathi, one at Jaipur, one at Kochi, two at Kolkata and five at Mumbai.
- Two new benches, one each in Indore and Amaravathi.
- Except the Bench at Amaravathi, all the benches have been notified as division benches.
- Justice M.M. Kumar, a retired Chief Justice of the Jammu & Kashmir High Court has been appointed president of the tribunal.



# Part III - The Insolvency & Bankruptcy Code, 2016

Chapter	Particulars	Sections
<b>I</b>	<b>Preliminary</b>	<b>78 - 79</b>
<b>II</b>	<b>Fresh Start Process (FSP)</b>	<b>80 - 93</b>
<b>III</b>	<b>Insolvency Resolution Process (IRP)</b>	<b>94 - 120</b>
<b>IV</b>	<b>Bankruptcy Order for Individuals &amp; Partnership Firms</b>	<b>121 - 148</b>
<b>V</b>	<b>A &amp; D of the estate of the Bankrupt</b>	<b>149 - 178</b>
<b>VI</b>	<b>AA for Individuals and Partnership Firms</b>	<b>179 - 183</b>
<b>VII</b>	<b>Offences &amp; Penalties</b>	<b>184 - 187</b>

# Pointers

- **Section 178(6):** Interest payments under sub-section (5) shall rank equally irrespective of the nature of the debt
- **Section 169:** If a bankrupt dies, the bankruptcy proceedings shall, continue as if he were alive.
- **Section 96:** Interim Moratorium vs. **Section 101:** Moratorium
- **Section 103:** Registering of Claims by Creditors vs. **Section 131:** Registration of Claims
- **Section 99:** Prove payment of debt vs. **Section 171:** Proof of Debt

# Pointers

- **7 Days** – AA to IBBI – **Section 97(3) / 98(2) / 125(1) / 125(3)**
- **10 Days** – IBBI to AA – **Section 97(4) / 98(3) / 125(4)**
- **Waterfall - Section 178 – Priority of payment of debts – [similar to Section 53]**
- **15<sup>th</sup> November 2019** - only in so far as they relate to personal guarantors to corporate debtors, shall come into force – (Section 94 – 187)
- **Unliquidated** - not liquidated - not calculated or established as a specific amount an unliquidated claim – **Section 109(3) / 135(3)**
- **Caution:** Bankrupt 79(3); Bankruptcy 79(4); Bankruptcy Debt 79(5); Bankruptcy Commencement Date 79(6); Bankruptcy Order 79(7); Bankruptcy Process 79(8); Bankruptcy Trustee 79(9) **are separately defined in section 79**

**MINISTRY OF CORPORATE AFFAIRS****NOTIFICATION**

New Delhi, the 15th November, 2019

**S.O. 4126(E).**—In exercise of the powers conferred by sub-section (3) of section 1 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Central Government hereby appoints the 1st day of December, 2019 as the date on which the following provisions of the said Code only in so far as they relate to personal guarantors to corporate debtors, shall come into force:—

- (1) clause (e) of section 2;
- (2) section 78 (except with regard to fresh start process) and section 79;
- (3) sections 94 to 187 [both inclusive];
- (4) clause (g) to clause (i) of sub-section (2) of section 239;
- (5) clause (m) to clause (zc) of sub-section (2) of section 239;
- (6) clause (zn) to clause (zs) of sub-section (2) of section 240; and
- (7) section 249.

[F. No. 30/21/2018-Insolvency Section]

GYANESHWAR KUMAR SINGH, Jt. Secy.

# Pointers

- ✓ The Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 - **1st day of December, 2019**
- ✓ The Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019 - **1st day of December, 2019**
- IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 - **1st day of December, 2019**
- IBBI (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 - **1st day of December, 2019**

# Point to Note – Comparison

Corporate	Non-Corporate
✓ Insolvency Resolution Process	✓ Insolvency Resolution Process
✓ Liquidation Process	✓ Bankruptcy Process
Role of IP	
• IRP	• IRP
• RP	• RP
• Liquidator	• Bankruptcy Trustee

1. Who **may** apply to initiate insolvency resolution Process for an individual or a partnership :

- a) **By the Debtor**
- b) **Through a Resolution professional**
- c) **By the creditor**
- d) **By the Debtor or by a Creditor or through a Resolution professional**

**2. The application to initiate insolvency resolution Process by debtor who is a partner in a firm shall not be made unless:**

- a) All partners apply or majority of the partners apply jointly**
- b) Only if all partners consent by an affidavit**
- c) By the partner (applicant) only**
- d) Only if all partners witness the application**



### **3. Interim Moratorium under Insolvency Resolution**

**Process for non corporates under section 96; shall**

- a) Be valid for 90 days**
- b) Be valid for 180 days**
- c) Commence on date of application and shall cease to have effect on date of admission**
- d) Commences on date of application and ceases on 90 days therefrom**

4. The Adjudicating Authority Order admitting the application shall be

- a) **Communicated to the creditors only on a standalone basis**
- b) **Communicated to the debtor only on a standalone basis**
- c) **Communicated to both debtors and creditors only on a standalone basis**
- d) **Communicated to the creditors along with the report of the Resolution Professional**

**5. The moratorium under the Individuals and Partnerships Insolvency resolution process shall have effect from the date of admission of application till;**

- a) A compulsory period of 90 days**
- b) A compulsory period of 180 days**
- c) A period of 180 days or the date of passing of an order u/s 114 on the Repayment Plan whichever is earlier**
- d) A compulsory period of 270 days**

**6. The public notice for claims under the Individuals and Partnerships Insolvency resolution process shall call for claims from all creditors in ..... within a time-line of ..... days**

- a) At least one English newspaper in circulation in the state, 21 days**
- b) At least one English and one vernacular newspaper in circulation in the state, 21 days**
- c) At least one English and one vernacular newspaper in circulation in the state, 14 days**
- d) At least one English newspaper in circulation in the state, 14 days**

Section 102(3)

**7. The public notice for claims under the Individuals and Partnerships Insolvency resolution process shall contain details of; except**

- a) Total debt due by the debtor**
- b) Details of the order admitting the application**
- c) Last date for submission of claims**
- d) Particulars of the Resolution Professional**

**8. Creditors responding to the public notice for claims under the Individuals and Partnerships Insolvency resolution process shall respond by;**

- a) E-mail or courier**
- b) Speed post**
- c) Registered letter**
- d) Electronic communications or through Courier, Speed post or registered letter**

**9. The Resolution Professional shall prepare list of creditors under the Individuals and Partnerships Insolvency resolution process based on**

- a) Books and records of the debtor**
- b) Information in the application of the debtor and Claims received in response to public notice**
- c) Information in the application of the debtor**
- d) Claims received in response to public notice**

**10. The Resolution Professional shall consolidate claims under the Individuals and Partnerships Insolvency resolution process within .... days of public notice**

- a) 21**
- b) 30**
- c) 45**
- d) 60**



**11. The Repayment Plan shall be prepared by ..... containing a proposal to the creditors for restructuring of his debts or affairs.**

**a) Debtor**

**b) Debtors and creditors**

**c) Debtor, in consultation with the Resolution Professional**

**d) Resolution Professional**

**12. The repayment plan shall include the following, namely; except**

- a) justification for preparation of such repayment plan**
- b) reasons on the basis of which the creditors may agree upon the plan**
- c) provision for payment in respect of a debt for an unliquidated amount**
- d) provision for payment of fee to the resolution professional**

**13. If a Meeting of the creditors is held u/s 108, then the resolution professional shall send the notice of the meeting to;**

- a) Financial Creditors only**
- b) All creditors present in the list prepared by the Resolution Professional**
- c) Operational creditors Only**
- d) Top Creditors accounting for 80% by value of debt**

**14. A Secured Creditor of a non corporate person participating in a meeting of creditors in relation to a secured debt shall;**

- a) Never vote**
- b) Be entitled to participate and retain his right to enforce the security interest**
- c) Be entitled to participate and vote and retain his right to enforce the security interest**
- d) Be entitled to participate and vote but shall forfeit his right to enforce the security interest in respect of his secured debt**

**15. A Secured Creditor of a non corporate person participating in a meeting of creditors in relation to a secured debt **does not** forfeit his right of enforcement of security**

- a) Always forfeits his right to vote
- b) He can never participate as only unsecured creditors are invited to attend the meeting
- c) Provided he submits an affidavit that his participation and voting pertains to his unsecured debt and the estimated value of such debt is disclosed
- d) Provided he submits an affidavit that his participation and voting pertains to his unsecured debt

Section 110(3)

**16. The Repayment plan shall be approved by a majority of more than .... in value of ..... in the non corporate insolvency resolution process**

- a) 3/4; the operational creditors**
- b) 3/4; the creditors present in person or by proxy**
- c) 3/4; the financial creditors**
- d) 1/2; the financial creditors and 3/4 of operational creditors**

**17. The Resolution Professional in the non corporate insolvency resolution process shall prepare a report of the Creditors meeting to approve the resolution plan and provide copies to;**

- a) Debtor**
- b) Creditors present in meeting**
- c) Debtor and all creditors**
- d) Debtors and all creditors and Adjudicating Authority**

**18. The resolution Professional in the non-corporate insolvency resolution process shall submit repayment plan along with report on the Repayment plan to the Adjudicating authority**

- a) Within 21 days from the last date of submission of claims**
- b) Only when Repayment Plan is completed or terminated prematurely**
- c) No reporting is necessary**
- d) He shall only report to the Creditors and not to the adjudicating authority**



## **19. When can a Bankruptcy order **not** be issued by the Adjudicating authority**

- a) Application preferred by debtor to defraud creditors**
- b) When repayment plan has been accomplished fully**
- c) When repayment plan has a premature closure and some creditors have not been paid**
- d) When Repayment plan is rejected by the Adjudicating authority**

Section 100(4); 115(2); 118(3); 121(1)

**20. The process in the non-corporate insolvency resolution process acquires conclusion on the issuance of ..... by the adjudicating authority**

- a) A release order**
- b) A resolution order**
- c) A discharge order or A full and final settlement order**
- d) A discharge order or order to apply for bankruptcy**



"Don't worry... We'll get the creditors off your back."



**21. The Insolvency Professional shall be appointed as the ..... trustee by the Adjudicating Authority in the bankruptcy order under section 126;**

- a) Bankruptcy Trustee**
- b) Liquidator trustee**
- c) Insolvency Trustee**
- d) Interim Trustee**

**22. The Adjudicating Authority shall pass a bankruptcy order within ..... days of receiving the confirmation or nomination of the bankruptcy trustee**

- a) 7**
- b) 14**
- c) 21**
- d) 28**

**23. The bankruptcy order passed by the Adjudicating Authority shall continue to have effect till ....**

- a) the debtor is discharged under a Discharge Order**
- b) 90 days**
- c) 180 days**
- d) 270 days**

## **24. The bankruptcy order shall**

- a) Not affect the rights of the secured creditors**
- b) Not affect the rights of the secured creditors except for their interest component**
- c) Not affect the rights of the secured creditors except for interest after the bankruptcy commencement date if he does not take any action to realise his security within 30 days from the said date**
- d) Not affect the rights of the secured creditors except for interest after the bankruptcy commencement date if he does not take any action to realise his security within 21 days from the said date**

**25. Where a bankruptcy order under section 126 has been passed against a firm, the order shall operate as if it were a bankruptcy order made against**

- a) The Managing partner only, on the date of the order**
- b) The majority partners**
- c) To all partners, on the date of the order**
- d) The partners resident in India on the date of the order**



26. An **individual** who is the surety in a contract of guarantee to a corporate debtor is a .....

- a) Guarantor
- b) Corporate Guarantor
- c) Personal Guarantor
- d) Stakeholder

**27. A corporate person who is the surety in a contract of guarantee to a corporate debtor is a .....**

- a) Guarantor**
- b) Corporate Guarantor**
- c) Personal Guarantor**
- d) Stakeholder**

**28. A debtor who is a personal guarantor to a corporate debtor and in respect of whom guarantee has been invoked by the creditor and remains unpaid in full or part is a .....**

- a) Guarantor**
- b) Corporate Guarantor**
- c) Personal Guarantor**
- d) Stakeholder**

**29. Excluded Assets** includes any unencumbered **personal ornaments** of such value, not exceed ....., of the debtor or his immediate family which cannot be parted with, in accordance with religious usage

- a) Rs 1 Lakh
- b) Rs 5 Lakh
- c) Rs 10 Lakh
- d) Rs 20 Lakh

**30. Excluded Assets includes an unencumbered single dwelling unit in an urban area owned by the debtor of such value shall not exceed .....**

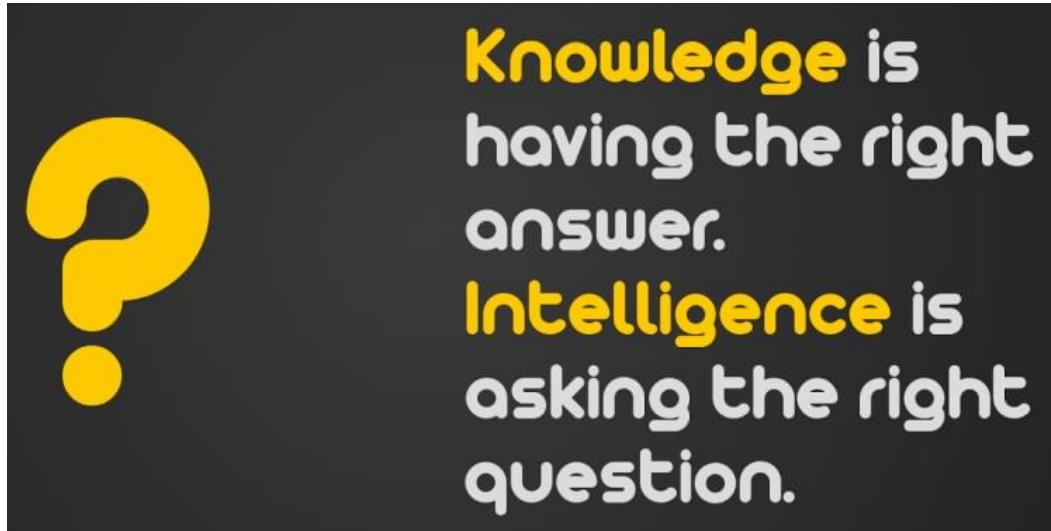
- a) Rs 1 Lakh**
- b) Rs 5 Lakh**
- c) Rs 10 Lakh**
- d) Rs 20 Lakh**

**31. Excluded Assets includes an unencumbered single dwelling unit in an rural area owned by the debtor of such value shall not exceed .....**

- a) Rs 1 Lakh**
- b) Rs 5 Lakh**
- c) Rs 10 Lakh**
- d) Rs 20 Lakh**

An expenditure of words without  
income of ideas will lead to  
intellectual bankruptcy.

1	d	11	c	21	a
2	a	12	c	22	b
3	c	13	b	23	a
4	d	14	d	24	c
5	c	15	c	25	d
6	b	16	b	26	c
7	a	17	d	27	b
8	d	18	a	28	a
9	b	19	b	29	a
10	b	20	d	30	d



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