

## **JUSTICE A.K. SIKRI**

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### **Foreword**

An evolving landscape of insolvency law in India has brought paradigm shift in the passage of development of the Insolvency and Bankruptcy Code, 2016 (“Code” or “IBC”). Since the time it has been legislated, we are witnessing a departure from the old legal framework that involved multiple fora to a fresh perspective by streamlining the corporate insolvency process without the entities being marred by delays and consequent corrosion of assets.

Prior to its introduction, the genesis of the Code can be traced back to the necessity for a comprehensive and modern insolvency law arising from an era of multitude of legislations such as the Companies Act, 2013, the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (“SARFAESI Act”), Sick Industrial Companies (Special Provision) Act, 1985 (“SICA”) and the Recovery of Debts due to Banks and Financial Institutions Act, 1993 (“RDDB Act”). In this backdrop, legislating a complete law on insolvency and bankruptcy is a welcome step, keeping in view the international scenario with convergence in mind.

Enforcing judicial discipline in insolvency resolution was one of the principal objectives of the Code. Since its enactment and operationalisation, the Code has no doubt tremendously demonstrated its effectiveness and resilience in fostering time bound resolution of insolvency cases. However, the role of Judiciary has surely instilled confidence among the various investors and is playing pivotal role in determining the Code at various levels, including Hon’ble Supreme Court of India, Hon’ble High Court(s), National Company Law Tribunal(s) (“NCLT”) and National Company Law Appellate Tribunal (“NCLAT”) along with a fully functional regulator i.e., the Insolvency and Bankruptcy Board of India (“IBBI”). While the interpretations and applied provisions of the Code resulted in rich tapestry of case laws, in various instances the judicial pronouncements provided clarity, guidance, and a deeper understanding of the legal principles governing the insolvency and bankruptcy law.

At the time when the Code was enacted, there were hardly any Judgments pronounced under the new Code dealing with various provisions thereof. Pertinently, from this initial phase of transition and collective efforts by the legal fraternity including the bench and bar have, the gap has been bridged by adopting a realistic and sensitive approach for proper implementation of legislation. Apparently, this book is the prime need of the hour to understand various nuances of the insolvency law and its best practices. The book will definitely provide the readers an extensive overview of jurisprudence, evolved through a significant case(s) related to the Code from all forums including series of landmark precedents.

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The book is a combination of striking brevity and intelligent presentation of the extensive list of cases which are consolidated section-wise including narration of ratio of various Judgments and Orders delivered by Courts and Tribunals. The inclusion of case laws from various judicial levels offers the readers a comprehensive understanding of legal principles governing the insolvency and bankruptcy. Such easy navigation and quick reference to specific provisions and cases enhances its usability. While going through this book, I was reminiscing of my early practice days as an Advocate and became nostalgic for a moment.

Remarkably, this book intends to provide holistic understanding in the interpretation of the provisions of the Code and I believe this book can serve as a ready reckoner to many Hon'ble Judges, legal practitioners, scholars, and students especially insolvency practitioners.

The most fascinating part of this book is a combination of new legislation captured with an old school essence. I highly recommend it to the readers who are interested to expand their knowledge and understanding of insolvency law. As of today, I believe that there could not have been a better time to deal with the subject of insolvency and bring together the evolution of the insolvency law.



**Justice A.K. Sikri**

29 August 2023