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## **CORPORATE EXIT AND JUDICIAL EFFICIENCY: MINIMIZING PROCEDURAL DELAYS IN WINDING UP UNDER THE COMPANIES ACT 2013**

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### **ABSTRACT**

Winding up of companies under the Companies Act, 2013, whether voluntary or compulsory has often been characterised by significant procedural delays arising from multiplicity of forums, complex compliance requirements, judicial backlogs, and inadequate coordination among stakeholders. Despite the legislative shift towards a creditor-friendly and time-bound insolvency regime through the Insolvency and Bankruptcy Code, 2016, winding-up proceedings under the Companies Act continue to face inefficiencies, particularly in cases falling outside the IBC framework. This project examines the procedural causes of delay in winding up under the Companies Act, 2013, with a specific focus on tribunal processes, the role of the Official Liquidator, documentation requirements, and judicial discretion. It critically analyses statutory provisions, rules, and judicial interpretations to identify systemic bottlenecks. The study further evaluates recent reforms such as the enhanced role of the National Company Law Tribunal (NCLT), electronic filing mechanisms, and streamlined liquidation procedures. The project proposes targeted procedural reforms, including stricter statutory timelines, reduced adjournments, enhanced digitalisation, improved coordination between NCLT and liquidation authorities, and greater reliance on summary procedures in non-contentious cases. By suggesting practical and legally feasible measures, the study aims to contribute to a more efficient winding-up mechanism that balances procedural fairness with timely corporate exit, thereby strengthening investor confidence and corporate governance under Indian company law.

**Keywords:** Winding up, IBC, NCLT, Liquidator, Procedural Delay

## CHAPTER -1

### INTRODUCTION

#### 1.1 BACKGROUND OF THE STUDY

The Companies Act of 2013 and the Insolvency and Bankruptcy Code of 2016 are the two main laws that govern businesses in India. They protect the interests of all stakeholders and make sure that enterprises run properly. The Supreme Court's ruling in *Madhusudan Gordhandas & Co. vs. Madhu Woollen Industries<sup>1</sup>* and *IBA Health India vs. Info-Drive Systems<sup>2</sup>* has indicated that winding up is fair. The Supreme Court's ruling in *Swiss Ribbons vs. Union of India<sup>3</sup>* confirmed the IBC's legitimacy and highlighted the necessity for rapid settlement of bankruptcy proceedings. On the other hand, *Kaledonia Jute vs. Axis Nirman<sup>4</sup>* make it apparent what the differences are between winding up and insolvency proceedings.

#### 1.2 MEANING AND CONCEPT OF WINDING UP

Winding up is the legal process that ends a business's life. It means selling off assets, paying of debts, and closing the business. It could be done by members or creditors, or it could be compelled by a Tribunal order. The Supreme Court made it plain what the legitimate reasons for closing a business are in the case of *Hind Overseas Pvt. Ltd vs Ragunath Prasad Jhunjhunwalla<sup>5</sup>*. That winding up is fair and open to all creditors, although sometimes it is tougher to do these things because of procedural issues.

#### 1.3 IMPORTANCE OF CORPORATE EXIT MECHANISM

Safeguarding Creditors' interests: Corporate exit mechanisms, like liquidations, protect creditors by managing assets under court control, preventing value erosion from creditor actions. Enhanced processes boost market confidence regarding the transparent handling of claims, as seen in *National Provincial Bank vs. Charnley<sup>6</sup>*. Winding up<sup>7</sup> orders prevent

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<sup>1</sup> *Madhusudan Gordhandas & Co. vs. Madhu Woollen Industries Pvt. Ltd.*, (1971) 3 SCC 632.

<sup>2</sup> *IBA Health India vs. Info-Drive Systems Sdn. Bhd.*, (2010) 10 SCC 553.

<sup>3</sup> *Swiss Ribbons vs. Union of India* (2019) 4 SCC 17.

<sup>4</sup> *Kaledonia Jute vs. Axis Nirman & Industries Ltd.*, (2020) 14 SCC 305.

<sup>5</sup> *Hind Overseas Pvt. Ltd vs Ragunath Prasad Jhunjhunwalla*, (1976) 3 SCC 259.

<sup>6</sup> *National Provincial Bank vs. Charnley* [1924] 1 KB 431.

<sup>7</sup> Himanshu Behl and Riya Makker, *Winding Up of a Company*, International Journal of Law Management and Humanities, Volume 7, Issue 2, Page 668 – 672.

individual creditor actions that lower asset values, addressing issues of fraud. Efficient exits support capital reallocation and combat economic stagnation, as illustrated by cases emphasising timely resolution and maximising asset value.

### **1.3 STATEMENT OF THE PROBLEM**

The Companies Act doesn't have any deadlines that can be enforced, which makes the liquidation process take longer. The Supreme Court wants quick solutions to keep creditors from having to deal with uncertainty. The NCLT has a lot of cases that are behind schedule, which makes it harder to resolve them quickly and puts distressed assets at risk of losing value, which will hurt creditor recovery in the end.

### **1.4 OBJECTIVES OF THE STUDY**

- To look at the legal framework that the Companies Act, 2013, sets up for winding up.
- To find out what procedural problems are causing delays.
- To look into how courts interpret delays in liquidation.
- To suggest changes that will make procedures less wasteful.

### **1.5 RESEARCH QUESTIONS**

- What procedural elements lead to delays in the proceedings?
- How well does the NCLT framework make sure that liquidation is on time?
- What changes need to be made to winding up to bring it in line with modern bankruptcy standards?

### **1.6 RESEARCH METHODOLOGY**

The methodology adopted in this study is primarily analytical and descriptive in nature. The researcher adopted by the doctrinal method for the research. The doctrinal research is based on both primary and secondary sources of data. The primary sources of data include. However, most of the work base on the research of secondary source of data like judicial decision, books

and articles published in journals and websites

## CHAPTER- 2

### LEGAL FRAMING GOVERNING WINDING UP UNDER THE COMPANIES ACT, 2013

#### 2.1 HISTORICAL EVOLUTION OF WINDING UP LAW IN INDIA.

The Companies Act of 1956 granted High Courts the power to make decisions, and since then, India's laws for shutting down businesses have changed a lot. The Companies Act 2013 created a new tribunal system with the NCLT and NCLAT. This change is meant to make it easier to settle commercial disputes. The Insolvency and Bankruptcy Code, 2016 (IBC) modified the definition of corporate insolvency to focus on keeping businesses operational instead of shutting them down. *Union of India vs. R. Gandhi*<sup>8</sup>, the Supreme Court said that it is constitutional for the tribunals to be able to decide commercial matters. *Innovative Industries Ltd vs. ICICI Bank Ltd*<sup>9</sup> and *Action Ispat and Power Pvt. Ltd. Vs. Shyam Metallics and Energy Ltd*<sup>10</sup>. how the IBC intends to settle matters fast. They also demonstrate that settling debts is better than liquidating.

#### 2.2 TYPES OF WINDING UP: VOLUNTARY AND COMPULSORY

In India, we have two main winding-up processes under the Companies Act, 2013

- **Compulsory Winding-up**
- **Voluntary Winding-up**

Compulsory winding up happens through a tribunal order for companies that cannot pay their debts. This process ensures a fair distribution of assets under court oversight.

Voluntary winding up is a process of dissolution using the Insolvency and Bankruptcy Code,

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<sup>8</sup> *Union of India vs. R. Gandhi (2010) 11 SCC 1.*

<sup>9</sup> *Innovative Industries Ltd vs. ICICI Bank Ltd (2017) 1 ibclaw.in 02 SC or Civil Appeal Nos. 8337-8338 of 2017.*

<sup>10</sup> *Action Ispat and Power Pvt. Ltd. Vs. Shyam Metallics and Energy Ltd AIR 2021 SC 309; 2020 INSC 699.*

2016, which guarantees a clear process<sup>11</sup>.

These different procedures show India's method of handling corporate dissolution and insolvency. They aim to balance stakeholder interests while providing a clear exit strategy.

### 2.3 GROUNDS FOR WINDING UP UNDER SECTION 271

Section 271<sup>12</sup> of the Companies Act, 2013, outlines the reasons for which the NCLT can close a company. This can happen if the company is financially insolvent, if it is breaking the law, if it poses a threat to national security, or if closing it is "just and fair". The Supreme Court ruled in *Amalgamated Commercial Traders Pvt Ltd vs. A.C.K. Krishnaswami*<sup>13</sup> that winding-up petitions cannot be based on debts that are genuinely disputed. In *Delhi Development Authority vs. Skipper Construction Co.(P) Ltd*<sup>14</sup>, the court stated that dishonourable behaviour is a valid reason for dissolution. This "just and equitable" clause allows for some flexibility but could lead to delays. This highlights the importance of having speedy solutions for corporate distress, as shown in *Mobilox Innovations Pvt. Ltd vs. Kirusa Software Pvt. Ltd*<sup>15</sup>.

### 2.4 ROLE OF THE NATIONAL COMPANY LAW TRIBUNAL

The National Company Law Tribunal (NCLT) is the most vital section of corporate law in the nation. The NCLT handles the case of winding up. The NCLT accepts the petitions, as seen in the case of *Amalgamated Commercial Traders (P) Ltd vs. A.C.K. Krishnaswami*, appoints the liquidators, as seen in the case of *Official Liquidator vs. Allahabad Bank*<sup>16</sup> and also the dissolution orders. *ArcelorMittal India Pvt Ltd. vs. Satish Kumar Gupta*<sup>17</sup> the tribunal was facing issues such as a backlog of cases and a lack of resources, as stated in the case. The NCLT has to deal with the cases quickly so that corporate bankruptcies can be resolved quickly with the help of the Companies Act, 2013, and the Insolvency and Bankruptcy Code, 2016.

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<sup>11</sup> Sunaina Mondal *Voluntary Vs Compulsory Winding Up: A Comparative Study Under The Companies Act, 2013* Volume 3, Issue 4 IJLSSS 3(4) 23 263 – 267.

<sup>12</sup> Dr Prof.Ranbir Singh *Corporate law. Winding Up, Its Need, Grounds And Effect On Shareholders, Creditors And Other Stakeholders*,

<sup>13</sup> *Amalgamated Com. Traders (P) Ltd. v. A.C.K. Krishnaswami*, (1965) 35 Comp. Cas. 456 (S.C. India).

<sup>14</sup> *Delhi Dev. Auth. v. Skipper Constr. Co. (P) Ltd.*, (1996) 1 S.C.C. 272 (India).

<sup>15</sup> *Mobilox Innovations (P) Ltd. v. Kirusa Software (P) Ltd.*, (2018) 1 S.C.C. 353 (India).

<sup>16</sup> *Official Liquidator v. Allahabad Bank*, (2013) 4 S.C.C. 381 (India).

<sup>17</sup> *ArcelorMittal India (P) Ltd. v. Satish Kumar Gupta*, (2019) 2 S.C.C. 1 (India).

## 2.5 APPOINTMENT AND POWER OF COMPANY LIQUIDATOR (SECTIONS 275-290)

The Company Liquidator, as per the Company Act, 2013, is appointed by the NCLT for the purposes of managing the winding-up process. The major case laws are *Official Liquidator vs. Allahabad Bank*, in which the importance of the liquidator as a custodian was emphasised, and *Official Liquidator vs. P.A Tendolkar* states the importance of investigating fraudulent activities. The Supreme Court, in the case of *Navalkha & Sons vs. Ramanya Das*<sup>18</sup>, emphasised the importance of transparent asset disposal and *ICICI Bank Ltd vs. Sidco Leathers Ltd.*,<sup>19</sup> states the importance of following statutory priorities. However, there are certain delays due to the late appointment of the liquidator.

## 2.6 SUMMARY PROCEDURE UNDER SECTION 361

The Companies Act, 2013, has introduced a simplified winding-up mechanism under Section 361, which is overseen by the Official Liquidator for small companies. Judicial pronouncements such as *NGEF Ltd. vs. Chandra Developers*<sup>20</sup> and *Rajasthan State Financial Corporation vs. Official Liquidator*<sup>21</sup> underscore the importance of speedy and fair winding-up. However, the practical application of Section 361 is limited due to a lack of awareness, especially after the Insolvency and Bankruptcy Code, 2016, which has altered the insolvency mechanism *ArcelorMittal India Pvt. Ltd vs. Sathish Kumar Gupta*<sup>22</sup>.

## 2.7 INTERACTION WITH THE INSOLVENCY AND BANKRUPTCY CODE, 2016

The Insolvency and Bankruptcy Code, 2016 (IBC) has established a simplified mechanism for corporate insolvency in India<sup>23</sup>. The Code has consolidated the existing fragmented legislation. Under the Code, the Corporate Insolvency Resolution Process (CIRP) for corporate debtors occurs within a stipulated time frame.<sup>24</sup> Case law has established the supremacy of the IBC

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<sup>18</sup> *Navalkha & Sons v. Ramanya Das*, (1970) 1 S.C.C. 537 (India).

<sup>19</sup> *ICICI Bank Ltd. v. Sidco Leathers Ltd.*, (2006) 10 S.C.C. 452 (India).

<sup>20</sup> *NGEF Ltd. v. Chandra Devs. (P) Ltd.*, (2005) 8 S.C.C. 219 (India).

<sup>21</sup> *Rajasthan State Fin. Corp. v. Official Liquidator*, (2005) 8 S.C.C. 190 (India).

<sup>22</sup> *ArcelorMittal India (P) Ltd. v. Satish Kumar Gupta*, (2019) 2 S.C.C. 1 (India).

<sup>23</sup> *Amrisha Mitra The Final Curtain : Corporate Liquidation under the Companies Act* LL.M Student, Nalsar University of Law, Hyderabad (2025) *ibclaw.in* 57 Art.

<sup>24</sup> S. Keerthana and M. Kannappan Saveetha School of Law. *A Study on Winding Up under Companies Act* International Journal of Pure and Applied Mathematics Volume 119 No. 17 2018, 783-797

over the Companies Act, 2013, in the matter of corporate insolvency. However, the coexistence of the two processes has given rise to certain ambiguities in the procedure.

## CHAPTER -3

### PROCEDURAL COMPLEXITIES AND CAUSES FOR DELAY

#### 3.1 MULTIPLICITY OF PROCEEDINGS AND JURISDICTION ISSUES

One of the major procedural difficulties with the winding-up process under the Companies Act, 2013, is the involvement of multiple proceedings across different judicial forums, resulting in jurisdictional overlaps and delays. Although the NCLT is the primary judicial forum for corporate disputes, the matter could also be subject to adjudication before civil courts through the provisions of Section 430, which has not prevented parties from initiating concurrent proceedings. Various judicial pronouncements, including the ones in the matter of *Embassy Property Development Pvt. Ltd. vs. State of Karnataka*<sup>25</sup> and *Innovative Industries Ltd. vs. ICICI Bank*<sup>26</sup>, have provided clarity on the jurisdictional contours of the matter. It has emphasised the need for a centralised approach to the insolvency resolution process, as reiterated through the judicial pronouncement. However, the persistence of concurrent investigations by enforcement agencies remains a challenge to the winding-up process.

#### 3.2 ABSENCE OF MANDATORY TIMELINES

However, an important constraint in the winding-up process as envisaged under the Companies Act, 2013, is the absence of time limits with respect to important aspects like admissions of petitions, realisation of assets, and distribution of assets. This causes delays in the process, as highlighted in *Official Liquidator vs. Allahabad Bank*. In *ICICI Bank Ltd. vs. Sidco Leathers Ltd*<sup>27</sup>, the Supreme Court emphasised the priority issues, and in *Meghal Homes Pvt. Ltd. vs. Shree Niwas Girni K.K. Samiti*<sup>28</sup>, the importance of efficiency was highlighted. This is exactly what the Insolvency and Bankruptcy Code, 2016 aims to achieve.

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<sup>25</sup> *Embassy Prop. Devs. (P) Ltd. v. State of Karnataka*, (2020) 13 S.C.C. 308 (India).

<sup>26</sup> *Innoventive Indus. Ltd. v. ICICI Bank*, (2018) 1 S.C.C. 407 (India).

<sup>27</sup> *ICICI Bank Ltd. v. Sidco Leathers Ltd.*, (2006) 10 S.C.C. 452 (India).

<sup>28</sup> *Meghal Homes (P) Ltd. v. Shree Niwas Girni K.K. Samiti*, (2007) 7 S.C.C. 753 (India).

### 3.3 DELAY IN APPOINTMENT AND FUNCTIONING OF LIQUIDATORS

Liquidators need to be appointed so that the process of closing down a company works properly according to the Companies Act, 2013. The job of Liquidators is very important because they take care of the company's assets and make sure the people involved with the company are treated fairly. *Navalkha & Sons vs. Sri Ramanya Das*<sup>29</sup> and *Rajasthan State Financial Corporation vs. Official Liquidator*<sup>30</sup> how management when a company is being closed down. The Liquidators are the ones who make sure everything is done correctly. The Supreme Court of India also said that it is very important to be open and honest during the process of closing down a company. *Official Liquidators vs. Dayanand*<sup>31</sup> held that Liquidators have a role to play in all of this.

### 3.4 JUDICIAL BACKLOGS AND INSTITUTIONAL CONSTRAINTS

The efficiency of corporate liquidation in the Companies Act, 2013, is affected by judicial and institutional issues in the National Companies Law Tribunal (NCLT). With the increase in the number of cases due to the Insolvency and Bankruptcy Code, 2016, the efficiency of the NCLT has slowed down. Moreover, the lack of judicial members and benches has affected the efficiency of the NCLT. The Supreme Court has highlighted the need for proper infrastructure and qualified members in the NCLT. In the case of *Madras Bar Association vs. Union of India*,<sup>32</sup> the court has highlighted the need for proper judicial strength and administrative support.

### 3.5 ASSET REALIZATION AND DISTRIBUTION DELAYS

Delays in the winding-up process under the Companies Act, 2013, come from several procedural challenges. These include disputes over asset ownership, disagreement on valuations, poor financial documentation, and fraudulent transactions. In *Valji Khimji & Co. vs. Official Liquidator*<sup>33</sup>, the importance of fair asset valuation is emphasised. Poor record-keeping makes asset recovery difficult. This is seen in *S.P. Chengalvaraya Naidu vs. Jagannath*<sup>34</sup>, where misleading documents obstruct justice. Furthermore, fraudulent

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<sup>29</sup> *Navalkha & Sons v. Sri Ramanya Das*, (1970) 1 S.C.C. 537 (India).

<sup>30</sup> *Rajasthan State Fin. Corp. v. Official Liquidator*, (2005) 8 S.C.C. 190 (India).

<sup>31</sup> *Official Liquidator v. Dayanand*, (2008) 10 S.C.C. 1 (India).

<sup>32</sup> *Madras Bar Ass'n v. Union of India*, (2014) 10 S.C.C. 1 (India).

<sup>33</sup> *Valji Khimji & Co. v. Official Liquidator of Hindustan Nitro Prods. (Guj.) Ltd.*, (2008) 9 S.C.C. 299 (India).

<sup>34</sup> *S.P. Chengalvaraya Naidu v. Jagannath*, (1994) 1 S.C.C. 1 (India).

transactions require thorough investigation, as highlighted in *Narayana vs. Adjudicating Officer, SEBI*<sup>35</sup>. Prioritizing claims among creditors often leads to extended litigation, in *Workmen of M/s Firestone Tyre & Rubber CO*<sup>36</sup>. overall, these problems make timely distribution in liquidation proceedings challenging.<sup>37</sup>

### 3.6 IMPACT ON DELAY OF STAKEHOLDERS

Extended delays in winding-up proceedings under the Companies Act, 2013, harm various stakeholders, including creditors, employees, and investors. Assets lose value due to ageing and market conditions. In *Tata Motors Ltd. vs. Pharmaceutical Products of India Ltd.*<sup>38</sup>, the Supreme Court stressed the need for faster processes to protect asset value. Delays cause financial losses for creditors, as highlighted in *Central Bank of India vs. Ravindra*<sup>39</sup>, which shows the impact on debt recovery confidence. Employees may face financial hardship due to unpaid entitlements. This was recognised in *National Textile Workers' Union vs. P.R. Ramakrishnan*<sup>40</sup>, which affirmed their right to join proceedings. Delays also increase investor uncertainty, as seen in *Miheer H. Mafatlal vs. Mafatlal Industries Ltd*<sup>41</sup>, damaging market confidence. The Supreme Court in *Chitra Sharma vs. Union of India*<sup>42</sup> emphasised the importance of timely resolutions for maintaining economic stability. Efficient Liquidation procedures are essential for protecting stakeholder interests.

## CHAPTER- 4

### JUDICIAL INTERPRETATION AND CASE LAW ANALYSIS

#### 4.1 JUDICIAL APPROACH TO WINDING UP PETITIONS

Courts look for a ground when handling winding-up petitions under the Companies Act, 2013. On one hand, they want to prevent people from misusing the process. On the other hand, they need to protect creditors. These cases are not just about chasing debts- they're about real

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<sup>35</sup> *Narayana v. Adjudicating Officer, SEBI*, (2013) 12 S.C.C. 152 (India).

<sup>36</sup> *Workmen of Firestone Tyre & Rubber Co. of India (P) Ltd. v. Mgmt.*, (1973) 1 S.C.C. 813 (India).

<sup>37</sup> Vipul Jain & Ashish Kumar Singhal. *An Exhaustive Study On The Winding Up Of Companies In India* ISSN: 2582-7340 VOLUME 4 ISSUE 3 INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

<sup>38</sup> *Tata Motors Ltd. v. Pharm. Prods. of India Ltd.*, (2008) 7 S.C.C. 619 (India).

<sup>39</sup> *Cent. Bank of India v. Ravindra*, (2002) 1 S.C.C. 367 (India).

<sup>40</sup> *Nat'l Textile Workers' Union v. P.R. Ramakrishnan*, (1983) 1 S.C.C. 228 (India).

<sup>41</sup> *Miheer H. Mafatlal v. Mafatlal Indus. Ltd.*, (1997) 1 S.C.C. 579 (India).

<sup>42</sup> *Chitra Sharma v. Union of India*, (2018) 18 S.C.C. 575 (India).

insolvency. If a debt is seriously disputed, you can't use winding-up as a shortcut to collect. The court held that genuine disputes should be settled outside the winding-up process. The court insisted that any disagreements needed sorting out before starting winding-up proceedings in *IBA Health (India) Pvt. Ltd. v. Info-Drive Systems Sdn. Bhd*.<sup>43</sup> Judges try to hold back from jumping straight to winding up, which sometimes slows things down. But this hesitation helps stop the process from being abused. It's a tough balance to strike.

#### 4.2 DISCRETIONARY POWERS OF TRIBUNAL

The NCLT has the power to dissolve companies based on a reasonable and equitable basis as defined in section 271 of the Companies Act, 2013. The courts in *Ebrahimi vs. Westbourne Galleries Ltd*<sup>44</sup> and *Shanti Prasad Jain vs. Kalinga Tubes Ltd*<sup>45</sup> state that prior to a corporation being dissolved, they will look into whether or not there are any alternatives for resolving the differences between the shareholders. *Kilpest Pvt. Ltd vs. Shekhar Mehra*<sup>46</sup> indicates that for a dissolution to be justified, the management of the Company must act for the benefit of the shareholders due to internal disputes of the members. Therefore, because of this process being subject to a high level of judicial review, delays in the process could result.

#### 4.3 LANDMARK JUDGEMENTS ON PROCEDURAL DELAYS

Procedural lags for corporate insolvency and winding up processes continue to be a major concern in India since the passage of India's Insolvency and Bankruptcy Code (IBC), 2016. Indian courts have highlighted that the timely resolution of these processes should protect creditor interests and ameliorate loss of asset value. In the case of *Innovative Industries Ltd vs ICICI Bank*, the Supreme Court found that the IBC was drafted in an attempt to address historical inefficiencies and delays involved in insolvency proceedings with respect to corporate and non-corporate budgets via redefining the CIRP process to create strict time limits for Case Resolution. Likewise, in *Mobile Innovations Pvt. Ltd vs Kirusa Software Pvt Ltd*, the Supreme Court recognised the need to effectively minimise litigation by creating distinct criteria for the initiation of insolvency and other civil actions for debts owed to companies and otherwise to avoid unnecessary and frivolous litigation over good debtors. Owing to creditors, and by doing so, provide an effective process to protect the interests of both types of

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<sup>43</sup> *IBA Health (India) (P) Ltd. v. Info-Drive Sys. Sdn. Bhd.*, (2010) 10 S.C.C. 553 (India).

<sup>44</sup> *Ebrahimi v. Westbourne Galleries Ltd.*, [1973] A.C. 360 (H.L.).

<sup>45</sup> *Shanti Prasad Jain v. Kalinga Tubes Ltd.*, A.I.R. 1965 S.C. 1535 (India).

<sup>46</sup> *Kilpest (P) Ltd. v. Shekhar Mehra*, (1996) 10 S.C.C. 696 (India).

stakeholders through enforceable procedures established by the IBC. The court reiterated that the timely resolution of matters is critical to protecting the rights of stakeholders, including homebuyers and real estate investors, through the enforcement of statutory timelines supporting the IBC. Finally, in *Surendra Trading Co vs. Juggilal Kamalapat Jute Mills Co. Ltd*<sup>47</sup>, the Supreme Court held that a pragmatic approach should be employed regarding procedural complaints to facilitate the completion and resolution of all cases in a timely manner. In this regard, the Supreme Court then reaffirmed in the case of *Jaypee Kensington Boulevard Apartments Welfare Association vs. NBCC India Ltd*<sup>48</sup> that all corporate insolvency proceedings must comply with statutory timelines to prevent potential losses of money to the creditors.

#### 4.4 HARMONIZATION WITH INSOLVENCY AND BANKRUPTCY CODE

Amongst other things, the Indian Courts have recently become more consistent in their application of the winding up provision in the Companies Act, 2016, with that of the Insolvency and Bankruptcy Code, 2016. *Forech India Ltd vs. Edelweiss Assets Reconstruction Co. Ltd*<sup>49</sup>, that the IBC process is more important than any pending winding petitions, should be done in timeframes. The Court determined that the filing of a winding-up petition does not stop a creditor from filing IBC proceedings, thereby demonstrating the current modern interpretation of the IBC by Indian Courts. *Action Ispat and Power Pvt. Ltd vs. Shyam Metalics and Energy Ltd*<sup>50</sup>, where it permitted the transfer of winding up cases to the IBC for the benefit of the creditors. *Ghanashyam Mishra & Sons Pvt, Ltd. vs. Edelweiss Asset Reconstruction Co. Ltd*<sup>51</sup>. that all claims not included in an approved resolution plan will be extinguished. In aggregate, these decisions should increase investor confidence and the efficiency of corporate exits from India.

#### 4.5 EMERGING TRENDS IN CORPORATE LIQUIDATION JURISPRUDENCE

Lately, Indian Courts have started leaning more towards saving businesses instead of rushing to liquidate them when dealing with insolvency. You really see this shift in the Supreme Court's decision in the *Essar Steel* case, where the judges made it clear: the main goal is to

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<sup>47</sup> *Surendra Trading Co. v. Juggilal Kamalapat Jute Mills Co. Ltd.*, (2017) 16 S.C.C. 143 (India).

<sup>48</sup> *Jaypee Kensington Boulevard Apartments Welfare Ass'n v. NBCC (India) Ltd.*, (2022) 1 S.C.C. 401 (India).

<sup>49</sup> *Forech India Ltd. v. Edelweiss Assets Reconstruction Co. Ltd.*, (2019) 18 S.C.C. 549 (India).

<sup>50</sup> *Action Ispat & Power (P) Ltd. v. Shyam Metalics & Energy Ltd.*, (2021) 2 S.C.C. 641 (India).

<sup>51</sup> *Ghanashyam Mishra & Sons (P) Ltd. v. Edelweiss Asset Reconstruction Co. Ltd.*, (2021) 9 S.C.C. 657 (India).

breathe new life into struggling companies. Keeping a business running helps creditors, sure, but it is also cracking down on stalling tactics. In the *ArcelorMittal* case, they stressed that everyone needs to stick to deadlines so these cases don't drag on forever. Then there's the *Swiss Ribbons* judgment, the SC stood by the IBC, making it clear that fast and efficient resolution matters. The NCLT's role got a bit of a makeover, too. In the *K. Sashidhar* case, the courts explained that while the tribunal has to supervise, it shouldn't overstep into business decisions that belong to creditors. All in all, these cases show that India's insolvency system is moving in a more practical, business-friendly direction. The focus now is on keeping companies alive and making sure everyone's interests- for creditors to workers- are protected.

## CHAPTER- 5

### REFORM MEASURES TO REDUCE PROCEDURAL DELAYS

#### 5.1 INTRODUCTION OF STATUTORY TIMELINES

One big problem with winding-up proceedings under the Companies Act, 2013, is that there are no clear statutory timelines, which is not the case with the IBC, 2016. This lack can cause long delays during admission and adjudication. In *Innovative Industries Ltd. vs. ICICI Bank*<sup>52</sup>, the SC stressed the need for the quick resolution of bankruptcy cases. The court stressed the need to control adjournments in *Salem Advocate Bar Association vs. Union of India*.<sup>53</sup> That liquidators should have to send in progress reports to make sure they are responsible. If these processes were in line with time-limited measures from bankruptcy law, they might work better and not cause delays.

#### 5.2 STRENGTHENING THE ROLE AND AUTONOMY OF LIQUIDATORS

The act makes it very clear that liquidation works best when liquidators are good at their job and do not favour any side. We are seeing a change in the way liquidators work best when liquidators are good at their job and do not favour any side. We are seeing a change in the way liquidators work, with a move towards getting them accredited so only the good ones handle the tough cases. Then there are checks on how well they are doing their job to make sure they are doing everything right. Technology can be a help in making things run more smoothly and

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<sup>52</sup> *Innoventive Indus. Ltd. v. ICICI Bank*, (2018) 1 S.C.C. 407 (India).

<sup>53</sup> *Salem Advocate Bar Ass'n v. Union of India*, (2005) 6 S.C.C. 344 (India).

openly. Time and again, court decisions say that insolvency experts must be independent, and this is a part of the system. If India wants to solve corporate distress cases as promised by the IBC, 2016, then giving liquidators more power through accreditation, audits and technology is necessary. Liquidators are key to making the process of liquidation more efficient.

### 5.3 DIGITALIZATION OF WINDING UP PROCEEDINGS

The digitalization of winding-up proceedings under the Companies Act, 2013, enhances corporate insolvency efficiency through e-filing, virtual hearings, and digital asset management. The Supreme Court in *ArcelorMittal* case emphasised speedy resolutions to prevent asset value erosion. Virtual proceedings, recognised during the COVID-19 pandemic, align with fair trial principles *State of Maharashtra vs. Praful B. Desai*<sup>54</sup>. Improved asset tracking and stakeholder transparency are vital for effective management.

### 5.4 INSTITUTIONAL REFORMS IN NCLT

The National Company Law Tribunal in India needs to be strong for insolvency and liquidation to work well. There are problems like non-members and old infrastructure that cause delays. To fix this, we need to add people to the benches, make the infrastructure better and have special benches for liquidation. The Supreme Court says we need staff and resources. The National Company Law Tribunal needs to be stronger so it can work better and follow the rules of the Companies Act and Insolvency and Bankruptcy Code. This will make insolvency work better.

### 5.5 STRICT ENFORCEMENT OF JURISDICTIONAL BAR (SECTION 430)

One of the major problems in winding-up proceedings under the Companies Act, 2013, is the lack of clear statutory timelines. Without strict deadlines, cases often move slowly, leading to repeated adjournments and long delays. Over time, this can reduce the value of a company's assets, affecting creditors, employees, and investors. The Supreme Court in *Innovative Industries Ltd. vs. ICICI Bank*<sup>55</sup> emphasized that timely resolutions is essential to prevent asset erosion. Decisions such as *Salem Advocate Bar Association vs Union of India*<sup>56</sup> highlighted the

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<sup>54</sup> *State of Maharashtra v. Praful B. Desai*, (2003) 4 S.C.C. 601 (India).

<sup>55</sup> *Innoventive Indus. Ltd. v. ICICI Bank*, (2018) 1 S.C.C. 407 (India).

<sup>56</sup> *Salem Advocate Bar Ass'n v. Union of India*, (2005) 6 S.C.C. 344 (India).

need to limit adjournments. Aligning procedures with the structured timelines of the IBC, 2016 can make liquidation more efficient and reliable.

## 5.6 COMPARATIVE ANALYSIS WITH INTERNATIONAL PRACTICES

A comparative study of different international corporate insolvency laws would help in making liquidation more efficient. The UK's Insolvency Act 1986 emphasises the need for professional management by licensed insolvency practitioners, as seen in the case of *Re Leyland DAF Ltd.* Chapter 7 of the US Bankruptcy Code has its own set of rules, as seen in the case of *Northern Pipeline Construction CO. vs. Marathon Pipeline Co*<sup>57</sup>, which deals with the establishment of bankruptcy courts. Federal law on Insolvency in Russia shows how well the system worked in the case of *Yukos Oil Co.*, where there was a proper management of all aspects by the arbitration managers. The Corporations Act 2001 in Australia emphasizes the need for registered liquidators, as seen in *ASIC vs. Plymin*<sup>58</sup>, where all rules must be followed in a timely manner. Some of the key similarities in these areas include the importance of professional management, specialized courts, and fixed deadlines. India can improve its corporate while dealing with Indian companies while at the same time adhering to the Companies Act, 2013 and the Insolvency and Bankruptcy Code, 2016.

## CHAPTER- 6

### FINDINGS, SUGGESTIONS AND FUTURE SCOPE

#### 6.1 MAJOR FINDINGS OF THE STUDY

The study shows that the lack of statutory deadlines in the Companies Act, 2013, is a major reason why winding-up proceedings take so long. This is not the case with the strict deadlines in the Insolvency and Bankruptcy Code, 2016. This problem is made worse by problems within institutions, such as the NCLT's lack of efficiency. The asset realisation phase also takes a long time because of disagreements. To make corporate insolvency resolution more efficient and effective, it is important to make sure that winding-up procedures are in line with the IBC's goals.

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<sup>57</sup> *N. Pipeline Constr. Co. v. Marathon Pipe Line Co.*, 458 U.S. 50 (1982).

<sup>58</sup> *ASIC v. Plymin*, (2003) 46 A.C.S.R. 126 (Sup. Ct. Vic.) (Austl.).

## **6.2 RECOMMENDATIONS FOR LEGISLATIVE REFORM**

However, any changes to the current winding-up process under the Companies Act, 2013, required specific legislative timelines, as under the Insolvency and Bankruptcy Code, 2016, Corporate Insolvency Resolution Processes are completed within a specific timeline, thereby introducing a penalty mechanism to address any unwarranted delays in the process. Furthermore, any changes to the current winding-up process under the Companies Act, 2013, based on the IBC, are likely to result in better corporate exit, thereby addressing any delays in the process.

## **6.3 ADMINISTRATIVE AND INSTITUTIONAL IMPROVEMENTS**

Administrative changes are necessary to ensure effective implementation of the Companies Act, 2013. Key steps include adding additional NCLT benches, improving liquidator training, and implementing digital monitoring to enhance process efficiency. The goal of these programs is to reduce delays, enhance accountability, and align India's system with best practices worldwide. This will help resolve corporate distress quickly and protect the interests of all parties involved.

## **6.4 POLICY IMPLICATIONS**

Well-functioning winding-up mechanisms are also beneficial to the business environment by providing exit options for troubled businesses, which, in turn, boosts investor confidence, credit markets, and responsible entrepreneurship. Bringing the Companies Act in line with the Insolvency and Bankruptcy Code will improve India's corporate laws and contribute to sustainable economic growth.

## **6.5 FUTURE SCOPE OF RESEARCH**

The study points out delays in winding-up procedures. It suggests future research on cross-border insolvency, pre-pack processes, comparative analysis, and the role of technology in improving corporate insolvency efficiency in India. The goal is to develop a framework that aligns with global standards.

## **CHAPTER -7**

### **CONCLUSION**

Delays in the winding-up procedures under the Companies Act, 2013, impact the Indian corporate regulatory system. The liquidation process is lengthy, which leads to a decrease in corporate assets. The introduction in the IBC, 2016, aimed to speed up corporate resolution. However, delays in winding up continue because the Companies Act, 2013, does not set specific time limits for this process. The key actions taken include setting time limits for procedural aspects, improving the capabilities of the National Company Law Tribunal, introducing technology, and raising the standards for professional managing liquidation.