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A Paradigm Shift of IBC Consequent to Covid 19: An Analysis

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ABSTRACT

The IBC, 2016 is a landmark development in the dynamic world of resolution of stressed assets laws in our country. The Insolvency and Bankruptcy Code, 2016 is the bankruptcy law of India which seeks to consolidate the existing framework by creating a single law for insolvency and bankruptcy. The research paper analytically encapsulates the principles and the legal framework of the code in reference to COVID 19 pandemic. The Central Government owing to the widespread impact of COVID-19 on the economy, promulgated the IBC amendment ordinance, 2020.

The purpose of this paper is to examine impact of COVID 19 pandemic on Insolvency and Bankruptcy code. This paper also highlights how IBC amendment ordinance, 2020, is highly resourceful in improving India's image on the global stand. In line with that, the paper also analysis the implementation of ordinance, 2020 in India in respect of current situation of Indian economy. The research paper will also make the reaffirmation regarding the validity of the said amendment as per stakeholders. A laborious effort will be made to check on various challenges faced, and the numerous advantages of emendation in India. Furthermore, a study is also conducted on some International Jurisdictions to showcase their steps in reforming their respective statutes amidst COVID 19. At last, in concluding part an effort will be made to provide some suggestions for amelioration in IBC amidst COVID 19.

Keywords: *Insolvency, Bankruptcy, COVID 19, IBC Amendment Ordinance, 2020, International Jurisdictions.*

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I. INTRODUCTION

“In keeping its faith in IBC with only a limited suspension, the Indian government appears to have chosen wisely in letting a winner run”³

- ***Legal position prior to IBC for resolving the defaults:***

The Insolvency and Bankruptcy Code, 2016 contrived an enclosed bankruptcy and insolvency resolution laws in India. Noteworthy, the aforesaid code is one of the utmost critical economic legislation in our country which influences the relaxation in carrying out business. As per the World Bank data of 2016, almost 4.3 years has been taken for formulating the said legislation. Prior to the establishment of IBC, India had a very complex insolvency regime governed by multiple laws like the Sick Industrial Companies Act, 1985, the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the Recovery of Debt Due to Banks and Financial Institutions Act, 1993, and the Companies Act, 2013 and none of the act was able to provide the complete solution to the problems that were being faced. As there wasn't a comprehensive code for handling business failure so, it has amended over 11 legislations and bring them under one umbrella.

The term insolvency and bankruptcy are co-related. Insolvency can occur without being bankrupt, but bankruptcy cannot happen without being insolvent. As insolvency refers to the inability of a person or corporation to pay their bills as and when they become due and payable. And bankruptcy is when a person is declared incapable of paying their due and payable bills. Earlier there was bad loan recovery mechanism before IBC. In early 2000's economy was in boom phase, which led public sector banks to lend extensively to corporates. There was a slowdown in the economy and companies were not able to pay back the debts which are the prime reason for the increase in NPA in India. This brought down the requirement for the new code that is insolvency and bankruptcy code, 2016.

- ***Implementation of IBC:***

Code became effective on 1 Dec, 2016. Earlier the creditors were having low power to act at the time of default, promoters were in control even in the time of default in the company. This code was established to maximize the value of assets, availability of credit and to achieve the balance in the interest of all the stakeholders. IBC brought the shift from debtor in control model to creditor driven process.

³ In its approach to the IBC, the government got it right| Analysis, Hindustan Times (Sep 10, 2020, 6:20 PM), <https://www.hindustantimes.com/analysis/in-its-approach-to-the-ibc-the-government-got-it-right/story-8ZRSos6pYBRHCtEBFBkRWO.html>.

As longer, there is delay in the insolvency proceeding the more it will become difficult to realize the assets as they can suffer from a high rate of value destruction. The need of speedy trial of the insolvency proceeding arises from there and which resulted in the establishment of IBBI, apex governing body of IBC.

Corporate Insolvency Resolution Process (CIRP) is a process laid down in the code for reviving the company from its state of insolvency. It may be initiated on the application raised before NCLT for initiating CIRP by the financial creditor, operational creditor of the company on the fact of default established from the record of the information utility. On the acceptance of the application, the committee of the creditors consisting of the financial creditor is made, which appoints a professional who manages and presents a resolution plan. After which a timeline of 180 days is given which is extendable to further 90 days for the completion of resolution process.

The most important feature of the IBC code is that it talks about applicability of moratorium. It refers to a stay or “calm period” it is that period during which no creditor can undertake recovery action against the corporate debtor which means the creditors actions will remain to be stopped, and the IBC court will see to the possibility of rehabilitation. The mandatory moratorium throughout the entire resolution process is 180 days with a one-time extension of maximum 90 days.

The code also provides for the Fast Track Resolution Process which means the disposal of the process within 90 days rather than 180 days in normal process. It is applicable in the case for corporate debtors of a particular class, or having the income level as prescribed by the Central Government, generally targeting the small companies.

II. COVID-19 IMPACT

- ***Value destruction Impact in The Economy:***

The worldwide spread of coronavirus extorted the Government of India (GOI) to announced a nationwide lock down on account of public health crisis. The various initiatives by the government have been taken under the “*Atmanirbhar Bharat Yojana*”. This Pandemic has not only malaise the human beings physically and mentally but has also usher the Global financial markets to affliction. This has to the great extent disruptive the uniform business activities, thereby prompted into reduction in income and rise in unemployment. However, the most evocative sufferers of this lockdown have been, Micro, Small and Medium Enterprises (MSME). Thereupon, A drastic necessity to uphold the status quo was so compelling that series of resolutions were taken appertaining to contractual obligations,

corporate debtors, and fresh insolvency proceedings. To surmount an exceptionally distressed market scenario and to avert the corporate organizations from going to liquidation, the Indian Government has instigated diverse credit exposures, economic relief packages, and legal and regulatory measures by emending the Insolvency and Bankruptcy Code, 2016.

The President promulgated the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2020 (Ordinance) on 5 June 2020, with immediate effect. The objective of the Ordinance is to, “protect corporate entities that have witnessed a sudden halt in operations and consequently defaulted on their repayment obligations, from being dragged into insolvency.”⁴

The Ordinance introduces Section 10A to the IBC, 2016, which suspends the applicability of:

- i. Section 7⁵ (insolvency application by a financial creditor).
- ii. Section 9⁶ (insolvency application by an operational creditor).
- iii. Section 10⁷ (voluntary insolvency application by the corporate debtor).
- iv. Insertion of sub section (3) under section 66⁸ thus in respect to forbidding a Resolution Professional (“RP”) from applying under section 66 (2) which primarily contend with the wrongful trading or any fraudulent act by the director or the partner of the corporate debtor.

This conducive to the period of six months in the wake the payment defaults that transpire on or after 25 March 2020 (Suspension Period). In furtherance of, Ordinance bestows that the Suspension Period may be extended by Government notification, for a maximum period of up to one year. Therefore, the Government has made an effort to foment some measures with the aim of minimizing the burden on companies and give them a feasibility of revival.

III. THE INSOLVENCY AND BANKRUPTCY CODE AMENDMENT (ORDINANCE), 2020

⁴India: Insolvency And Bankruptcy Code Amended To Suspend Initiation Of Insolvency Proceedings For Six Months, mondaq connecting knowledge and people (Sept. 10, 2020, 6:15 PM), <https://www.mondaq.com/india/insolvencybankruptcy/962218/insolvency-and-bankruptcy-code-amended-to-suspend-initiation-of-insolvency-proceedings-for-six-months>.

⁵ THE INSOLVENCY AND BANKRUPTCY CODE, 2016, NO. 31, Acts of Parliament, 2016 (India).

⁶ THE INSOLVENCY AND BANKRUPTCY CODE, 2016, NO. 31, Acts of Parliament, 2016 (India).

⁷ THE INSOLVENCY AND BANKRUPTCY CODE, 2016, NO. 31, Acts of Parliament, 2016 (India).

⁸ THE INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) ACT, 2020, NO. 1, Act of Parliament, 2020 (India).

- ***With the limited suspension, will the Indian Government be able to save the nation??***

Since the establishment the code has been amended thrice. The Insolvency and Bankruptcy Code (Amendment) Bill, 2020 was passed in Lok Sabha and Rajya Sabha. The bill was passed as it was made to remove the gridlock in the corporate insolvency resolution process. The objective and aim of the ordinance were to protect the new owners of a loan defaulter company from the prosecution because of the misdeeds of previous owners. The Bill was further replaced and passed as an ordinance.

The amendment were promulgated by President Ramnath Kovind through the Insolvency and Bankruptcy Code Ordinance, 2020 amending certain provision of the code and it came into Immediate effect from 5th June 2020 to suspend the operations of Sec 7, 9 & 10⁹ and the Ordinance made a insertion of new clause Sec 10A and Sec 66(3)¹⁰ in the Insolvency and Bankruptcy Code, 2016. It was passed to prevent the corporate persons from experiencing distress on account of unprecedented situation during the COVID 19 period.

- ***Changes made through the ordinance:***

IBC Amendments clause Section 10A¹¹ does not bar the bankruptcy proceedings in the cases where the default has arisen before March 25, 2020. Cases where the 180 days' timeline ended in January will still be taken to bankruptcy court. No escape in cases where the default is not related to COVID 19. Now the main issue that comes up is that the defaulters will take a blanket and be exempted from the Insolvency proceedings as there will be no initiation of the corporate proceeding for the next 6 months which is extendable to 1 year from 25 March. The only remedy which is available is that if the default continues to remain, until it is paid in full or as agreed between the parties. A default which occurs during the suspension period, will continue to remain even after the suspension period expires.

This ordinance was made to provide the relief to the corporate debtors who are directly affected due to the COVID-19 pandemic widespread disruption of business operations across the country. In the meantime of suspension period the operational creditor, to whom an operational debt is owed and includes any person to whom such debt has been legally assigned or transferred can recover their debt through filing Civil Suit or the Corporate Debtors can avail for the Voluntary Liquidation under the winding up mechanism of the

⁹ THE INSOLVENCY AND BANKRUPTCY CODE, 2016, NO. 31, Acts of Parliament, 2016 (India).

¹⁰ THE INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) ACT, 2020, NO. 1, Act of Parliament, 2020 (India).

¹¹ THE INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) ACT, 2020, NO. 1, Act of Parliament, 2020 (India).

Companies act, 2013 read with the Companies (Winding up) Rules, 2020 which have come into force from April 1, 2020.

In case of operational creditor, it is mandated that the operational creditor serves a demand notice to the corporate debtor. If the operational creditor has issued the demand notice u/s 8, earlier than the date of notification which is 25 March, 2020 then in those cases operational creditor can proceed with the filing of an application under section 9 of IBC, 2016. The only thing which is changed is that the amount of default should be more than 1 crore. Earlier the amount of default was 1 lakh which was changed by the Amendment ordinance, 2020, raising the minimum threshold of default. The increase in the threshold limit was initially made to protect the small companies and MSMEs from the hit due to the lockdown imposed to curb the further spread of COVID-19. However, where the demand notice is sent after 25 March, 2020 then there will be a bar on filing of section 9 application.

Section 66¹² deals with the Fraudulent trading or wrongful trading, i.e., transactions which were committed to defraud the creditors of the corporate debtors, and to identify and hold liable such persons who were responsible for such fraudulent transactions. Clause 2 of the section imposes the liability on the director or the partner to contribute to the debtor's asset on an application initiated by the Resolution professional, in case where they are carrying the business activities with the willful intent to defraud creditors or not exercising due diligence before the commencement of CIRP. The addition of clause 3 will protect the directors or partners from any such liability of default when the CIRP is suspended under Section 10A¹³.

The rationale behind the insertion of section 66 clause 3¹⁴ is in for the best interest of the directors or the partners of the companies to continue in the market in the pandemic situation, without any threat to personal liability if the company goes into insolvency. As to bring back the economic growth of the country the economic growth of the individuals and companies are also important.

The question that arises is that ***whether the ordinance that has been passed is going to have retrospective effect or prospective effect??*** As per the precedent over the years the SC has laid down that, *S.L. Srinivasa Jute Twine Mills v. Union of India*¹⁵, a statute is deemed to be applied prospectively unless explicitly mentioned otherwise. However, the applicability of

¹² THE INSOLVENCY AND BANKRUPTCY CODE, 2016, NO. 31, Acts of Parliament, 2016 (India).

¹³ THE INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) ACT, 2020, NO. 1, Act of Parliament, 2020 (India).

¹⁴ THE INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) ACT, 2020, NO. 1, Act of Parliament, 2020 (India).

¹⁵ *S.L. Srinivasa Jute Twine Mills v. Union of India*, (2006) 2 SCC 740.

the increased threshold limit is still being interpreted as due to the judicial interference as it was only made by the notification, not by the amendment itself. Further RBI by a notification dated 23 May, 2020 has extended EMI moratorium for another 3 months on term loans, and the suspension of section 7 does not remain a much great importance as it gives the financial creditors an extended moratorium of total 6 months. However, the ordinance disserves the operational creditor as financial creditors already have the moratorium under RBI.

The NCLT of the Kolkata and Chennai Benches vide their Orders dated 20 March, 2020 in *M/s. Foseco India Limited v M/s. Om Boseco Rail Products Limited* and 02 June, 2020 in *M/s. Arrowline Organic Products (P) Ltd v. M/s. Rockwell Industries Limited* respectively have brought some clarity to this issue. The Hon'ble Adjudicating Authorities after taking into account held that the law did not expressly confer any power on the delegate to issue the impugned notification with retrospective effect. It was held that the notification dated 24 March, 2020 is only prospective in nature and thereby allowing the pending cases before the various Adjudicating Authorities across the country to come to the conclusion of the maintainability on the grounds of minimum threshold limit of default being questioned, as on date¹⁶.

The objective behind IBC is to safeguard the firms by providing them a second chance even after default financially or operationally. Section 10¹⁷ provides the locus standi to the corporate debtors to voluntarily apply for the CIRP petition against itself and start the proceedings while maximizing the assets in the interest of all the stakeholders.

The major policy reforms made by the Finance Minister in IBC, 2016 brought a no. of ambiguous questions in the insolvency and Bankruptcy procedure for the time being in force. The main change is brought down is with respect to “default” and “wrongful trading”.

- **Further Revamping:**

The Reserve Bank of India posted another circular in September, 2020, with the objective of rescheduling the time line for the repayment of loans. As per the circular the repayment of residual loans can be extended to a period of up to two years on installments taken from March 1 to August 31. Henceforth, the following move prompt as a relief to the borrowers. Due to this unfortunate situation of pandemic economy is suffering a lot and, in this scenario, certainly there is high probability of missing an EMI. The authorities for the recovery process

¹⁶ Anant Merathia and Poornima Devi, IBC Amendment Ordinance 2020: No fresh insolvency for default after lockdown declaration, *The New Indian Express* (Sept. 10, 2020, 9:48 PM), <https://www.newindianexpress.com/business/2020/jun/08/ibc-amendment-ordinance-2020-no-fresh-insolvency-for-default-after-lockdown-declaration-2153907.html>.

¹⁷ THE INSOLVENCY AND BANKRUPTCY CODE, 2016, NO. 31, Acts of Parliament, 2016 (India).

may take harsh steps which can affect adversely to the credit score of an individual. Undoubtedly, good credit score is indispensable for an individual to resort loans. Also, low credit score lessens the possibility for procuring a loan. Therefore, the Reserve Bank of India bestows further relaxation to the borrowers by extending the 2-year period for repayment of loans. This situation can be analysed from the landmark of *Embassy Property Development Pvt. Ltd. vs. State of Karnataka*¹⁸, where in the issue was of deemed extension of lease granted by the government. The apex court concluded that Section 14 of IBC only prohibits the right to be dispossessed but not the right to renewal of lease. The purpose of moratorium is to preserve the *status quo* rather than to create a new right

- **Implementation as a challenge:**

In the period of crises, the ordinance was passed with the point to safeguard the stressed firms who are not able to survive, in this difficult period of time as they won't be able to practically function in an indebted condition. And insertion of Section 10 A¹⁹ has made it clear that the default which has occurred only during the suspension period of 6 months extendable to 1 year will take a blanket under the same other defaulters which are in default before 25 March 2020 will not be able to cover themselves under this suspension period. A new alternative policy framework is to be proposed to cater to credit availability in the correspondence of default in the suspension period and for that purpose introduced a special Insolvency Resolution framework for MSME under Section 240A²⁰ of the IBC, 2016. The default amount cannot be claimed by the MSMEs even if the threshold limit is breached, thereby opening high possibilities regarding willful default by the corporate debtors. Furthermore, the increased threshold was aimed at providing relief to the MSMEs but on contradiction the plight of stressed MSME firms are worsened as a result of suspension of CIRPs.

The negative impact of the ordinance is that the debtors will unjustly enjoy the protection given to them by the law, and they will permanently be able to avail the escape to pay for the defaults made by them. The creditors will not be able to recover the debts even after the crises are over and this will eventually lead the debtors to default as much as possible during the pandemic period of suspension of certain provisions and will defeat the purpose of the formation of IBC.

¹⁸Embassy Property Development Pvt. Ltd. vs. State of Karnataka, Civil Appeal No. 9170 Of 2019.

¹⁹ THE INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) ACT, 2020, NO. 1, Act of Parliament, 2020 (India).

²⁰ THE INSOLVENCY AND BANKRUPTCY CODE, 2016, NO. 31, Acts of Parliament, 2016 (India).

The ordinance does not make any mention about the Insolvency resolution process against personal Guarantors, whose liability for the debt is co-extensive with that of the corporate debtor. Thus, the proceedings still can be initiated against personal guarantors which will cause an hinderance in achieving the objective behind the ordinance and create further ambiguity.

IV. REVIEW FROM INTERNATIONAL PERSPECTIVE:

➤ SINGAPORE:

In the aftermath of COVID 19, the Act was passed by the Singapore Parliament as the COVID-19 (Temporary Measures) Act on 7 April 2020 by putting forward a temporary relief to contracting parties who are unable to converge their contractual obligations for the next 6 to 12 months.

The fundamental measures of the Act are:

- Temporary solace from the inability or failure to discharge contractual obligations -
The COVID-19 (Temporary Measures) Act 2020 (the "Act") offers temporary relief to contracting parties of scheduled contracts who are unable to meet their contractual obligations of leases or licenses of nonresidential immovable property including, inter alia, contracts for the leasing of office premises, retail shops and industrial and warehouse spaces, and loan facility granted by licensed banks or financial institutions to landlords, which are secured against commercial or industrial immoveable property, or any plant, machinery or fixed asset located in Singapore.²¹
- Temporary transitions to bankruptcy and insolvency laws - The Act provides temporary relief for businesses, firms and individuals in financial distress, by making the following modifications to Singapore's Bankruptcy and Insolvency laws:
 - For individuals: Under s20(1) - The monetary debt threshold for personal bankruptcy is raised from \$15,000 to \$60,000. Further, the suitability of an individual for a debt repayment scheme, and the avoidance of bankruptcy, is lifted from \$100,000 to \$250,000;

²¹ Summary of measures announced in response to the spread of Covid-19, TAXAND your global tax partner (Sept. 10, 2020, 6:37 PM), <https://www.taxand.com/wp-content/uploads/2020/06/Taxand-Public-economic-measures-against-Covid-19-@-11-June.pdf>.

- For businesses: Under s22(1)(a) and s24(1)(a) - The monetary debt threshold for corporate insolvency is raised from \$10,000 to \$100,000²²;
- Under s22(1)(b) and s24(1)(b) - The statutory period to respond to demands from creditors before a presumption of insolvency will arise is extended from 21 days to 6 months.²³

Directors, partners and trustee-managers will be also be temporarily relieved from their obligations to prevent their companies trading while insolvent if the debts are incurred in the company's ordinary course of business and during the period that the Act is in effect. Directors will nevertheless remain criminally liable if the debts are incurred fraudulently.²⁴

➤ **UNITED KINGDOM:**

On 28 March 2020, the Business Secretary, Alok Sharma, notify that the government would make certain transitions which facilitate companies in financial difficulty to came out unscathed after the Covid-19 pandemic.

The fundamental developments are:

- Temporary suspension of wrongful trading provisions – to be applied retrospectively from 1 March 2020 for an initial period of three months – to allow directors to continue trading through the pandemic emergency without the threat of personal liability should the company ultimately fall into insolvency²⁵.
- A short moratorium for companies giving them a breathing space from creditor action, whilst they seek rescue or restructure²⁶.
- Allowing companies continued access to their supplies (such as raw materials, component parts etc.) so they can continue to trade during the moratorium²⁷.
- A new restructuring plan (including a “cross-class cram-down”), binding creditors to that plan including key safeguards for creditors and suppliers to ensure they are paid while a solution is sought²⁸.

²²Singapore update: The practical impact of the COVID-19 temporary measures legislation, White & Case (Sept. 10, 2020, 6:50 PM), <https://www.whitecase.com/publications/alert/singapore-update-practical-impact-covid-19-temporary-measures-legislation>.

²³ COVID-19 Singapore: Guide to (Temporary Measures) Act 2020, CLYDE & CO. (Sept. 10, 2020, 6:55 PM), <https://www.clydeco.com/fr/insights/2020/04/covid-19-singapore-guide-to-temporary-measures-act>.

²⁴ Id.

²⁵ Lorraine Conway, Coronavirus: changes to insolvency rules to help businesses, HOUSE OF COMMONS LIBRARY (2020).

²⁶ Id.

²⁷ Id.

²⁸ Id.

➤ **RUSSIA:**

Due to upsurge of COVID 19 pandemic, the Russian Federation persistently extracted determined actions for lessening the fatalistic impression of it on businesses. In that regard, on 1 April 2020, the government assimilated Article 9.1 (“Moratorium on Initiation of Bankruptcy Proceedings”) into the Federal Law “On Insolvency (Bankruptcy)” (the “**Bankruptcy Law**”), and subsequently on 3 April 2020 the Government of the Russian Federation as regards to determined categories of debtors inaugurated a moratorium on the initiation of bankruptcy proceedings **from 6 April through 6 October 2020**.

The said moratorium regime has been instituted for 6 months which appertaining to:

- Companies and individual entrepreneurs in the industries most affected by the coronavirus pandemic (the approved list of industries includes, among others, air and road transportation services, travel agencies, hotel industry and food service operators);
- Companies included in the list of enterprises of crucial importance for the economy;
- Companies included in the list of enterprises and joint stock companies of strategic importance²⁹.

The moratorium regime imposes, for example, the following restrictions:

- Newly submitted and not yet considered applications of creditors to declare a debtor bankrupt have to be returned.
- Foreclosure of pledged property, including through extrajudicial procedures, is not allowed.
- No penalties (fines, interest charges) or any other financial sanctions are to be imposed
- Termination of the debtor’s monetary obligations by set-off is not allowed.
- Payment of dividends, income by shares (units), as well as distribution of profit among the founders (participants) of the debtor is not allowed.
- Enforcement proceedings upon property claims that have arisen before the moratorium are to be suspended.

²⁹The Russian government introduces a moratorium on bankruptcy, Noerr strong characters make strong partners (Sept. 10, 2020, 7:20 PM), https://www.noerr.com/en/newsroom/news/the-russian-government-introduces-a-moratorium-on-bankruptcy?utm_source=Mondaq&utm_medium=syndication&utm_campaign=LinkedIn-integration.

- The deal goes beyond the scope of normal business activities, i.e. is unusual for the company falling within the moratorium;³⁰
- The price of the deal exceeds 1 % of the book value company's assets as of the end of the 1st quarter of 2020 (the last reporting period as of the date of enactment of the moratorium).
- A company falling under the moratorium, which made such a deal, has become bankrupt – bankruptcy proceedings against such company were initiated before January 07, 2021, inclusive (during the 3-month period after the end of the moratorium).³¹

V. CONCLUSION:

The IBC, 2016 has invariably appears as an apparatus for the protection of the rights of investors in a corporate entity. An outrageous need to protect the COVID 19 situation was so exigent that line of decisions has been taken. Due to the dynamic nature of the corporate world, it is persistent to amend the code with the objective of re-organisation and insolvency resolution in a time bound manner for maximization of value of assets. the Insolvency and Bankruptcy Code operate as one of the support systems to save the companies from going insolvent. Although, in spite of the virtuous purpose of the amendments, many of these changes are half sighted and will constitute problems for stakeholders in the long run. The relaxations have to accommodate every person and not just focuses on one or more groups therefore there is necessity of reviewing of the said amendments. Henceforth, it is anticipated that the legislature will appear as the ideal way of balancing pre-pack framework of the government. The passage would be challenging but certainly with certain modifications it would be resulted in the smooth implementation of the pre-pack regime in the Code

³⁰ Id.

³¹Alexey Gorodissky, Dmitry Yakushev, Change in the Bankruptcy Moratorium Regime. Analysis of Expected Amendments to the Bankruptcy Law, Andrey Gorodissky & Partners (Sept. 10, 2020, 7:27 PM), http://www.agp.ru/en/insights/change-in-the-bankruptcy-moratorium-regime-analysis-of-expected-amendments-to-the-bankruptcy-law-/#_ftn6.