



Group insolvency in India: An emerging concept under the insolvency and bankruptcy legal regime

Ashvidha Sadhasivam

Assistant Professor of Law, KMC College of Law, Tiruppur, Tamil Nadu, India

Abstract

A Company is a separate Legal Entity and likewise the group companies, where these companies face any financial distress, they undergo insolvency process. Group Insolvency is a situation under the Insolvency and Bankruptcy Code usually entails multiple entities within a corporate group experiencing financial distress. It often involves provisions for coordinating or consolidating insolvency proceedings across these entities to achieve a comprehensive resolution. Therefore, to reduce the delay in litigation, the subsidiary companies which are insolvent can be brought beneath a single roof as “Group Insolvency”. The research study is limited to insolvencies occurring within the group companies, that operates only in India i.e., the domestic group companies and does not cover the Cross-border Group Insolvency and highlights the judicial interpretations given by NCLT and NCLAT Bench. The researcher clearly indicates the objective is to study the legislative and judicial interventions of Group Insolvency in India.

Keywords: Group insolvency, IBC, legal framework, judicial interpretations, Videocon case, India

Introduction

The Insolvency and Bankruptcy code (hereinafter referred to as “IBC”) enacted in India in the year, 2016, has witnessed a rapid growth within 9 years of its implementation. IBC is an unified version which governs the law pertaining to the resolution process, insolvency proceedings, liquidation matters and restructuring of companies^[1]. However, prior to the implementation of IBC, there were the Companies Act, 2013; the Sick Industries Companies Act, 1985 (hereinafter referred to as “SICA”) and the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as “SARFAESI Act”) and such other laws which governed the insolvency and restructuring proceedings entered into by the corporations, individuals and firms were highly complicated and intricate in its procedures^[2]. IBC holds a significant flaw in the insolvency proceedings, where the company as a going concern, particularly interests of the creditors lack provisions for fair value. This issue is highly exacerbated when it comes to existence of corporate veil in group companies, deterring the entities from take advantage of effective resolution plans due to interdependence among entities, which leads to liquidation with no or minimal recovery^[3].

The term “Group” defined by the Cambridge Dictionary as a set of individuals or objects are combined together or viewed as a single unit^[4]. According to the Cambridge Dictionary, “Insolvency” means the state of not having sufficient money to pay back the debts or buy goods etc., or the event in which this occurs, especially in case of companies^[5]. Even the term “Insolvency” has not been defined anywhere in the Indian legal landscape. Nevertheless, the IBC only recognizes the “Insolvency Resolution Process”, such insolvency process takes place only to the individual companies, and the provisions fails to address the concerns in its entirety i.e., multiple companies involving the subsidiary companies operating under the same holding company in India^[6]. This implies the lack of acknowledgement of Group companies to proceed the Insolvency process under the IBC.

Initially, the IBC dealt with Corporate Insolvency Resolution Process (hereinafter referred to as “CIRP”) and liquidation process of single corporate entity due to lack of adequate infrastructure in the Indian legal system. However, with the progression of the code, even group insolvencies are accommodated due to the evolving demands of Indian corporate structure. Insolvency of group companies bother the Courts, Adjudicating and Appellate authorities, that stands as a relevant issue, that arises although IBC resolves various CIRP cases^[7]. Therefore, the research clearly indicates the objective is to study the legislative and judicial interventions of Group Insolvency in India.

Statement Of Problem

Even though the IBC provides way for insolvency proceedings, in case of individual companies, considering company as a separate legal personality, on one hand. However, in the other hand, it lacks a comprehensive provision under the IBC that addresses the multiple subsidiary companies under the purview of Group Insolvency.

Even though the IBC was enacted recently in 2016, that aims to maximize asset value during insolvency resolution, so that the companies undergoing such insolvency resolution process can generate higher possible returns through asset sell-offs, which is in the interest of the stakeholders. Also, the IBC takes into account the concerns raised in regard to the delay in legal disputes i.e., prolonged litigation, further, hampers the value maximization.

Therefore, to reduce the delay in litigation, the subsidiary companies which are insolvent can be brought beneath a single roof as “Group Insolvency”. If brought under a single framework, then a much-simplified insolvency process would be conducted and also the adjudicating authority finds ease to identify the assets of the insolvent company, thereby reducing the burden inflicted on the adjudicating authority in the form of workload, however this would be prejudicial to the stakeholders of the companies involved. Furthermore, in a holding company structure, the subsidiary companies often operate in different jurisdictions, which

makes the insolvency process complex and time-consuming. Consequently, there arises a need for the enactment of provision with respect to group insolvency, which would be a suitable and efficient replacement. Additionally, as an outcome of which the creditors are fairly treated, at the same time avoiding the unduly pressurising of the adjudicatory authority in place.

Research Objectives

1. To study the concept of Group Insolvency in India.
2. To analyse the legal frameworks for the implementation of Group Insolvency in the IBC era of Indian regime.
3. To interpret the cases on Group Insolvency in the Indian landscape.

Research Questions

1. Whether the legislative frameworks introduced are adequate for the implementation of Group Insolvency in India?
2. Whether the judicial interventions urge for the need for implementation of Group Insolvency in India?

Research Methodology

The researcher primarily adopts the method of Doctrinal Legal Research, where it analyses and interprets the concept of Group Insolvency in the light of Indian cases.

As doctrinal legal research is all about

“Abstracting ideas from diverse sources, and consolidating them through synthesis, is the essence and key strength of this process”^[8].

The researcher relies on the sources such as Working Bibliographies, Statutes, Case Laws, Committee Reports, Report of the Working Groups, Newspapers, Books, E-Books, Articles, Law Reviews, Journals and other online websites.

Scope and Limitations of the Study

The research study is limited to insolvencies occurring within the group companies, that operates only in India i.e., the domestic group companies and does not cover the Cross-border Group Insolvency. The research highlights the judicial interpretations merely by the National Company Law Tribunal (NCLT), as the Adjudicating Authority and the National Company Law Appellate Tribunal (NCLAT), being the Appellate Authority and not under any other judicial or quasi-judicial body. The study further emphasizes Committee Reports with respect to Indian regime rather than dealing with the Insolvency Law Committee Report on Cross Border Insolvency.

Legal And Regulatory Frameworks With Regard To Implementation Of Group Insolvency In India

In India, there are no existing legal provisions dealing accurately with insolvency of group companies, however there are number of legal provisions and reports which stands contributing to the introduction of the concept of group insolvency.

Companies Act, 2013

The following provisions in the Companies Act, 2013 deals with Group Insolvency are

- ‘Associate company’ denotes with respect to another company, means a company which has over the other company a substantial influence, but it is not the other

company’s subsidiary and includes the joint venture company^[9].

- ‘Holding company’ refers to one or more companies as its subsidiaries^[10].
- Subsidiary company^[11] refers to “the company which is under the control of holding company, where
 1. The composition of Board of Directors is controlled by the holding company.
 2. Controls more than one-half of the total voting power either by itself or with the help of one or more of its subsidiary companies”.
- ‘Body Corporate’ or ‘Corporation’ means incorporation of a company outside India but excludes
 1. A cooperative society registered under any law pertaining to cooperative societies; or
 2. Any other corporation (company not defined in this Act) which the central government may stipulate in this regard by notification;^[12]
- ‘Financial statement’ in the context of subsidiary company or associate company^[13], where a company has one or more of such companies, then those company must prepare a consolidated financial statement combining the company, its subsidiaries and associate companies in the same form and manner as may be specified adhering to the accounting standards. Such statement must be presented before the annual general meeting of the company in addition to financial statement provided under sub-section (2). The proviso to section 129(3) states that along with the financial statement, the company shall also attach separate statement in a prescribed form, comprising the primary features of the financial statements of the subsidiary and associate companies. Further the consolidation of company accounts in a prescribed manner specified by the central government.

Insolvency and Bankruptcy Code, 2016

- Section 18(1)(f)(v) states one of the duties of Interim Resolution Professional shall to perform the obligation of taking control or custody of any asset over which the corporate debtor’s ownership rights as recorded in the balance sheet of the corporate debtor, or with information utility or the depository of securities or any other registry that records the ownership of assets including securities including shares held in any subsidiary of the corporate debtor, financial instruments, insurance policies.
- Section 36 (3)(a) states that the liquidation estate shall comprise all liquidation estate assets, where any assets over which the corporate debtor has ownership rights, including all rights and interests therein as evidenced in the balance sheet of the corporate debtor or an information utility or records in the registry or any depository recording securities of the corporate debtor or by any other means as may be specified by the Board, including shares held in any subsidiary of the corporate debtor.

Competition Act, 2002

“The definition of Group^[14] refers to either directly or indirectly, where two or more enterprises in which one enterprise competent to

1. Exercise 26% or more percentage of voting rights in other enterprises, as may be prescribed; or
2. More than 50% board of directors appointed as members to the other enterprises.
3. Management and affairs of the other enterprises are controlled.”

Sebi (Issue of Capital and Disclosure Requirements) Regulations, 2018

‘Group companies’ refers to those companies (apart from promoters and subsidiaries) with which related party transactions occurred during the period for which financial information is disclosed, in accordance with accounting standards as well as other companies that the issuer’s board considers material^[15].

Rbi Notification: Foreign Direct Investment In India

RBI issued a Notification No. RBI/2013-14/356 dated November 01, 2013, in which it has laid down the definition of ‘group company’^[16] as

“Group company means either directly or indirectly, where two or more enterprises competent to

1. Exercise at least 26% of voting rights of other enterprises; or
2. More than 50% of the directors on other company’s board should be appointed.”

Indian Accounting Standards 110- Consolidated Financial Statements

The term group consists of both the parent and its subsidiaries, where parent company denotes where one or more entities are control by a single entity, whereas subsidiary refers to an entity which is under the control of another entity. The group companies which have consolidated financial statements that represent the parent as well as its subsidiaries assets, liabilities, equity, income, revenue, costs and cash flows appear as if they were single economic entity^[17].

Ibfi Reports Consistent With Judicial Interventions Regarding Group Insolvency In India

Report Of The Insolvency Law Committee, March 2018

The committee was established in the year 2017, subsequent to the enactment of the Insolvency and Bankruptcy Code, 2016. On March 2018, the report was submitted to Insolvency and Bankruptcy Board of India (hereinafter referred to as ‘IBBI’). This report is headed by Injeti Srinivas, where through multiple recommended changes to investigate the ‘Group Insolvency structure’ this report was reconstituted. In the 16th Lok Sabha session, a Parliamentary debate was conducted on the Insolvency and Bankruptcy Code, 2016. It was pointed out that group companies addressing under the Insolvency laws is a complex subject matter. Since the insolvency law system now in place is new, it might seem too soon to address a complicated matter, the one in question. The code has no such mechanism for proceedings against entities under the umbrella by merging the holding, subsidiary and associate companies, which are in nexus to business. Since group company’s asset would significantly differ from that of the debtor company’s real asset, such mechanism like this might lead to efficient realization for creditors^[18].

The doctrine of piercing the corporate veil is discussed in the Report of the Insolvency Law Committee, where it states that “It was pointed out that the handing of group companies within the purview of insolvency law appear to be complicated. This issue may be addressed in the future once the present code is well established, whenever the corporate veil is lifted in insolvency, it may have a substantial impact on corporate debtors.”

Balancing the doctrines of separate legal entity and lifting of corporate veil

A company is a separate legal entity, which has its distinct arrangement of rights and obligations and is separate from its managers and shareholders. A key element of legal personality is the asset partitioning that ensures the division between the corporate and shareholder assets. However, in some point of time, when the corporate veil is pierced this separate legal personality among company and its shareholders are disregarded. Therefore, holding the shareholders personally liable for the corporate debts and evading from the limited liability protection^[19]. Thus, the individuals cannot escape from liability for their intentional wrongdoing gaining access through the corporate structure. An exception to the concept of separate legal personality is the doctrine of lifting or piercing the corporate veil.

Gower’s company law states that “There is evidence of a general tendency to ignore the separate legal entities of various companies within a group, and to look instead at the economic entity of the whole group”, an assertion that Lord Denning cited^[20]. In *Solomon v. A Solomon & Co. Ltd*^[21] case is based on the doctrine of separate legal entity. The House of Lords laid down that an incorporated company has a separate legal entity and clearly established the corporate veil between the company and its managements. While, recognizing the practical reality that a consolidated insolvency process benefits all stakeholders, as their resolutions can be consolidated before one court of law and combines assets can be utilized to the greatest advantage for the whole group.

Case: Arcelormittal India (P) Ltd. v. Satish Kumar Gupta^[22],

The rationale behind evolution of the corporate entity is for the stimulation and to promote the trade and commerce, neither to defraud the people nor to engage in any illegal activities that violates the law in force. Therefore, if the enforcement purpose of such corporate character reflects the commission of crimes or to deceive others. In this regard, the court would disregard the aforesaid corporate character, eventually concern about the interests of the parties involved and pass appropriate orders to do justice taking into consideration the reality behind the piercing of corporate veil. It is quite evident that AMNUIV, an LN. Mittal Group Company and Shri L.N. Mittal, an ultimate shareholder of AMIPL, the resolution applicant are one and the same. It becomes apparent that when both AMIPL and AMNUIV are managed, when the corporate veil of several companies is lifted.

The court held that though companies are distinct from its members, it is pertinent to determine who owns the corporate entity in circumstances concerning the resolution plans. Furthermore, the court decided to disregard such separate legal personality and to pierce the corporate veil, in cases such as statutory requirements, considering the public

interest, when the incorporation of company is to evade from the legal compliances. This principle extends to group companies, so that group's economic entity can be viewed as a whole.

Case: State Bank of India v. Videocon Industries Ltd Overview of the case^[23]

The Videocon case was the first case which dealt with the Group Insolvency, in which 13 out of 15 companies were approved for grouping together to initiate an insolvency process through the recognition of "Principle of substantial consolidation", this was the first instance, where the approval made the NCLT Mumbai Bench in the year 2019. The reason behind this to lay down the maximisation of asset value for the debtors under the IBC^[24]. The "Principle of substantial consolidation" implies that the adjudicating authority can combine the assets and liabilities of the several companies to group together in order to enter into an insolvency resolution process. This strategy seeks to protect the interests of the creditors, simultaneously gaining the fair value for the stressed assets of the group companies^[25].

Facts of the case

A petition was filed before the NCLT Mumbai Bench by a group of banks which is led by the State Bank of India (hereinafter referred to as 'SBI'), the common creditor, that requested the consolidation of 15 entities that constitute the 'Videocon group' into a single debtor. The reason was filing such petition is that, previously the creditor filed a separate CIRP petition against each of them, but it failed to attract bids failing to possess separate value or identity, due to their inability to pay as well as the intricate interdependence. Subsequently taking this into consideration the NCLT reviewed the earlier UK and US cases and after analysing the matter, found in favour of the consortium, thereby grouping 13 out of 15 companies, as the common debtor. The rest two companies named KAIL Ltd. and Trend Electronic Ltd. were excluded from grouping as they had their own excellent financial stability, they are not dependent on others for operation of their business. Eventually, the doctrine of substantial consolidation was emerged.

Issue raised in this case

Due to the lack of ability of the company to separate their assets and liabilities, it was challenging to determine their value as distinct entities owing to how interconnected their functions are. The existence of intercorporate guarantees on loans or the consolidated financial statements of the Videocon group, further verifies their dependency on one another. Thus, the question in issue is, whether such consolidation would be beneficial or detrimental?

Analysis of the case

The introduction of the doctrine in the Indian judiciary was made in the Report of the Insolvency Law Committee dated March 26, 2018 was applied in this case. The Bench presented two tests for consolidation, one being the existence of prima facie governing elements that are elementary in nature; the other, classification according to the above governing factors. Adopting the US Bankruptcy court's idea, the Bench has laid down 14 criteria, where their presence has to be verified. The 14 factors are

"common control, common directors, common assets, common liabilities, interdependence, interlacing of finance, pooling of resources, co-existence for survival, intricate link of subsidiaries, intertwined accounts, inter-looping of debts, singleness of economic units, common financial creditors and common group of corporate debtors."

Conclusion

In conclusion, considering the dispute in question i.e., the advantage of such consolidation. Even if the company satisfies the second test and is determined as self-sustaining and independent, still the decision should be made in favour of consolidation, if the benefit exceeds the drawbacks. Therefore, this doctrine aids in insolvency cases involving larger group companies, meanwhile maintaining equity through balancing corporate separateness of the entity.

Ibbi Report Of The Working Group On Group Insolvency

A Working Group established by IBBI on Group Insolvency under the Chairmanship of Shri UK Sinha, which submitted its recommendations dated 23rd September, 2019. In order to provide comprehensive and holistic framework, the Working Group has taken into account the UNCITRAL guide while developing the framework. Firstly, the Working Group defined the phrase "Corporate Group", according to ownership and control factors, as it recommended that the definition comprises of holding, subsidiary and associate companies too. Secondly, the working Group recommended incorporating a provision that would enable the operational creditors, financial creditors and corporate applicant of different companies to jointly apply to commence the CIRP under Sections 7,8 and 10 of the IBC. In addition to this, it also recommended that for the company's entire insolvency procedure, a single Adjudicating Authority (hereinafter referred to as "AA") to better to handle the case. However, the Report states that in circumstances where there is a conflict of interest say lack of resources or adverse impact on stakeholders, then several Insolvency Professionals can also be appointed. This process can be achieved only if there is adequate coordination and communication amongst all stakeholders.

Primarily, recommendations were made by the working group on group insolvency are^[26]

1. Procedural coordination being the first element, which comprises of three C's say, cooperation, coordination and communication among stakeholders during the insolvency proceedings of the group companies. procedural coordination does not consolidate the companies per se, but it is limited to the procedural aspects and complies with requirements like filing, coordinating and maintaining timelines of the companies involved.
2. Substantive consolidation being the second element, that allows the assets of the group companies to be consolidated under specific conditions. Substantive consolidation refers to the process where the separate legal personality is disregarded by way of combining multiple company's assets, liabilities and operations.
3. The third element would be laying down rules to address the troublesome behaviour of the group companies.

- The fourth element, being the nexus of connection among the companies, that can unite them to operate as a group company.

Among the 4 recommendations, the first phase i.e., the Procedural coordination should be initially applied. Only the companies among domestic groups can face insolvency proceedings are subjected to this Procedural coordination mechanism. This clearly indicated that the companies that are not defaulted or protected under the code, are not covered under this mechanism. These procedures coordinate the group companies in their insolvency proceedings, without interfering with each group company’s underlying claims of creditors and division of assets. This insolvency proceedings resulting in cost reduction and time savings compared to other traditional process. The fundamental measures to be satisfied are as follows^[27]

- Application for Insolvency has to be filed jointly by the group companies.
- Under IBC, amongst various Insolvency Professionals, NCLTs and CoCs, they must be exchange of information, collaboration and communication.
- Administration of Insolvency proceedings by a single adjudicating authority.
- For companies within a corporate group, there should be single Insolvency professionals
- Formation of Committee of Creditor for a group.
- Facilitating procedures for group coordination.
- The total duration of CIRP for group companies to be extended for a period of 420 days.

Depending on the manner in which the first framework was implemented, the second phase deals with the doctrine of substantial consolidation for the cross-border insolvencies. In the Insolvency process, with the objective to make the group companies to be treated as a single economic entity, this substantive consolidation is brought into force which happens to consolidate the assets and liabilities of multiple companies, as the name suggests.

The notion ‘Groups’ have become more progressively popular in organisational structure of business. A set of companies that are connected by shared control or economic dependencies to do business together or to achieve shared goals. Group Insolvency is not directly recognised by IBC, whereas the IBBI recognizes such concept under section 7, which consists of the word “Jointly” used by the adjudicating authority, thus the code triggering the financial creditors to file a case in group^[28].

Critical Analysis Of The Working Group On Group Insolvency

While the initiation of a Corporate Insolvency Resolution Process by a group of financial creditors against a single debtor could potentially be part of a larger group insolvency scenario, it doesn’t inherently qualify as such under the Insolvency and Bankruptcy Code (IBC) of 2016. A group insolvency situation under the IBC usually entails multiple entities within a corporate group experiencing financial distress. It often involves provisions for coordinating or consolidating insolvency proceedings across these entities to achieve a comprehensive resolution. Therefore, while the initiation of CIRP by a group of creditors against a debtor may contribute to a broader understanding of group insolvency, it doesn’t automatically meet the criteria set

forth by the IBC for such a classification under section 7 as specified by the Working Group on Group Insolvency.

Case: Axis Bank Limited, In re^[29]

Facts of the case

In this case, there are 8 applicants namely the Axis Bank Limited, L&T Infrastructure Finance Company Limited, Central Bank of India, Allahabad Bank, Corporation Bank, Asset Reconstruction Company of India Ltd., Karnataka Bank Ltd., and Union Bank of India are being the financial creditors of Lavasa Corporation Limited (hereinafter referred to as “LCL”) and its subsidiaries. This application seeks for the consolidation of insolvencies of LCL and its two wholly-owned subsidiaries, Warasgaon Assets Maintenance Limited (hereinafter referred to as “WAML”) and Dasve Convention Centre Limited (hereinafter referred to as “DCCL”). Additionally, seeks for the resolution of debts of Warasgaon Power Supply Limited (hereinafter referred to as “WPSL”) and Dasve Retail Limited (hereinafter referred to as “DRL”). The application prayed for the consolidation of LCL, WAML and DCCL and filing of a single consolidated resolution plan and its approval by each of the group entities.

- Under the Companies Act, 1956, LCL was incorporated and it comprises of 49 joint ventures and/or subsidiaries. Where the Maharashtra government approved to establish a hill station in 18 villages by the Urban Development Department in Pune.
- An agreement entered into dated 22.06.2012, where the WAML, the wholly-owned subsidiary of LCL was provided with the rights of assignment such as design, develop, engineer, procure, finance, construct, operate and maintain the transportation infrastructure/project facility and also to collect charges in Hill station by the LCL.
- An agreement entered between LCL and DCCL, the 100% subsidiary of LCL, was cancelled by the Resolution Professional owing to not duly stamped and registered. The purpose of maintaining the Dasve Convention Centre, DCCL was incorporated. DCCL has no financial creditors.

The CIRP for LCL began on August 30, 2018 and the Expression on Interest (hereinafter referred to as “EoI”) was first floated on Nov 13, 2018 with multiple extensions for submission until May 24, 2019. After substantial efforts, only three resolution applicants submitted plans for LCL.

Company	Commencement of CIRP	EoI floated	Status of Resolution Plan
WAML	December 17, 2018	May 24, 2019	No resolution plan has been received yet
DCCL	February 5, 2019	May 26, 2019	No resolution plan has been received.

Warasgaon Power Supply Limited (hereinafter referred to as “WPSL”) and Dasve Retail Limited (hereinafter referred to as “DRL”) are wholly-owned subsidiary of LCL. WPSL’s entire financial debt is admitted as LCL’s debt, and L&T Infrastructure Finance Co., a creditor of LCL, prefers resolving WPSL’s debt as part of LCL’s consolidated resolution plan. Similarly, DRL’s entire financial debt is admitted as LCL’s debt, and Central Bank of India, a

creditor of LCL, prefers resolving DRL's debt as part of LCL's consolidated resolution plan.

Issue raised in this case

The primary issue in this case is

1. Whether to consolidate the CIRP of LCL and its subsidiaries WAML and DCCL?
2. Whether to consolidate the debt resolution of LCL and its subsidiaries WPSL and DRL?

Analysis of the case

Considering the recommendations made by the Report of the Working Group dated January 17, 2019, this analysis is made. Group company's status not being insolvent, but it is heavily reliant on company or companies being resolved or debts being paid off. One of the subsidiaries of LCL is DSL, whose business is the retail sale of the properties of LCL, in the event when LCL becomes insolvent, the whole operation of DSL will cease. As a result, NCLT recognized the subsidiary's whole obligation as LCL's debt^[30]. In order to prevent risks that would result from fragmented insolvencies, NCLT combined the Lavasa group insolvencies. It is because the insolvency of subsidiaries is highly dependent on how the insolvency of parent company are resolved. NCLT noted the common control element among the various elements of control. Taking into account, the common features like common directorship, assets, and liabilities of the four entities, the NCLT held that the subsidiary companies are financially dependent on parent companies, so for their benefit, it consolidated the Insolvencies of the Lavasa group^[31].

Conclusion

The Order given by the Bench is

- Consolidation of CIRP of LCL and its subsidiary companies WAML and DCCL, all of which are undergoing CIRP.
- Though WPSL and DRL being subsidiaries, but they are not undergoing CIRP and have their debt resolution addressed as part of the consolidated resolution plan of LCL, subject to the decision of Committee of Creditors (hereinafter referred to as "CoC") of LCL, WAML and DCCL.
- Although WPSL and DRL are 100% subsidiaries of LCL, have L&T Infrastructure Finance Company Limited and Central Bank of India, respectively, as their sole Financial Creditors, these creditors have agreed to resolve their debt as part of the Consolidated Resolution Plan of LCL. The consolidated CoC of LCL, WAML and DCCL will have the authority to make an informed decision regarding the resolution of debts of WPSL and DRL.
- The Resolution Professional of LCL is appointed as the Resolution Professional for the consolidated CIRP of LCL as requested by the applicant and all the financial creditors of WAML, DRL, DCCL and WPSL.
- From the date of order is granted, a 60-day period is given for the completion of consolidated CIRP of Lavasa group.

Therefore, the NCLT Mumbai, finally consolidated the LCL, WAML and DCCL companies by initiating it as a group insolvency considering it would maximize the value

of the resolution, owing to the interlinkage of business model and operations.

Conclusion

In conclusion, the pandemic and the rise in insolvency have rendered the process of insolvency substantially more significant in terms of its strength and convenience of use. It has been observed that huge corporate organizations become involved in insolvency procedures, with separate lawsuits brought against each company of the group. This prolongs the procedures causing unnecessary delays and extends the overall settlement process. This negatively impact the stakeholders, especially the creditors. Therefore, even the IBBI reports suggest for grouping of the companies which facilitates prompt resolution. This is solely observed from the perspectives of creditors; however, this might be prejudicial to the other stakeholders of the companies involved.

In India, insolvency mechanisms with a number of concerted initiatives seems to be gradually progressing towards a verge of stable zone, where one of the barriers that are obvious to be the lack of dedicated framework for group insolvency. This group insolvency has two distinct aspects across the global level say, the Procedural coordination and the Substantive consolidation. At present, the process of group insolvency has been primarily evolving under the direction of courts owing to the absence of dedicated frameworks to govern. Apparently, this would be an appropriate juncture to amend the law and establish appropriate guidelines in this area. This topic is viewed as an extensive debate and brainstorming zone. Thus, it would be accurate to highlight the necessity for group insolvency that stands in the interests of the stakeholders. Despite the court exercising discretion and considering IBBI reports in their judgement, it is imperative to proceed with implementation of relevant provisions and legislative actions.

Therefore, I would like to strongly recommend that although the NCLT, NCLAT and Supreme Court have judicially interpreted their view to introduce the concept of group insolvency, it is imperative to formalize legal provisions that protect all stakeholders and ensure efficient resolution mechanism in India.

In this context, it is noteworthy that the Insolvency and Bankruptcy Code (Amendment) Bill, 2025 introduced in the Lok Sabha on 12th August, 2025. The main aim is to further amend the Insolvency and Bankruptcy Code, 2016. The Bill has addressed the concept of Group Insolvency incorporates a dedicated Chapter VA, where it empowers the Central Government to frame rules for "initiating proceedings for coordination and cooperation of corporate debtors of group." This reflects a significant policy shift towards institutionalizing group insolvency in India. The Researcher considers this as a progressive step that has potentially reduce the burden on the Adjudicating authority and to enhance the overall efficiency of the IBC resolution and insolvency proceedings.

References

1. Arcelormittal India (P) Ltd. v. Satish Kumar Gupta, 2 SCC, 2019.
2. Axis Bank Limited, In re, SCC OnLine NCLT 3484, 2020.
3. Solomon v A Solomon & Co. Ltd A.C. 22, 1897.

4. State Bank of India v. Videocon Industries Ltd., SCC OnLine NCLT 745, 2019.
5. Competition Act, 2002.
6. The Companies Act, 2013.
7. SEBI (Issue of Capital and Disclosure Requirements) Regulations
8. SEBI(LODR) Regulations
9. "Group Insolvency - Need of the Hour?" CDJ Law Journal, 2024. https://www.cdjlawjournal.com/articles_main.php?id=141
10. Manisha Arora, Raushan Kumar, India's Tryst with Cross-Border Insolvency Law : How Series of Judicial Pronouncements Pave the Way?, SCC OnLine Blog OpEd, 2021, 69. available at: <http://www.sconline.com/DocumentLink/3K144Oh1>
11. Naganathan Iyer. Cracking the Code: Demystifying Group Insolvency in India, JUS CORPUS L.J,2023: 3:710.
12. Pargendler Mariana. "Veil Peeking: The Corporation as a Nexus for Regulation" U. Pa. L. Rev,2020:169:717-781.
13. Poorna Poovamma KM, Abhishek Wadhawan. "Introduction of Group Insolvency Regime in India: Identifying the Challenges and Proposing the Solutions" NLIU LR, 2020, 254.
14. Ritisha Gupta, SBI V. Videocon Case: Doctrine of Substantial Consolidation, SCC OnLine Blog Exp, 2021, 2. available at: <http://www.sconline.com/DocumentLink/2ag08Es0>
15. Unnati Khanna. Analysing the Journey of Group Insolvency in India: An Inquiry into Codification-Related Considerations, INDIAN J.L. & LEGAL RSCH,2021:3:1.
16. Varada Jahagirdar, Sanjhi Agarwal. "Group Insolvency: Time to Stop Relying on the Judiciary to Fill a Legislative Lacuna?" RGNUL FIN. & MERCANTILE L. REV,2021:8:98.
17. Varada Jahagirdar, Sanjhi Agarwal. Group Insolvency: Time to Stop Relying on the Judiciary to Fill a Legislative Lacuna? RGNUL FIN. & MERCANTILE L. REV,2021:8:98.
18. Abhirup Dasgupta. "Group Insolvency Regime in India", HSA-Restructuring-Insolvency-Insights-Group-Insolvency-Regime-in-India.pdf (hsalegal.com) (last visited on), 2024.
19. Indian Accounting Standard (Ind AS) 110, <http://mca.gov.in/Ministry/pdf/INDAS110.pdf> (last visited on), 2024.
20. Injeti Srinivas, Report Of The Insolvency Law Committee, Ministry of Corporate Affairs, 2018. <https://www.bing.com/search?q=insolvency+law+committee+report+2018&qs=UT&pq=insolvency+law+committee&sc=7-24&cvid=1DCF3C56760147C58011B72906867982&FORM=QBRE&sp=1&ghc=1&lq=0&ntref=1>
21. UK Sinha. Insolvency and Bankruptcy Board of India, Report of The Working Group on Group Insolvency, 2019. <https://www.bing.com/search?q=ibbi+report+of+the+working+group+on+group+insolvency&form=ANSPH1&refig=f9bc9c17919d444ab42ff4ecfe69bffc&pc=HCT S>
22. RBI Notification No. RBI/2013-14/356 A.P. (DIR Series) Circular No.68 dated November 01, 2013, Foreign Direct Investment (FDI) in India – definition of 'group company', <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=8551>
23. Unnati Khanna, Analysing the Journey of Group Insolvency in India: An Inquiry into Codification-Related Considerations, INDIAN J.L. & LEGAL RSCH,2021:3:1.
24. Varada Jahagirdar, Sanjhi Agarwal. "Group Insolvency: Time to Stop Relying on the Judiciary to Fill a Legislative Lacuna?" RGNUL FIN. & MERCANTILE L. REV,2021:8:98.
25. Ritisha Gupta. "SBI V. Videocon Case: Doctrine of Substantial Consolidation" SCC OnLine Blog Exp, 2021, 2.
26. Definition of group from the Cambridge Advanced Learner's Dictionary & Thesaurus, <https://dictionary.cambridge.org/dictionary/english/group>
27. Definition of insolvency from the Cambridge Advanced Learner's Dictionary & Thesaurus, <https://dictionary.cambridge.org/dictionary/english/insolvency>
28. Naganathan Iyer, Cracking the Code: Demystifying Group Insolvency in India, JUS CORPUS L.J,2023:3:710.
29. Poorna Poovamma KM, Abhishek Wadhawan. "Introduction of Group Insolvency Regime in India: Identifying the Challenges and Proposing the Solutions" NLIU LR, 2020, 254.
30. P Ishwara Bhat. Idea and Methods of Legal Research, Oxford University Press (1st edn.), 2019.
31. The Companies Act, Section, 2013, 2(6).
32. The Companies Act, Section, 2013, 2(46).
33. SEBI(LODR) Regulations, Reg. 2(1) (zm); The Companies Act, Section, 2013, 2(87).
34. The Companies Act, Section, 2013, 2(11).
35. The Companies Act, Section, 2013, 129(3).
36. Competition Act, Explanation to section, 2002, 5.
37. SEBI (Issue of Capital and Disclosure Requirements)
38. Regulations, 2018, Reg. 2(1)(t)
39. RBI Notification No. RBI/2013-14/356
40. AP. (DIR Series) Circular No.68 dated November 01, 2013, Foreign Direct Investment (FDI) in India – definition of 'group company', <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=8551>
41. Indian Accounting Standard (Ind AS) 110, <http://mca.gov.in/Ministry/pdf/INDAS110.pdf> (last visited on April 11, 2024)
42. Injeti Srinivas, Report Of The Insolvency Law Committee, Ministry of Corporate Affairs, 2018. <https://www.bing.com/search?q=insolvency+law+committee+report+2018&qs=UT&pq=insolvency+law+committee&sc=7-24&cvid=1DCF3C56760147C58011B72906867982&FORM=QBRE&sp=1&ghc=1&lq=0&ntref=1S>
43. Pargendler, Mariana. "Veil Peeking: The Corporation as a Nexus for Regulation" U. Pa. L. Rev,2020:169:717-781.
44. Davies PL. (Paul Lyndon) Gower, Davies' principles of modern company law
45. Solomon v A Solomon & Co. Ltd A.C, 1897, 22.

46. Arcelormittal India (P) Ltd. v. Satish Kumar Gupta, SCC,2019:2:1.
47. State Bank of India v. Videocon Industries Ltd. SCC OnLine NCLT, 2019, 745.
48. Ritisha Gupta, SBI V. Videocon Case: Doctrine of Substantial Consolidation, SCC OnLine Blog Exp 2, 2021. available at: <http://www.scconline.com/DocumentLink/2ag08Es0>
49. Manisha Arora, Raushan Kumar, India's Tryst with Cross-Border Insolvency Law : How Series of Judicial Pronouncements Pave the Way?, 2021 SCC OnLine Blog OpEd 69, available at: <http://www.scconline.com/DocumentLink/3K144Oh1>
50. UK Sinha. Insolvency and Bankruptcy Board of India, Report of The Working Group on Group Insolvency, 2019. <https://www.bing.com/search?q=ibbi+report+of+the+working+group+on+group+insolvency&form=ANSPH1&refid=f9bc9c17919d444ab42ff4ecfe69bffc&pc=HCTS>
51. Abhirup Dasgupta. "Group Insolvency Regime in India", HSA-Restructuring-Insolvency-Insights-Group-Insolvency-Regime-in-India.pdf (hsalegal.com), 2024.
52. "Group Insolvency - Need of the Hour?" CDJ Law Journal, 2024. https://www.cdjlawjournal.com/articles_main.php?id=141
53. Axis Bank Limited, In re, SCC OnLine NCLT, 2020, 3484.
54. Unnati Khanna. Analysing the Journey of Group Insolvency in India: An Inquiry into Codification-Related Considerations, INDIAN J.L. & LEGAL RSCH,2021:3:1.
55. Varada Jahagirdar, Sanjhi Agarwal. Group Insolvency: Time to Stop Relying on the Judiciary to Fill a Legislative Lacuna? RGNUL FIN. & MERCANTILE L. REV,2021:8:98.