

Insolvency and bankruptcy code bill, 2021

July 28, 2021

In news- The Insolvency and Bankruptcy Code (Amendment) Bill, 2021 was introduced in Lok Sabha recently. It replaces the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021, which was promulgated in April 2021 and **amends the Insolvency and Bankruptcy Code, 2016.**

Key provisions of the bill-

- The Bill introduces **an alternate insolvency resolution process for** micro, small, and medium enterprises (MSMEs), called the **pre-packaged insolvency resolution process (PIRP).**
- Unlike CIRP, PIRP may be **initiated only by debtors** classified as an MSME under the MSME Development Act, 2006.
- During PIRP, the management of the company will remain with the debtor.
- The **application for initiating PIRP may be filed in the event of a default of at least one lakh rupees.**
- The central government may increase the threshold of minimum default up to one crore rupees through a notification.
- For initiating PIRP, **the corporate debtor himself must apply to the National Company Law Tribunal (NCLT).**
- The authority must approve or reject the application for PIRP within 14 days of its receipt.
- In order to apply for PIRP, the **debtor must obtain approval of at least 66% of its financial creditors** (in value of debt due to creditors) who are not related parties of the debtor.

- Before seeking such approval, the debtor must provide creditors with a base resolution plan.
- **A resolution plan must be approved by the committee (with at least 66% of the voting shares) within 90 days** from the commencement date of PIRP.
- The approved plan will be examined by the NCLT.
- If no resolution plan is approved by the committee, the termination of PIRP is initiated which will result in the liquidation of the corporate debtor.
- **The debtor will be provided with a moratorium** under which certain actions against the debtor will be prohibited.
- **During PIRP, the board of directors or partners of the debtor will continue to manage the affairs of the debtor.**
- At any time from the PIRP commencement date but before the approval of the resolution plan, the committee of creditors may decide (with at least 66% of the voting shares) to terminate PIRP and instead initiate ***Corporate Insolvency Resolution Process (CIRP)***.
- During CIRP, the affairs of the company are managed by the **resolution professional (RP)**, who is appointed to conduct CIRP.