

**Your Guide in Crisis**

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**Respected Governor,**

**Representation on behalf of MSME Sector with respect to recent announcement regarding enactment of "IBC"**

I am Dr. Visswas, a proud Indian meticulously and relentlessly working over the past 30 years for Restoration through Revival for the sick MSME Industry in the country, also an advisor to All India MSME Association and SME Chamber of India.

Respected Governor, refereeing to your press briefing dated 24<sup>th</sup> March 2020 specifically certain announcements made by you with regards to The Insolvency and Bankruptcy Code 2016 (IBC):

- 1. Threshold limit for default under IBC norms from Rs. 1 lakh to Rs. 1 Crore with immediate effect.**
- 2. Consider suspension of Section 7, 9 and 10 of the IBC for a period of six months.**

In respect of point no 1. I would like to state that increasing the threshold limit from 1 lakh to 1 crore will adversely affect the MSME sector as the operational creditors in IBC proceedings are largely MSMEs and that in a short span it has proved that it has been an effective tool for their recovery of dues. The low limit of One lakh was an empowerment to MSMEs who are normally ancillary or auxiliary unit to the corporates now this move will make those corporates more arrogant and insensitive to their responsibility to pay these small entrepreneurs on time. This will kill many MSMEs as these corporates will keep on hopping to new-new small enterprises and keep on killing them. This increase of threshold limit will become a privilege for the corporates to use IBC for their own vested purpose.

I think this suspension and the increase in the limits both are aimed to reduce the burden on the existing infrastructure of the implementation of IBC. This is not a proactive move. The more meaningful solution would be to provide more benches, more judges and better resolution mechanism. The purpose of IBC as envisaged was maximization of asset value through revival and retention of employment for the betterment of economy.

**SAVE SMEs, SAVE INDIA !**



Section 29A of the IBC bars MSME promoters who are classified as willful defaulters to participate in the CIRP process however it is observed that not many resolution applicants come forward for revival for MSME entities mainly as it is a promoter driven business and that the present system of declaration and classification of willful defaulter is autocratic, unilateral, arbitrary, irrational and unjustified procedure that needs to be revamped and is a separate subject all together where the Finance Ministry and Reserve Bank of India needs to revisit. Even if one is willful defaulter and if the promoter is ready to pay minimum 10% more than the liquidation value of the assets why he should not be excluded from 29A and allowed to revive the unit.

The MSMED Act empowers expeditious recovery through MSME Facilitation councils and tribunals however the same is not proving effectual in the present scenario.

I suggest that the Union Finance Ministry to consider the following recommendations:

- 1. The threshold limit should be Rs. 1 lakh for operational creditors under section 9 of IBC and Rs. 1 Crore for financial creditors under Section 7 of IBC to initiate Corporate Insolvency.**
- 2. The Government should focus's on creating additional infrastructure of more Benches, Tribunal Members and Judges.**
- 3. Introduction of a Conciliation process for a period of 3 months before the CIRP process starts and after the order is passed but before constitution of COC. Notify inclusion of partnership and proprietorship firms but pressing on conciliation so that there will be less burdens on the system with better results.**
- 4. Allowing defaulting MSME promoters to participate for submission of Resolution Plan in CIRP Process for self- revival provided they make minimum 10% more payment then liquidation value of the assets and who also undertake to retain the employments.**

I hope you will find the above suggestions prudent and will take note of the same. If clarity needed on the above it will be my pleasure to do so.

Yours Sincerely,  
(Dr. Visswas)

To: Respected Governor, RBI Central Office Building 18<sup>th</sup> Floor, SBS Road, Mumbai.