

Update on IBC in Indian Real Estate



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01 Share of Real Estate in Recoveries under IBC on the Rise



Share of Real Estate in Recoveries under IBC Rise to 18.8%





Real estate sector on a reported basis accounted for more than 50% of the total realizations under IBC.

However subsequent to release of data, a large key case went sub-judice following admission of an appeal before the Hon'ble NCLAT, resulting in **real estate sector accounting for 18.8% of total realizations under IBC.**

This compares very well to total realizations of 1.2% in the period between its inception in FY17 to September 2022. For details, refer our previous report titled **'IBC - Fresh hope for India's Real Estate Stakeholders'.**

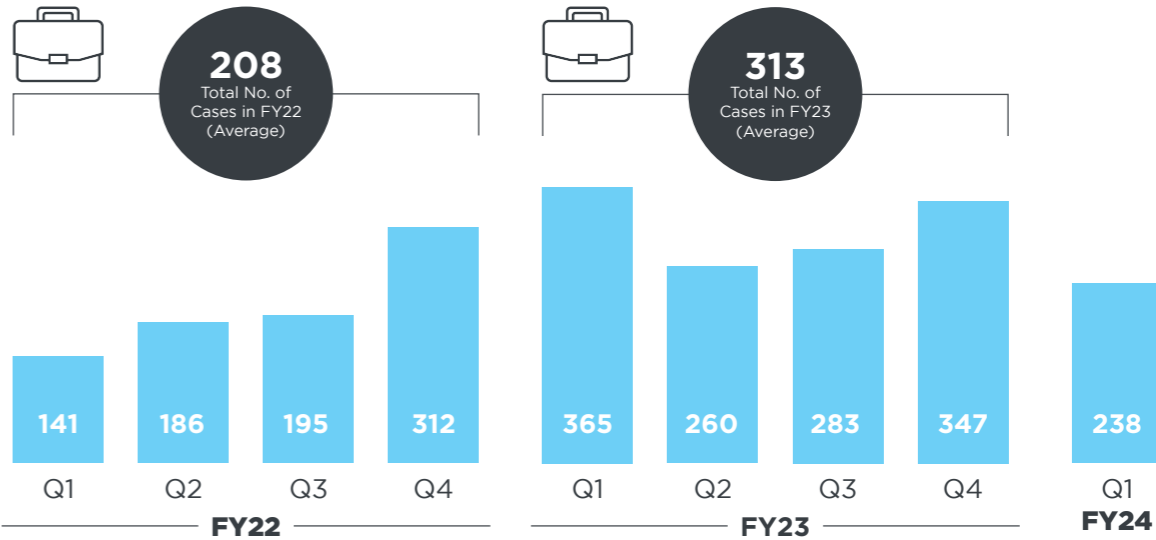
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Sector	Total Admitted Claims (TAC) (₹ Bn)	Liquidation Value (LV) (₹ Bn)	Realisable Value (₹ Bn)	LV /TAC (%)	Realisable /TAC (%)	Realisable /LV (%)
 Real Estate	377	207	257	55%	68%	124%
Real Estate excluding Jaypee Infratech**	146	30	54	20%	37%	180%
 Others	986	169	233	17%	24%	138%

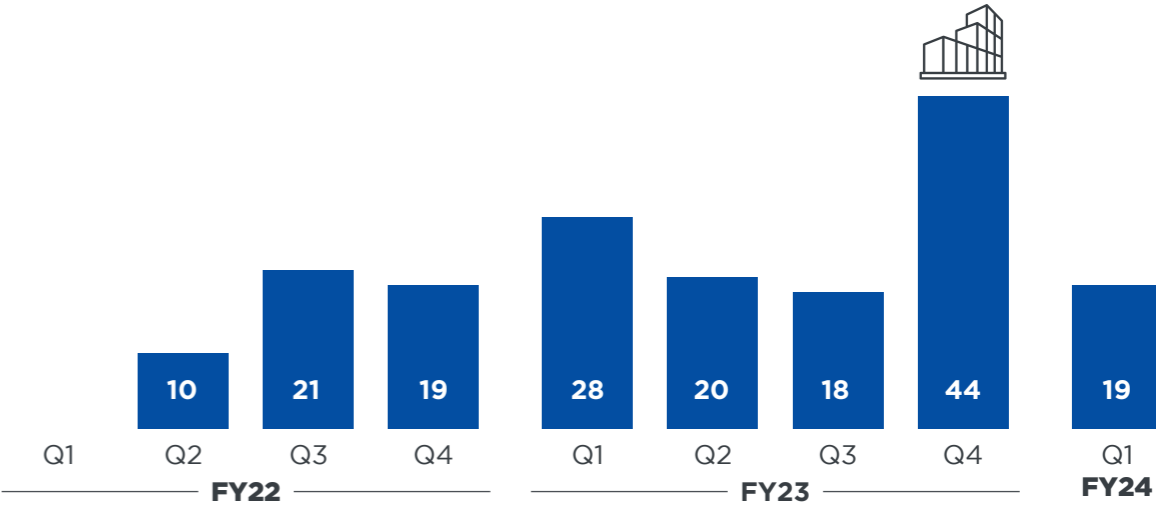
Period: Oct 2022 - June 2023
** Jaypee Infratech has gone sub-judice (for more details, please refer to page no. 27)

Number of cases admitted is on a rising trend

The **total number** of corporate insolvency resolution process ("CIRP") cases filed **has risen from an average of 208 each in FY22 to average of 313 in each quarter of FY23.** FY24 however has commenced on a weak note with 238 cases admitted overall in the first quarter.



Of these, **real estate cases have averaged about 18-20 in each quarter** between October 2021 and December 2022. However, **this jumped sharply in March 2023 to 44 (forty four) corporate debtors being admitted into CIRP.**



FY = Financial Year; starting 1st April until 31st March of the following year
Source: Insolvency and Bankruptcy Board of India, ANAROCK Capital Markets Research

Strengthening the Benches



One of the key reasons for prolonged delays in resolution of insolvencies has been the large numbers of vacancies in National Company Law Tribunals (“NCLT” or “Adjudicating Authority”).

With a view to strengthen the bench, the government has recently appointed 21 (twenty-one) members, which will take the bench strength closer to the sanctioned number of 63 (sixty-three). This is expected to reduce the delays faced in resolution of bankruptcies.



However, we also gather that the Mumbai bench has been changed. This is likely to result in delays in cases where judgments have not been reserved.

02 Proposed Amendments

Proposed Amendments

In January 2023, the Ministry of Corporate Affairs (“MCA”), vide its notice dated January 18, 2023 (“Notice”) invited comments from the public on changes being considered to the IBC. The **key changes being considered** largely are:



Mandatory admission of companies into CIRP

While the legislative intent behind IBC was that the Adjudicating Authority needed to merely determine the event of default in deciding the admission of a corporate debtor into CIRP, the Supreme Court in Vidarbha Industries Power Ltd. vs. Axis Bank Ltd. [(2022) 8 SCC 352] (“Vidarbha”) interpreted the use of ‘may’ in the Section 7(5) of the IBC to indicate that the Adjudicating Authority had discretion to admit or reject or keep the application in abeyance, despite existence of a default.

The discretion conferred on NCLTs in terms of Vidarbha was diluted by way of subsequent judgments of the Hon’ble Supreme Court in M. Suresh Kumar Reddy vs. Canara Bank [2023 SCC OnLine SC 608] wherein the Hon’ble Supreme Court clarified that its judgment in Vidarbha is limited to its own facts and unless there is a good reason to do so, the NCLT is required to admit an application under Section 7 of the IBC so long as the application is complete and that there has been an existence of debt and default over a sum of ₹1,00,000 (Indian Rupees one crore).



Timelines for admission of a company into CIRP

Section 7(4) of the IBC requires the Adjudicating Authority to ascertain the existence of a default within 14 (fourteen) days of the date of filing of the application. Subsequent to such ascertainment, the Adjudicating Authority shall pass an order in terms of Section 7(5) of the IBC admitting/rejecting the application. The Notice has proposed making amendments to Section 7(5) of the IBC to clarify that the period of 14 (fourteen) days mentioned hereinabove includes the passing of order to admit/reject the application under section 7.

In fact, recently on September 23, 2023, the CIRP Regulations have been amended in terms of which Regulation 2D has been introduced into CIRP Regulations. Pursuant to this new amendment, an application under Section 7 or 9 of the IBC is required to be accompanied by a detailed chronology of “debt” and “default” including the date when the debt became due, date of default, dates of part payments, if any, date of last acknowledgment of debt and the limitation applicable along with evidence. This demonstrates that Insolvency and Bankruptcy Board of India (“IBBI”) is taking necessary measures to ensure that “debt” and “default” are made expressly clear in the application to aid the adjudicating authority in expeditious disposal of applications for commencement of CIRP of a corporate debtor.

At this juncture, it is relevant to note that while the intent behind the proposed amendment is no doubt laudable, there may be practical challenges in enforcing the same. In many instances, the issue of whether there is a debt and default is a complex question of law and fact which is required to be patiently and holistically examined by the NCLT. In any event, the Hon’ble Supreme Court in the matter of Surendra Trading Company v. Juggilal Kamlatpat Jute Mills Ltd. and Others [(2017)16 SCC143], held that the prescribed period of 14 (fourteen) days in Section 7(4) of the IBC is only directory and not mandatory.





Statutory creditors to be treated at par with unsecured creditors

Section 3 (30) of the IBC defines ‘secured creditor’ as a creditor in favour of whom security interest is created. In the State Tax Officer v. Rainbow Papers Ltd. [2022 SCC OnLine SC 1162] (“Rainbow Papers”), the Supreme Court interpreted the definition of ‘secured creditor’ to hold that any charge created by operation of a statute would qualify as a ‘security interest’.

However, the MCA has observed in the Notice that the concept of security interest was intended to cover a consensual transaction between parties (and not any similar interest created through mere operation of a statute). Similar observations were also made by the Hon’ble Supreme Court in its recent decision in the matter of Paschimanchal Vidyut Vitran Nigam Ltd. vs. Raman Ispat Pvt. Ltd. [2023 SCC OnLine SC 842], where it observed that Rainbow Papers “has not taken note of the provisions of the IBC which treat the dues payable to secured creditors at a higher footing than dues payable to Central or State Government.”

In view thereof, MCA proposes to introduce necessary amendments to IBC to clarify that the definition of ‘security interest’ should be restricted to one created on account of a consensual transaction between parties and not through operation of law. Only where the security interest is created pursuant to a transaction of the Central Government or a State Government with corporate debtor, the Government in question will continue to be treated as a secured creditor in the order of priority.



Improving outcomes in real estate cases

Currently, the scheme of the IBC envisages insolvency resolution of a corporate debtor as a whole. However, in the context of real estate companies, such a framework may prove counterproductive. The Notice observed that this framework in the context of real estate companies would lead to a situation where even solvent projects are stalled post the commencement of CIRP of a corporate debtor where the default has only been in relation to an individual project.

To remedy these kinds of situations, in certain cases the Adjudicating Authority and National Company Law Appellate Tribunal, New Delhi (“NCLAT” or “Appellate Authority”) have exercised their discretion and passed directions to initiate project-wise CIRP of real estate companies (See Flat Buyers Association Winter Hills – 77, Gurgaon v. Umang Realtech Pvt. Ltd. through IRP and Others [2020 SCC OnLine NCLAT 1199]). In fact, NCLT – Jaipur in the matter of Rajputana Constructions Pvt. Ltd. vs. Rajasthan Land Holdings Ltd. [2021 SCC OnLine NCLT 8697] acknowledged that during insolvency resolution, certain situations require special methodology for greater protection of overall interests for instance, reverse CIRP in the context of real estate companies.

Hence, it is proposed that when an application is filed to initiate the CIRP in respect of a corporate debtor who is the promoter of a real estate project, and the default pertains to one or more of its real estate projects, the Adjudicating Authority, in its discretion, shall admit the case but apply the CIRP provisions only with respect to

such real estate projects, which have defaulted. Accordingly, such projects shall be recognised as distinct from the larger entity for the limited purpose of resolution. Additionally, while exercising its discretion pursuant to this framework, the Adjudicating Authority is required to consider the concerns of all stakeholders and the extent of defaults made by the corporate debtor and determine whether a particular case requires a comprehensive insolvency resolution against the entire corporate debtor or only a specific project or projects.

Further, it is currently observed that allottees may, during the course of a CIRP or a project specific resolution process, request ownership and possession of a completed unit of the real estate project. This is however not expressly permitted under the Code. Further, while a specific carve-out against the moratorium exists under Regulation 29 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (“CIRP Regulations”), it only permits sale of the corporate debtor’s assets (of value upto 10% of admitted claims against the corporate debtor) by the resolution professional (“RP”) with the prior approval of the committee of creditors (“CoC”) (> 66% majority), that too if the RP is of the opinion that such a sale is necessary for a better realization of value under the facts and circumstances of the case.

Accordingly, to cure this shortcoming, it is proposed to modify Section 28 to enable the RP to transfer the ownership and possession of a plot, apartment or building to the allottees with the consent of the CoC.



Treating operational creditors at par with unsecured creditors in liquidation

The recoveries made by operational creditors under liquidation are seemingly inadequate, even compared to unsecured financial creditors. Thus, an amendment is being considered that all unsecured creditors (financial creditors, operational creditors and any government or authority) other than the workmen and employees shall be treated equally for distribution.



Customised solutions for resolution of stress in real estate projects

As per recent newspaper reports, it appears that the Central Government appears to be in the process of making necessary amendments to IBC to enable “customised resolutions” of stressed residential real estate projects to ensure swift delivery of flats to homebuyers in stressed housing project.

In fact, the Notice also stipulates that real estate sector is one of the sectors which requires customised resolution frameworks to address the peculiarities of the market and all stakeholders’ concerns comprehensively. Further, the Notice also acknowledged that real estate sector is one of the sectors where insolvency involves myriad stakeholders and high-value companies with substantial public interest.

Keeping this in mind, the MCA is proposing to make amendments to the scheme of the IBC to exempt a class or certain classes of debtors from the applicability of the provisions of the Code or apply its provisions with certain exceptions, modifications and adaptations as may be specified in the notification, subject to procedural safeguards provided therein so as to enable corporate debtors in some sensitive sectors (including the real estate sector which has been specifically identified as an example in the Notice) to have “customised resolutions”.



Multiple/Partial resolution plans in respect of the same Corporate Debtor

Finding one resolution applicant willing to take over the corporate debtor in its entirety is difficult at times. Adding on to this difficulty, sometimes projects by a single developer are spread across multiple geographical locations making prospective resolution applicants (“PRAs”) reluctant to submit resolution plans.

Consequently, the corporate debtor gets pushed to liquidation, and there is substantial erosion in the value of its assets during the liquidation process. Similar quandary presents itself in the insolvency resolution of a company which conducts diversified businesses either by itself or through a network of subsidiaries. Necessary attempts are already being undertaken to remedy this issue.

In terms of IBBI (Insolvency Resolution Process for corporate Persons)(Fifth Amendment) Regulations, 2022 (“September Amendment”), Regulation 37(m) was added into CIRP Regulations which enables a resolution plan to allow for sale of one or more assets of corporate debtor to one or more successful resolution applicants submitting resolution plans for such assets; and manner of dealing with remaining assets.

Similarly, Regulation 36B(6A) of the CIRP Regulations enables the RP (with CoC’s approval) to reissue the request for resolution plan (“RFRP”), if no resolution plans are received based on the earlier RFRP which is for acquisition of the corporate debtor as a going concern.

In fact, in a recent decision in the matter of C.A M. Suresh Kumar, Resolution Professional of Hindustan Photo Films Manufacturing Company Ltd. [IA (IBC)/99/(CHE)/2023 in TCP/1/2021], the NCLT- Chennai, vide its order dated March 31, 2023 (i.e. passed after the issuance of Amendment Regulations) approved a resolution plan which proposed: (i) acquisition of certain assets of the corporate debtor; and (ii) subsequently liquidating the corporate debtor and its residual assets.

On a conspectus of these provisions, it appears that the Code is being gradually amended to allow for acquisition of certain assets of the corporate debtor under a resolution plan so long as the resolution plan also provides for treatment of residual assets of the corporate debtor in question.

In this regard, the Notice proposes to amend the Code as well to expressly clarify that individual or collective assets of the corporate debtor may be resolved in one or more resolution plans so long as at least one of the resolution plans provide for insolvency resolution of the corporate debtor as a going concern.



Mandating the use of a challenge mechanism

It is seen that several stakeholders challenge resolution plans after its approval leading to delays in implementation of the plan causing judicial delays. Further, such litigation can be value destructive for the corporate debtor, and disincentivise PRAs from submitting resolution plans in the first place.

Currently, by way of the September Amendment, Regulation 39(1A) has been introduced into the CIRP Regulations in terms of which the CoC “may” in its commercial wisdom conduct a challenge process for the maximisation of value of the corporate debtor in question. However, with a view to mitigate delays and value destruction, it is being considered that the scheme of the Code is suitably amended in terms of which the CoC may be mandated to transparently consider competing plans through an appropriately designed challenge mechanism.



Recommendations of the Committee constituted by Ministry of Housing and Urban Affairs

Recently, a committee constituted by Ministry of Housing and Urban Affairs submitted its report dated July 2023 (“Report”) making certain critical observations and suggesting key recommendations vis-à-vis companies in the real estate sector undergoing CIRP under IBC. Some of the key recommendations as set out in the Report are elucidated hereinunder:

a) the Report echoed the sentiments expressed in the Notice and recommended the project-wise CIRP of real estate companies as opposed to company-wise CIRP. The rationale expressed in the Report is that under the provisions of the Real Estate (Regulation and Development) Act, 2016 (“RERA Act”), the registration under RERA is project-wise. Accordingly, the CIRP of the corporate debtor also ought to be conducted project-wise;

b) the Report recommends introducing necessary amendments to the IBC to enable RPs to transfer the ownership and possession of a plot, apartment, or building to the allottees during the resolution process. It also recommends providing an option to the allottees to acquire such units on 'as is where is' basis or on payment of balance required to complete the unit during the CIRP;

c) the Report recommends that dwelling units which are under possession of allottees should not be included in the CIRP of the project; and

d) the Report also recommends the creation of 5 (five) additional fast-track benches at the NCLT, to expedite the cases including real estate cases. These benches should be created for a period of 3 (three) years and should dispose of all pending IBC real estate cases on a priority basis.

Disclosure on valuation estimate in Information Memorandum

Currently, the information memorandum (IM) shared with the potential resolution applicants do not contain the valuation estimates of the assets. It is felt that disclosing the valuation estimates in the information memorandum will improve the transparency and can potentially aid in obtaining superior resolution plans. Hence, it is being considered to amend Section 29 to require inclusion of the valuation estimates as part of the information memorandum.

Use of technology in the IBC eco-system

Currently the MCA, the Adjudicating Authority, the IBBI, information utilities and service providers operate on separate technological platforms.

Proposal to bring all of them on same platform will lead to better transparency, minimisation of delays, and facilitate more effective decision making.

Thus, there is a need for developing a state-of-the-art electronic platform, which can handle several processes under the Code with minimum human interface.

E-platform is proposed to provide following services – case management system, automated processes to file applications with the Adjudicating Authorities, delivery of notices, enabling interaction of IPs with stakeholders, storage of records of corporate debtor undergoing the process, and incentivising participation of other market players in the IBC ecosystem.

In this regard, National E-Governance Services Ltd., India's first Information Utility has also unveiled their new offering, an insolvency case management system that assist insolvency professionals in seamlessly executing all CIRP and liquidation process-related tasks in a time-bound manner.

Proposed Amendments to the IBC in 2023

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Mandatory admission of companies into CIRP



Timelines for admission of a company into CIRP

Statutory creditors to be treated at par with unsecured creditors



Improving outcomes in real estate cases

Treating operational creditors at par with unsecured creditors in liquidation



Customised solutions for resolution of stress in real estate projects

Multiple/partial resolution plans in respect of the same Corporate Debtor



Mandating the use of a challenge mechanism

Recommendations of the Committee constituted by **Ministry of Housing & Urban Affairs**



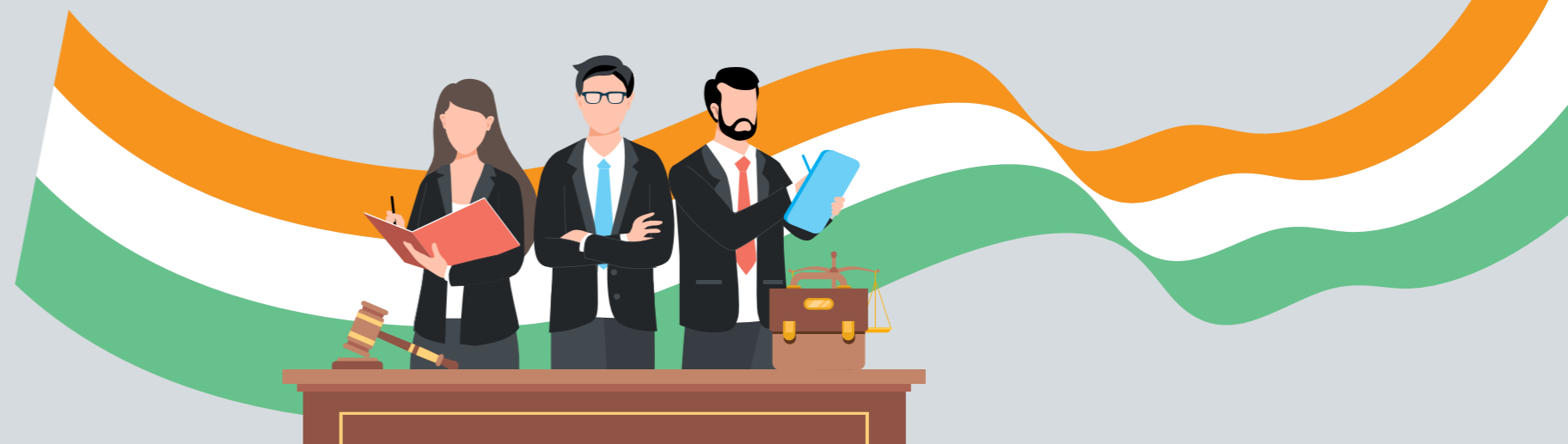
Disclosure on valuation estimate in Information Memorandum (IM)

Use of technology in the IBC eco-system



03 Updates on Key Cases pertaining to Real Estate in IBC

Key Cases* pertaining to Real Estate in IBC (Outlined in this Section)



2017

Jaypee Infratech
NCR
Aug 2017

Amrapali
NCR
Sep 2017

2018

Lavasa Corporation Pvt. Ltd.
Mulshi, Pune
Aug 2018

Shubhkamna Buildtech Pvt. Ltd.
NCR
Nov 2018

2019

Boulevard Projects Pvt. Ltd.
NCR
Feb 2019

Heera Construction Pvt. Ltd.
Goa & Kerala
Mar 2019

Dignity Buildcon Pvt. Ltd.
NCR
Apr 2019

D S Kulkarni Developers
MMR
Sep 2019

Crown Realtech
NCR
Dec 2019

2020

Emerald Land (1) Pvt. Ltd.
Ludhiana, Punjab
Jan 2020

Unitech
NCR
Jan 2020

Three C Homes Pvt. Ltd.
NCR
Aug 2020

KV Developers
NCR
Oct 2020

2021

Anudan Properties Pvt. Ltd.
MMR
Mar 2021

SARE Gurugram
NCR
Mar 2021

HBS Seaview Pvt. Ltd.
MMR
Aug 2021

Supertech
MMR
Sep 2021

Radius Estates
MMR
Sep 2021

City



* An indicative list only

Company
Location
Year of Admission into CIRP

Lavasa Corp. Ltd.

India’s first private hill station, Lavasa ran into financial difficulties and was admitted into CIRP in August 2018.

Resolution plans were initially submitted by 3 applicants - Divisha Real Estate Advisors LLP; Darwin Platform Infrastructure Ltd.; and Mr. Madhav Dhir, Ms. Shrishti Dhir & Dhir Hotels and Resorts Pvt. Ltd. However, Divisha Real Estate Advisors failed to make the EMD payment, while the bid of Dhir of ₹12.2 Bn was well exceeded by the bid of Mumbai based Darwin, which stood at ₹16.01 Bn.

However, the Hon’ble NCLT, Bench at Mumbai (“NCLT Mumbai”) directed the lenders of Lavasa Corporation Ltd. to consider an equitable distribution of proceeds from the sale of the township developer to winning bidder Darwin Platform Infrastructure Ltd.

The resolution plan of Darwin had provided for 20% of claims of secured creditors, 77% of claims of homebuyers, 0.05% for government dues, 59% for employees, and 0.45% for trade creditors. The NCLT Mumbai had stated that the current distribution of proceeds in Darwin’s resolution plan is not rational and equitable.

Mulshi, Pune
Location

Aug 2018
Admission into CIRP

The NCLT Mumbai referred to the Hon’ble Supreme Court’s order in Rainbow Papers, stating that secured creditors cannot secure their dues at the expense of statutory dues of the government or government authority.

Darwin’s submitted a revised resolution plan with total payments of ₹18.1 Bn over 9 years, providing 20.5% of the claimed amount to both secured creditors and the government. The modified resolution plan considering equitable distribution was approved by creditors with voting majority of 84.05%.

However, Union Bank (financial creditor) has sought withdrawal of approval for Darwin’s resolution plan, citing that Darwin’s resolution plan was based on valuation conducted in 2018, and that it does not consider the improved prospects in the industry. As a response, the RP has stated that “the whole process was carried out, as per the law, and with all the required approvals”.



D S Kulkarni Developers

MMR
Location

Sep 2019
Admission into CIRP

The insolvency process against DS Kulkarni Developers was initiated by Bank of Maharashtra in September 2019 after the developer failed to honour outstanding dues of ₹316.5 Mn.

In July 2023, the NCLT Mumbai approved Ashdan Developers-led consortium’s resolution plan. The consortium includes Ashdan Properties Pvt. Ltd., Classic Promoters & Builders Pvt. Ltd. and Atul Builders which was approved by 83.37% of the CoC members. Other bidders included Mantra Properties & Developers and a consortium led by Hemendra Shah.

The successful consortium proposes to make a payment of ₹10.8 Bn to secured creditors, unsecured creditors, and operational creditors over 8 tranches over a 7-year period.

The above plan value includes the flats to be given to homeowners against their claim amount.

Resolution Plan

Stakeholder	Amount Admitted (A)	Amount Provided Under the Plan (B)	B/A
Secured Financial Creditor	11.98	8.20	68%
Unsecured Financial Creditor (RE Allottees)	2.54	2.54	100%
Unsecured Financial Creditor	1.03	0.05	5%
Operational Creditors	2.50	0.02	1%
Other Debt & Dues	0.05	0	0
Total (₹ Bn)	18.10	10.81	60%

Case 3

Radius Estates

Adani Group, through Adani Good Homes had emerged as the sole bidder for the resolution of the bankrupt developer. As part of the resolution plan, Adani Good Homes had offered to complete the construction of the project at no additional cost to the homebuyers, while handing out a 96% cut to the lenders.

This plan was opposed by ICICI Prudential VC fund. The plea by ICICI was rejected by the NCLT Mumbai. Subsequently, ICICI Prudential VC fund, through Beacon Trusteeship has moved NCLAT to block Adani Good Homes' bid for Radius Estates.

At this point, the matter is still pending before the Hon'ble NCLAT.

MMR
Location



Sep 2021
Admission into CIRP



Case 4

Amrapali

The Amrapali case is a landmark case where the Hon'ble Supreme Court actively engaged in bringing together various stakeholders in trying to drive a solution for the beleaguered homebuyers.

However, the Court receiver has also been facing concerns of non-responsive homebuyers. A case in point was a recent report that indicated that homebuyers received a final notice to submit papers and take possession of the flats or face possible cancellation of allotments.

However, the project is facing a key hurdle in terms of paucity of funds where the court receiver is proposing to sell unused FAR to raise funds to complete the project – a proposal which is being contested by both homebuyers and the Noida/Greater Noida authorities.

NCR
Location



Sep 2017
Admission into CIRP



The matter continues to progress, albeit slowly, and with the active intervention of the Hon'ble Supreme Court.

Case 5

Jaypee Infratech

NCR
Location

Aug 2017
Admission into CIRP

CIRP was initiated against Jaypee Infratech Ltd. (JIL) in August 2017 following an application filed by a consortium led by IDBI Bank. Post multiple rounds, in June 2021, the resolution plan submitted by the Suraksha group received the approval of the CoC.

While the resolution plan was yet to be approved by the Hon'ble NCLT, Principal Bench at New Delhi ("NCLT PB"), the consortium lenders, except for ICICI Bank, assigned the ₹92.3 Bn loan extended to JIL to NARCL on January 21, 2023. NARCL's bid offer of ₹35.7 Bn failed to draw counterbids from any of the 9 PSU banks and lenders.

The NCLT PB, on March 7, 2023, subsequently approved Suraksha Group's resolution plan, dismissing the objections raised by Yamuna Expressway Industrial Development Authority ("YEIDA") and ICICI Bank.

ICICI Bank in its objection sought cash instead of the land offered in the resolution plan, while YEIDA (classified as operational creditor), sought ₹16.9 Bn as additional compensation payable to farmers from whom it had acquired land. Suraksha, however allocated only ₹1 Mn towards external development charges and ₹1 Mn claim towards additional compensation.

While YEIDA objected to the resolution plan, the NCLT PB, took the view that YEIDA being an operational creditor and the liquidation value of the Appellant being nil, there is no error in the allocation of payment of ₹1 Mn towards the claim of additional compensation.

Consequently, YEIDA appealed to the NCLAT against the judgment of the NCLT PB, only to the extent of rejection of its claims and not against the resolution plan in toto. YEIDA's appeal has been admitted by the Hon'ble NCLAT and is currently sub-judice.

Resolution Plan

Stakeholder	<div><div>₹</div><div>₹</div><div>₹</div></div>		
	Amount Admitted (A)	Amount Provided Under the Plan (B)	B/A
Secured Financial Creditor	97.83	77.37	79%
Unsecured Financial Creditor	128.36	95.92	75%
- RE Allottees	128.07	95.62	75%
- Fixed Deposit Holders	0.29	0.29	100%
Operational Creditors	4.64	0	0%
Other Debt & Dues	0	0	0%
Total (₹ Bn)	230.83	173.29	75%

Case 6

Supertech

In a departure from the procedure laid out, the Hon’ble Supreme Court had approved the resolution plan submitted by Supertech, which proposed that CIRP be restricted to a single project.

The Hon’ble Supreme Court also allowed the promoters to raise ₹16 Bn to complete its ongoing projects. Supertech had time till July 2023 to raise the said monies.

However, attempts at revival face uncertainty following measures by enforcement agencies. Currently, the committee of creditors is exploring ways to infuse capital into the company.

MMR
Location

Sep 2021
Admission into CIRP

Case 7

Unitech

A hand-picked board was constituted in January 2020 to navigate the company through the insolvency process. In February 2023, the Hon’ble Supreme Court allowed the company to submit revised layout and building plans for 10 projects.

The Supreme Court further directed the Noida authority to approve the revised layouts without insisting on the dues of ₹100 Bn upfront. The government constituted board was however amenable to paying the current rates as applicable to them under law.

Meanwhile, the homebuyers, grown weary for a decade-long wait and the apparent lack of progress have voiced grievances before the Hon’ble Courts asking for replacement of the government constituted board by a professional corporate group, priority hearings, refund of monies to homebuyers who are

NCR
Location

Jan 2020
Admission into CIRP

seeking a refund, haircut for authorities and lenders and access to SWAMIH funding to complete the projects.

Additionally, the homebuyers have also approached the Hon’ble Finance Minister for seeking an out of court settlement.

K V Developers

NCR
Location

Oct 2020
Admission into CIRP

Promoted by KV Group of companies, KV Developers went into CIRP in October 2020. Resolution plans were received from 3 Prospective Resolution Applicants (PRAs) and the Resolution plan submitted by consortium of Brijkishor Trading Pvt. Ltd. and Mr. Sumit Kumar Khanna was approved by the Committee of Creditors (CoC) with 100% votes cast in favor. The resolution plan provides for ₹1.84 Bn out of ₹2.04 Bn admitted and came to be approved by the Hon’ble NCLT, Bench at New Delhi (“NCLT New Delhi”).

Homebuyers will be given completed units against their claimed amount of ₹1.49 Bn over a delivery period of 15 to 42 months with a buffer of 12 months. Additionally, in this case the NCLAT has directed the successful resolution applicant to take note of the allottees’ flats as reflected in the balance sheet of the corporate debtor and not just the information memorandum and accordingly deliver flats to those allottees as well.

The lender in the project, KVD Wind Park at Greater Noida was LIC Housing Finance and the resolution plans details are as below:

Resolution Plan				
Stakeholder	Amount Claimed	Amount Admitted (A)	Amount Provided Under the Plan (B)	B/A
Secured Financial Creditors	0.51	0.51	0.35	70%
RE Allottees	2.35	1.49	1.49	100%
Operational Creditors	0.04	0	-	
Government	0.05	0.05	-	
Total (₹ Bn)	2.94	2.04	1.84	90%

SARE Gurugram

SARE Gurugram Pvt. Ltd. went into CIRP in March 2021 and saw total admitted claims of ₹21.13 Bn. The Secured Financial Creditors were Asset Care and Reconstruction Enterprise Ltd. and Alchemist Asset Reconstruction Company Ltd. apart from the 1,204 homebuyers.

The CIRP saw 6 PRAs putting in their bids, of which Eka Life Ltd., a consortium of KGK Realty and Dhoot Infrastructure Projects, put in the winning bid. Of the total admitted claims of ₹21.13 Bn, Eka Life's resolution plan provided for ₹9.9 Bn, which included the flats to be given to homeowners against their claim amount. The resolution plan of the consortium was approved by voting majority of 100% and was subsequently approved by the NCLT PB.

The project includes two land projects - both in Gurugram. One is a 49-acre project named "The Crescent Parc" with a development potential of 4 Mn sf residential space and the other a 17-acre project named "The Sports Parc" with a potential of 2 Mn sf.

NCR
Location

Mar 2021
Admission into CIRP

The Sports Parc is planned to be launched at the end of 2024.

During the CIRP period, the consortium became the development manager and began working on the SARE Gurugram project. On 29th April, 2023, the consortium obtained the occupation certificate (OC) for Phase 3, comprising 500 homes.

The amounts provided under the resolution plan is as follows:

Stakeholder	<div><div></div><div></div><div></div><div></div></div>			
	Amount Claimed	Amount Admitted (A)	Amount Provided Under the Plan (B)	B/A
Unsecured Financial Creditors (RE Allottees)	15.43	11.61	7.65	66%
Secured Financial Creditor	9.09	9.07	2.25	25%
Unsecured Financial Creditor	0.07	0.02	0	25%
Operational Creditors	0.28	0.19	0	1%
Other Debt & Dues	0.78	0.25	0	0%
Total (₹ Bn)	25.66	21.13	9.90	47%

It is pertinent to note that many stakeholders including excluded homebuyers and employees have appealed against the approval of the resolution plan before the Appellate Authority. The said appeal is pending.

HBS Seaview Pvt. Ltd.

MMR
Location

Aug 2021
Admission into CIRP

A residential project in South Mumbai was one more project that saw a successful resolution. Promoted by HBS Group, HBS Seaview Pvt. Ltd. went into CIRP in August 2021.

The project, HBS Marine View, located at Bhuleshwar had a total Floor Space Index ("FSI") potential of 7,572 m², of which 2,853 m² was approved and balance 4,719 m² was proposed.

The resolution plan submitted by Fanibhushan Build Tech Pvt. Ltd., a wholly owned subsidiary of Dosti Realty Ltd. was approved by 100% of the CoC voters and was subsequently approved by NCLT Mumbai.

The said resolution plan may be summarised as hereunder:

Stakeholder	<div><div></div><div></div><div></div></div>		
	Amount Claimed	Amount Admitted (A)	Amount Provided Under the Plan (B)
CIRP Cost		0.01	0.01
RE Allottees	0.94	0.73	^
Unsecured Financial Creditor	0.46	0.37	0.18
Operational Creditors	0.22	0	
Employee & Workmen	0	0	0
Other Secured Creditors	3.96	3.95	*
Total (₹ Bn)	5.57	5.07	0.19**

^ An area aggregating to 29,731 sf RERA Carpet Area in the sale building/s
* An area aggregating to 11,000 sf RERA Carpet Area in the sale building/s
** ₹192.4 Mn together with area admeasuring 40,731 sf RERA Carpet Area in the Sale Building

Anudan Properties Pvt. Ltd.

Anudan Properties Pvt. Ltd. went into CIRP in March 2021. The residential project, Silver Spring had a total FSI of 27,396 m², approved FSI of 24,980 m² and proposed but not sanctioned FSI of 2,415 m². Located at Thane, LIC Housing Finance was the lender to the project.

The resolution plans for the corporate debtor were submitted by 3 prospective resolution applicants viz KGK Realty (India) Pvt. Ltd., Ashdan Properties Pvt. Ltd. and NNP Buildcon Pvt. Ltd. and Aanya Real Estate Pvt. Ltd.

The resolution plan submitted by KGK Realty (India) Pvt. Ltd. was approved by 76.35% of the financial creditors and was subsequently approved by NCLT Mumbai. The resolution plan provided for ₹0.53 Bn out of total admitted claims of ₹2.27 Bn.

MMR
Location

Mar 2021
Admission into CIRP

Homebuyers will be given completed flats within 5 years or they can opt for a refund in the event they had assented to the plan. After NCLAT’s dismissal of the suspended director’s challenge against the eligibility of KGK Realty (India) Pvt. Ltd. to submit a resolution plan, no appeals against the resolution plan are currently pending.

The contours of the winning resolution plan are as follows:

Resolution Plan				
Stakeholder	Amount Claimed	Amount Admitted (A)	Amount Provided Under the Plan (B)	B/A
Secured Financial Creditor	1.58	1.58	0.50	32%
Unsecured Financial Creditor (RE Allottees)	0.24	0.23	0	0%
Unsecured Financial Creditor	0.23	0.17	0	0%
Operational Creditor	0.26	0.22	0	0%
Other Debt & Dues	0.07	0.07	0.03	37%
Total (₹ Bn)	2.38	2.27	0.53	23%

Boulevard Projects Pvt. Ltd.

NCR
Location

Feb 2019
Admission into CIRP

‘Delhi One’ is a mixed-use residential project, promoted by the 3C Group. Financed by Axis Bank and Piramal Enterprises, the project SPV – ‘Boulevard Projects Pvt. Ltd.’ went into CIRP in February 2019.

The resolution plan submitted by Max Estates Ltd., a wholly owned subsidiary of Max Ventures and Industries Ltd., was approved by 86% of the CoC voters and was subsequently approved by the NCLT PB. The resolution plan provides for ₹11.18 Bn out of ₹22.39 Bn admitted. Secured financial creditors will receive ₹1.58 Bn out of total admitted claims of ₹3.95 Bn.

As per the resolution plan, Max Estates Ltd. will deliver:

Office Tower B	22 months
Service Residential Apartment	40 months
Commercial Tower (for retail customers)	42 months

The said resolution plan may be summarised as hereunder:

Resolution Plan				
Stakeholder	Amount Claimed	Amount Admitted (A)	Amount Provided Under the Plan (B)	B/A
IRP Costs	-	-	0.07	-
Secured Financial Creditors	6.60	3.95	1.58	40%
RE Allottees	15.58	10.55	6.03	57%
Statutory Liabilities	-	-	0.13	-
Employees	0.01	0.01	0	21%
Operational Creditors	-	-	0.01	-
NOIDA Authority	9.45	7.88	3.26	41%
Others	-	-	0.10	-
Total (₹ Bn)	31.64	22.39	11.18	50%

Currently, Max Estates Ltd. has filed an appeal before the NCLAT, due to the NCLT PB’s refusal to grant certain reliefs as prayed for in its resolution plan. The said appeal is pending.

Dignity Buildcon Pvt. Ltd.

Dignity Buildcon Pvt. Ltd. is primarily engaged in the business of developing commercial towers in Golf Course Extension Road of Gurugram. The company went into CIRP in April 2019 upon an application filed by an operational creditor.

Resolution plans were received from 2 PRAs, of which the resolution plan of Experion Developers Pvt. Ltd. was approved by 99.73% of voting share and was approved by the NCLT New Delhi. The resolution plan provided for ₹ 4.5 Bn out of total admitted claims of ₹10.66 Bn. The plan proposed to make a payment of ₹4.45 Bn as upfront payment to the Secured Financial Creditors.

The overall resolution plan can be summarised as:

NCR
Location

Apr 2019
Admission into CIRP

Resolution Plan				
Stakeholder	Amount Claimed	Amount Admitted (A)	Amount Provided Under the Plan (B)	B/A
Secured Financial Creditor	9.46	9.46	4.45	47%
Unsecured Financial Creditor	1.46	0.61	0.03	4%
Operational Creditor	0.66	0.31	0.03	8%
Workmen & Employees	0	0	0	-
Other Creditors	0.91	0.27	-	0%
Total (₹ Bn)	12.49	10.66	4.51	42%

Emerald Land (I) Pvt. Ltd.

Ludhiana
Location

Jan 2020
Admission into CIRP

Emerald Land (I) Pvt. Ltd. was the project SPV for a 300-acre project at Ludhiana. Facing financial hurdles, it went into CIRP in January 2020. As part of the resolution process, the resolution plan submitted by UK based Malhotra Group PLC was approved by voting majority and secured the approval of the NCLT New Delhi.

The resolution plan provided ₹1.23 Bn out of total admitted claims of ₹3.54 Bn. Besides the realisations to the secured financial creditors, 270 homebuyers will completed units within 6-12 months from the license renewal date. There is also a provision of refund to homebuyers up to ₹0.32 Bn in case of any homeowners wishes to exit from the project.

Apart from payment to financial creditors, the company has proposed to infuse ₹0.8 Bn in tranches for completion of phase I of the project. It will also infuse another ₹0.65 Bn for completion of the golf course, club house, and community centre.

The overall resolution plan can be summarised as:

Resolution Plan				
Stakeholder	Amount Claimed	Amount Admitted (A)	Amount Provided Under the Plan (B)	B/A
CIRP Costs	-	-	0.07	-
Secured Financial Creditor	2.15	2.15	0.85	39%
Unsecured Financial Creditor (RE Allottees)	2.05	1.30	0.32	24%
Operational Creditors	0.34	0.07	0	0%
Workmen & Employees	0.05	0.02	0	5%
Total (₹ Bn)	4.58	3.54	1.23	35%

Heera Construction Pvt. Ltd.

Heera Construction went into CIRP in March 2019 and the resolution plan submitted by a consortium of Royal Heights Projects Pvt. Ltd., Antony Contracting Pvt. Ltd. and Vellapally Brothers was approved by 74.19% of voting members and has secured the approval of the NCLT Mumbai.

The resolution plan is valued at ₹1.88 Bn out of total admitted claims of ₹6.23 Bn. The Resolution Applicant propose to pay ₹0.1 Bn to the secured financial creditors out of total admitted claims of ₹1.04 Bn.

With respect to the 7 ongoing projects, the homebuyers shall not be eligible for any payment except any refunds mentioned in the resolution plan. The total cost of construction for the 7 projects are estimated at ₹1.59 Bn.

Goa & Kerala
Location

Mar 2019
Admission into CIRP

However, after considering the expected receipts from homebuyers and receipt on sale of unsold flats, total working capital to be infused by the resolution applicant is ₹0.6 Bn.

The overall resolution plan can be summarised as:

Resolution Plan				
Stakeholder	Amount Claimed	Amount Admitted (A)	Amount Provided Under the Plan (B)	B/A
Secured Financial Creditor	1.05	1.04	0.10	9.6%
Unsecured Financial Creditor (RE Allottees)	3.42	2.84	1.78	62.7%
Operational Creditor	3.22	2.16	0	0.2%
Other Debt & Dues	0.30	0.20	0	0%
Total (₹ Bn)	7.99	6.23	1.88	30.2%

Shubhkamna Buildtech Pvt. Ltd.

NCR
Location

Nov 2018
Admission into CIRP

Shubhkamna Buildtech Pvt. Ltd. was the project promoter for Shubhkamna City (Greater Noida) and Shubhkamna Tec Homes (Noida). The developer was backed by a consortium of lenders comprising PSU Banks and a private HFC. The said corporate debtor went into CIRP in November 2018.

As part of the CIRP, resolutions plans were received from 2 PRAs, one of which was the homebuyer's association and other by the Krish Group. The latter's bid was approved by CoC with a voting majority of 87.6% and came to be approved by the Hon'ble NCLT New Delhi.

The resolution plan provides homebuyers with units in 18 months for partially constructed towers and in 36 months for towers where construction was yet to begin.

It is pertinent to note here, that even after the approval of the resolution plan the successful resolution applicant sought a modification in the resolution plan for adding an escalation clause requiring additional contributions from the homebuyers for the completion of the project. Since the escalation clause was acceptable to the homebuyers, the Hon'ble NCLAT had endorsed the same.

Summary of the resolution plan:

Resolution Plan		
Stakeholder	Amount Claimed	Amount Admitted
Homebuyers	8.34	5.38
Secured Financial Creditor	0.32	0.32
Unsecured Financial Creditor	0.62	0.44
Operational Creditors	8.91	1.04
Workmen & Employees	0.01	0.01
Total (₹ Bn)	18.20	7.18

Three C Homes Pvt. Ltd.

Lotus City, promoted by “Three C Homes Pvt. Ltd.” ran into rough weather as the developer, went into CIRP in August 2020. The CIRP yielded 2 eligible PRAs who had submitted their resolution plans, of which the winning plan was submitted by Ace Infracity Developers.

The successful plan valued at ₹1.4 Bn was approved by the CoC with 100% votes and secured the approval of the NCLT New Delhi. The resolution plan offered 100% of the principal of farmer’s compensation (₹716.6 Mn), which is included in ₹1.73 Bn agreed to pay to YEIDA.

Further, the real estate allottees will get possession of 512 residential plots whose fair value is estimated at ₹2.11 Bn after being developed (against the total admitted claim value of ₹1.26 Bn).

NCR
Location

Aug 2020
Admission into CIRP

These plots would be developed and delivered to the allottees within 24 months. As per the resolution plan, refund of principal shall be allowed from case-to-case basis.

Crown Realtech

NCR
Location

Dec 2019
Admission into CIRP

Crown Realtech went into CIRP in December 2019. The resolution plan was submitted only by Crown Abacus IT Park Association which was approved by 96.38% of the financial creditors and was approved by the Hon’ble NCLT PB.

Crown Abacus IT Park Association is an association of about 225 Real Estate Allottees/Claimants/Financial Creditor of Crown IT Park and is registered as a society. The resolution plan provides ₹1.55 Bn out of ₹2.27 Bn admitted. The resolution plan proposes to complete the construction of towers B1 and B2, to accommodate the existing unit buyers whose claims have been admitted.

Outline of the successful resolution plan:

Resolution Plan	<div><div>₹</div><div>₹</div><div>₹</div></div>		
	Stakeholder	Amount Claimed	Amount Admitted (A) Amount Provided Under the Plan (B)
	Unsecured Financial Creditors (RE Allottees)	3.20	2.21
	Unsecured Financial Creditors	0.06	0.04
	Operational Creditors	0.03	0.02
	Employees & Workmen	0	0
Total (₹ Bn)		3.29	2.27

** The successful resolution applicant (SRA) proposes to target to complete the construction of towers B1 and B2, so as to accommodate the existing unit buyers whose claims have been admitted.

04

Appendices

APPENDIX A



Khaitan & Co is a top tier and full-service law firm with over 1,000 legal professionals, including 240 Partners and Counsel, and presence in India and Singapore. With more than a century of experience in practicing law, we offer end-to-end legal solutions in diverse practice areas to our clients across the world. We have a team of highly motivated and dynamic professionals delivering outstanding client service and expert legal advice across a wide gamut of sectors and industries.

OUR JOURNEY

The Firm was established in 1911 by Late Debi Prasad Khaitan, a member of the Constituent Assembly of India and one of the seven members of the Drafting Committee which framed the Constitution of India. Our foundation rests on the pillars of integrity, simplicity, dedication and professionalism, upholding our commitment of being a respectable law firm providing efficient and courteous service, to act with fairness, integrity and diligence, to be socially responsible and to enjoy life. We take pride in our steady growth over the decades, from our first office in Kolkata (1911) to setting up operations in New Delhi (1970), Bengaluru (1994), Mumbai (2001), and Chennai and Singapore (2021). As one of India's largest and prominent law firms, we celebrated our centenary year on 11th November 2011.

OUR CLIENT CENTRIC APPROACH

We serve clients across all practice areas such as foreign direct investments (inbound and outbound), mergers and acquisitions, insolvency and restructuring, private equity investments, joint ventures and collaborations, tax (direct and indirect), capital markets, white collar crime, real estate, infrastructure, employment, competition and anti-trust, intellectual property, banking and finance etc. The Firm's clientele has a blend of business and financial enterprises, government bodies, educational and charitable trusts, individuals, and estates.

OUR PEOPLE

Our team of legal practitioners possess deep expertise across diversified practice areas, sectors, international experience, robust subject-matter, and jurisdictional knowledge. Over the years, our Firm has attracted and retained some of the best legal talent in India to provide high quality legal counsel in all spheres of commerce and industry. In addition to offering a broad spectrum of legal expertise to clients, we also ensure personal attention, prompt, and quality service. Our teams across all offices collectively bring in their expertise and collaborate as one group when involved simultaneously in any transaction, thus catering to our clients' needs across the globe.

OUR VALUE PROPOSITION

To best serve our clients, and to build and maintain long-term relationships, we ensure:

- Timely and commercially viable solutions to complex business and legal issues
- An integrated and solution-oriented approach in our engagements
- Expert advice by a multifaceted group of specialised legal professionals with a blend of both international and Indian work experience
- Best practices by leveraging cutting edge technological support and knowledge management methods
- Global coverage through regular legal, regulatory, and procedural updates that are critical for clients

To know more about our Firm, visit www.khaitanco.com

APPENDIX B



At **ANAROCK Capital Advisors**, our dedicated team of experienced and trustworthy professionals understand and align your business goals with the best opportunities prevalent. Our unrivaled expertise lies in designing and executing investment strategies that provide superior returns for our clients.

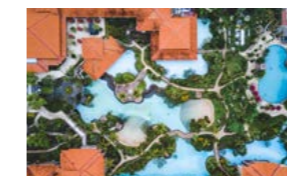
Our bespoke Real Estate Investment Banking solutions, not only **'Connect Asset to Capital'**, but ensure that your financial journey is seamless and hassle-free.

OUR SERVICES



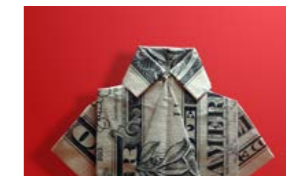
CAPITAL MARKETS

- Asset /Land Divestment
- Investment Sale
- Equity Raising (SPV)
- Equity Placement
- Fund Raising
- Portfolio Sale
- Buy Side Advisory
- Private Wealth Advisory
- REIT Advisory
- Alternatives / Shared Economies
- Joint Development (JD)
- Joint Venture (JV)
- Development Management (DM)



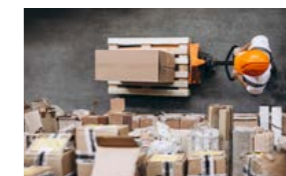
HOTELS & HOSPITALITY

- Transaction Advisory
- Consulting & Valuation
- Asset Management
- Executive Search



CORPORATE FINANCE

- Debt Advisory
- Stressed Assets Resolution Practice
- Buy Side Advisory
- Merger & Acquisition Advisory



INDUSTRIAL & LOGISTICS | DATA CENTRES

- Fund Raising
- Debt Finance
- Land Sale
- Asset Sale & Portfolio Sale
- Brokerage & Tenant Representation (Owner & Occupier Services)
- Buy Side Advisory
- Development Advisory
- Financial Feasibility & Asset Valuation

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To know more about our Firm, visit www.khaitanco.com

ANAROCK is India's leading independent real estate services company with a presence across India and the Middle East. The Company has diversified interests across the real estate lifecycle and deploys its proprietary technology platform to accelerate marketing and sales. The ANAROCK services suite includes Residential Broking & Technology, Retail (in partnership with Vindico), Commercial, Investment Banking, Hospitality (in partnership with HVS), Land Services, Industrial and Logistics (in partnership with Binswanger), Investment Management, Research, Strategic Advisory & Valuations and Project Management Services (in partnership with Mace), Flexi Spaces (in partnership with myHQ & Upflex) and Society Management Services (acquisition of ApnaComplex-India/ANACITY-EMEA). ANAROCK has a team of over 2,200 certified and experienced real estate professionals who operate across all major Indian and Middle East markets. ANAROCK also manages over 80,000 established channel partners to ensure global business coverage.

For more information, please visit www.anarock.com

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