

Ques: What was the need for an amendment of Insolvency and Bankruptcy Code (IBC) in India? Does the recent amendment supplement the real intent of IBC? Analyse.

IBC was enacted in 2016 for addressing problem of corporate debt in a time bound manner.

There are certain loopholes associated with IBC which needs to be addressed. Some of them are :-

- Finding buyers for stressed assets is sometimes difficult.
- Appointing independent & unbiased Insolvency Professionals is an issue.
- National Company Law Tribunal (NCLT) is already having pending cases, adding more cases is a tedious task.

In the original IBC, there was a possibility for defaulters to apply as bidders in the auctioning process. But it sometimes helps unscrupulous defaulters to submit resolution plans under IBC. ☹

A recent amendment is introduced to address the issue of unscrupulous defaulters. It's a good move but the category of people covered is too broad. For e.g.:- All loans that have become NPAs can be branded as default. This amendment defeats the real purpose of IBC, i.e., solving NPA problems. This argument can be justified on the premises of following arguments :-

- Not all bad loans are a result of intentional default.
- There are some unpredictable external factors that effects companies' finances. E.g.:- Effect on steel companies due to global slowdown.
- Barring such companies could potentially prolong debt servicing as the new management might take time to set in.