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DEATH OF THE FAST TRACK: WHAT THE REMOVAL OF FAST-TRACK INSOLVENCY MEANS FOR MSME DISTRESS RESOLUTION

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I. ABSTRACT

As the competition in the market is rapidly growing, the contribution of Micro, Small and Medium Enterprises (MSME) sector in employment sector is striking in the Indian's economy. But due to rapid increase in this sector, they usually face financial distress due to fluctuation in the market, late payments, increasing operating expenses and issues with credit availability. Therefore, to rescue these distressed MSMEs, Insolvency and Bankruptcy Code, 2016 plays a major role. The Chapter IV referred to as the Fast Track Corporate Insolvency Resolution Process (Fast Track CIRP) in Insolvency and Bankruptcy Code, 2016 provides provisions for corporate insolvency of such companies. But these provisions were poorly implemented in practice. Accordingly, following the legislative changes initiated through the Insolvency and Bankruptcy Code (Amendment) Bill, 2025 and enacted as the Insolvency and Bankruptcy Code (Amendment) Act, 2026, Chapter IV of Part II of the Insolvency and Bankruptcy Code, 2016, which contained the Fast Track CIRP framework, was omitted. The research paper analyzes the reasons for removal of the Fast-Track insolvency provisions and its impact on MSMEs. The paper also constitutes a comparative analysis of the legal framework for insolvency of small business in United Kingdom, United States and Singapore. The research concludes that there is no denying that the exclusion of Chapter IV in the Insolvency and Bankruptcy Code (Amendment) Act, 2026 does a significant favour to the statutory scheme by building a parallel process, which has become largely redundant, but the article has shown that the challenges that remain faced by MSMEs are unique, stemming from

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their limited financial resources, heightened sensitivity to procedural delays and disproportionate cost associated with the ordinary Corporate Insolvency Resolution Process (CIRP) proceedings.

II. KEYWORDS

Micro, Small and Medium Enterprises (MSME), Insolvency and Bankruptcy Code (Amendment) Act, 2026, financial distress, Fast Track Corporate Insolvency Resolution Process, Chapter IV of Insolvency and Bankruptcy Code, 2016.

III. INTRODUCTION

Micro, Small and Medium Enterprises (MSMEs) are an important component of the Indian economy, contributing to employment generation, industrial activity, exports and regional economic growth. Owing to their limited scale of operations and comparatively constrained financial capacity, they are especially vulnerable to financial distress arising from market fluctuations, delayed payments, increasing operating costs and difficulties in accessing timely credit.[3] In such a situation, when the MSME is going through financial difficulties, the prolonged insolvency process can lead to a loss of enterprise value, job creation, and business revival. Thus, key to the success of an insolvency mechanism for MSMEs will be the timeliness and cost-efficiency of the resolution mechanism as well as the legal strength of the mechanism.

In recognition of these concerns, the Insolvency and Bankruptcy Code, 2016 originally provided a separate corporate insolvency resolution mechanism under Chapter IV of Part II, known as the Fast Track Corporate Insolvency Resolution Process (Fast Track CIRP).[4] The Fast Track mechanism is developed for the smaller corporate debtors, including eligible MSMEs, as it provides for significantly reduced timelines while maintaining the fundamental spirit of value maximisation and corporate rescue as part of the standard Corporate Insolvency Resolution Process (CIRP). The law assumed that businesses with

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[3] Ministry of Micro, Small and Medium Enterprises, *Annual Report 2024–25* (Government of India); Reserve Bank of India, *Annual Report 2024–25*.

[4] Insolvency and Bankruptcy Code, No. 31 of 2016, §§ 55–58, India, as originally enacted/prior to omission.

simpler financial arrangements will be able to be cleared up timely, maintaining the economic viability of the business and minimizing process cost.

However, the Fast Track framework was poorly implemented in practice. Over time, concerns arose regarding its overlap with the ordinary CIRP, limited eligibility and minimal practical impact on insolvency resolution. These concerns were followed by legislative reform through the Insolvency and Bankruptcy Code (Amendment) Act, 2026, which omitted Chapter IV of Part II of the IBC, thereby removing the Fast Track CIRP from the statutory framework.[5]

This is a policy question that needs to be addressed with the removal of the Fast Track regime. The introduction of statutory simplification might result in losing an underutilised tool but simplify concerns that the current framework of insolvency is able to address the unique nature and requirements of financially distressed MSMEs. Smaller companies may now find themselves having to follow the same process as their larger corporate counterparts, which could extend the time and expense of the insolvency process.[6]

This article discusses the need for and later the withdrawal of the Fast Track Corporate Insolvency Resolution Process, its implications for the distress resolution of MSMEs, the emerging legal and commercial issues, and solutions that would help India's insolvency regime to remain viable for prompt and efficient rescue of small businesses.

A. Research Questions

1. What were the legislative objectives behind introducing the Fast Track CIRP, and why was it subsequently removed?
2. What are the legal, procedural, and commercial implications of its removal for MSMEs?

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[5] Insolvency and Bankruptcy Code (Amendment) Act, 2026, § 39, India; see also PRS Legislative Research, *Report of the Select Committee on the Insolvency and Bankruptcy Code (Amendment) Bill, 2025*, cl. 39.
[6] Insolvency and Bankruptcy Code, No. 31 of 2016, ch. IV (India) (prior to its omission).

3. To what extent can CIRP and PPIRP address MSME distress after the removal of Fast Track CIRP?
4. What reforms are required to ensure timely, affordable, and proportionate MSME insolvency resolution?

B. Research Objectives

1. To examine the rationale, functioning, limitations, and removal of the Fast Track CIRP.
2. To analyse its removal's impact on MSME insolvency resolution.
3. To evaluate the adequacy of CIRP and PPIRP for distressed MSMEs.
4. To suggest reforms for a more effective MSME insolvency framework.

IV. THE INTRODUCTION OF FAST TRACK CIRP: LEGISLATIVE RATIONALE AND OBJECTIVES

The Insolvency and Bankruptcy Code, 2016 was introduced with the vision of introducing a time-bound and creditor-driven insolvency regime aimed at maximising value of distressed assets while catering to the interests of all stakeholders. Given the fact that the financial conditions and business operations of corporate debtors vary, Parliament introduced a dedicated Fast Track Corporate Insolvency Resolution Process (Fast Track CIRP) under Part II of the Code under Chapter IV. The idea was that while large companies may need a relatively formal and cumbersome process, MSMEs and other smaller entities may need a streamlined and fast procedure.[7]

MSMEs can typically have fewer creditors, less complex debt structures, and less financial resources compared to large corporate entities. They frequently rely on the success of their businesses and the flow of cash.[8] Long, therefore, can be the duration of the insolvency proceedings, which can quickly lead to a loss of enterprise value, a disruption of business relationships, and a decrease in restructuring potential. Hence

[7] Bankruptcy Law Reforms Committee, The Report of the Bankruptcy Law Reforms Committee vol. I, at 15–22, 74–81 (2015).
[8] Ministry of Micro, Small and Medium Enterprises, Annual Report 2024–25 (Government of India).

Parliament acknowledged that delays, which may be acceptable for big businesses, can be lethal for small businesses. To address this concern, the Fast Track CIRP aimed at bringing the insolvency proceedings to a quick end that is well within the statutory deadline, thus keeping the debtor as a going concern as far as possible. This was encapsulated in the legislation with the introduction of Section 56 of the IBC which introduced a Fast Track CIRP facility of ninety days from the insolvency commencement date for an eligible corporate debtor. The timelines were significantly shorter than the timelines provided under the ordinary Corporate Insolvency Resolution Process (Chapter II), thereby emphasizing on speed and efficiency as the legislative intent.[9]

The eligibility to the Fast Track was deliberately limited to a class of corporate debtors that were notified by the Central Government. While the Code did not specifically include all MSMEs as Fast Track CIRP companies, the companies notified clearly overlapped with those businesses that run in the MSME sector and thus were of particular relevance to the financially distressed small businesses. The concept of the Fast Track regime was aimed at two things. One objective was to minimise the procedural costs, that is to say, the length of the insolvency proceedings as well as unnecessary delays. Secondly, it sought to save viable businesses that had been in trouble before they were so overdue to be turned around that it would be economically unfeasible. This is in line with the IBC's overall philosophy of resolution rather than liquidation and to maximise the benefit of the assets of the corporate debtor to the creditors, employees and others.[10]

The Fast Track mechanism was also based on internationally accepted insolvency principles, such as the notion that small businesses need proportionate insolvency procedures to suit their size and business circumstances. Although a uniform insolvency framework will address issues of procedural consistency, it could create unwarranted

[9] Insolvency Law Committee, Report of the Insolvency Law Committee (2020).
[10] Insolvency and Bankruptcy Code, No. 31 of 2016, §§ 56–58 (India) (prior to their omission).

compliance costs for smaller companies. Parliament has introduced a streamlined process for debtors eligible for the scheme to strike a balance between the procedural protections and commercial viability, so as to keep insolvency law accessible, efficient and responsive to the specific nature of MSMEs.[11]

While the FTCIR never saw much of the anticipated practical use, its enactment was a significant piece of legislation that helped introduce the understanding that insolvency resolution can't be treated as a one-size-fits-all. Rather, it acknowledged that the success of the insolvency regime relies, not only on legal clarity, but also on flexibility in its procedures, that will allow it to adapt to the wide variety of corporate debtors on a range of scales and across different industries.

V. THE WITHDRAWAL OF FAST TRACK CIRP: RATIONALE AND REGULATORY DEVELOPMENTS

The omission of Chapter IV of Part II is one of the most important structural changes brought by the Insolvency and Bankruptcy Code (Amendment) Act, 2026.The Fast Track mechanism was initially designed as a fast and fast manner for small sized company debtors but after nine years of its operation, it was found that it did not have its intended practical purpose as set out by Parliament. The removal is not just a legislative overhaul and streamline; it's a shift towards re-evaluating the financial survival of Micro, Small and Medium Enterprises (MSMEs).

When the IBC was introduced in 2016, Parliament envisaged that a shorter insolvency process would facilitate faster resolution for small businesses, start-ups and other eligible corporate debtors. However, the 2025–2026 legislative sequence ultimately resulted in the removal of this separate fast-track framework. There the resolution period was prescribed for 90 days with the condition that in exceptional circumstances it could be extended by a further 45 days, giving eligible debtors a maximum resolution period

[11] Fast Track Corporate Insolvency Resolution Process for Corporate Persons Rules, 2017, G.S.R. 644(E); Ministry of Corporate Affairs, Notification S.O. 1911(E), dated June 14, 2017 (specifying categories of corporate debtors eligible for Fast Track CIRP).

period of 135 days. It was assumed that companies with comparatively simple finances wouldn't need such an elaborate corporate insolvency resolution procedure as the ordinary Corporate Insolvency Resolution Process (CIRP). But, in practice, shorter statutory timelines did not necessarily lead to quicker and better resolutions.

The number of Chapter IV insolvency proceedings is extremely low, although this is available since 2017. The ordinary CIRP was clearly preferred by the insolvency professionals, financial creditors and the resolution applicants as the procedure for both the processes were largely similar. Other than the time limit, the Fast Track process was the same with the appointment of an interim resolution professional, constitution of the committee, invitation of resolution plans, verification of claims and adjudicatory process by the National Company Law Tribunal (NCLT). The difference in procedures between the two frameworks, therefore, was too fine to justify having two distinct statutory chapters.

The duplication of a procedural architecture was another important consideration. Legislatively, there was an unnecessary complexity in the law because there were two parallel insolvency regimes, which varied only in terms of timing. Both processes aimed at the same ends: liquidation of the corporate debtor as a going concern, maximisation of value and fair treatment of creditors and shareholders; and the procedural obligations on insolvency practitioners and the adjudicating officer were very similar. The Fast Track regime did not bring about any real procedural innovation but rather simply reproduced the ordinary CIRP, with its expedited timelines, sometimes hard to be achieved in practice.

The need for maintaining a separate Fast Track mechanism also got diminished in the evolution of the insolvency ecosystem. The legislature has passed various amendments to the regular insolvency regime in the last few years since the enactment of the IBC that seek to enhance efficiency under the regular insolvency regime. The amendments in the Insolvency and Bankruptcy Code have been made with a combined aim of speeding up the resolution process without mandating a specific insolvency resolution process for the resolution of smaller corporate debtors, while also enhancing the digital filing of the resolution plan, streamlining verification of claims, and minimising avoidable litigation. The most significant development of 2021 was the introduction of the Pre-Packaged Insolvency Resolution Process (PPIRP) for MSMEs under the Insolvency and Bankruptcy Code (Amendment) Act, 2021, which offered an alternative restructuring avenue for financially distressed MSMEs.

The PPIRP enables debtors and creditors to negotiate a resolution plan with reduced disruption to business operations and, therefore, may help preserve enterprise value in suitable cases. However, PPIRP cannot be treated as the only legislative response to the removal of the Fast Track CIRP, particularly because the Insolvency and Bankruptcy Code (Amendment) Act, 2026 simultaneously introduced a new Chapter IV-A providing for the Creditor-Initiated Insolvency Resolution Process (CIIRP).

VI. CREDITOR-INITIATED INSOLVENCY RESOLUTION PROCESS UNDER CHAPTER IV-A

The omission of Chapter IV must be read together with the insertion of Chapter IV-A, comprising sections 58A to 58K, which establishes the Creditor-Initiated Insolvency Resolution Process. CIIRP is designed as an additional, creditor-driven resolution mechanism for notified classes of corporate debtors and is intended to provide faster and more cost-effective restructuring with limited business disruption. Unlike the ordinary CIRP, which commences upon admission of an application by the Adjudicating Authority, CIIRP may be initiated by notified financial creditors upon default, subject to prescribed conditions and creditor approval.

Under the CIIRP framework, the Central Government is empowered to notify the classes of corporate debtors in respect of whom the process may be initiated. The framework also excludes certain debtors, including those already undergoing insolvency resolution or liquidation and those that have undergone an insolvency resolution process within the preceding three years. Initiation is available only to notified financial creditors and requires approval of at least fifty-one per cent in value of debt from eligible financial creditors. Before initiation, the corporate debtor is to be informed of the proposed action and given an opportunity to make a representation.

CIIRP also differs from ordinary CIRP in its management structure and timeline. It follows a hybrid debtor-in-possession and creditor-in-control model: the existing board of directors continues to manage the corporate debtor, while the resolution professional exercises supervisory oversight. The process must ordinarily be completed within 150 days and may be extended once by a maximum of 45 days with the approval of the Committee of Creditors. If the process fails, or if the prescribed conditions for continuation are not satisfied, the Adjudicating Authority may convert the CIIRP into an ordinary CIRP.

For MSME distress resolution, CIIRP is significant because it partly addresses the same concerns that originally justified Fast Track CIRP: delay, value erosion and excessive judicial involvement. Its shorter timeline, limited court intervention and continuation of existing management may help preserve going-concern value, especially for smaller enterprises whose value depends heavily on business relationships, goodwill and operational continuity. At the same time, CIIRP does not completely resolve the gap left by Fast Track CIRP. Its availability depends on notification of eligible debtor classes and notified financial creditors, and its creditor-initiation threshold may exclude MSMEs whose creditor base is fragmented or whose creditors are unable to coordinate effectively. Therefore, CIIRP should be analysed as a partial replacement mechanism rather than as a complete substitute for a simplified MSME insolvency process.

It is also important to note that, as of mid-2026, the practical operation of CIIRP remained dependent on subordinate legislation and regulatory implementation. IBBI's discussion paper records that the 2026 amendment created the statutory framework for CIIRP and that draft CIIRP Regulations were being prepared to give effect to the legislative intent and provide detailed procedural architecture. This pending operationalisation is directly relevant to the paper's reform analysis because the success of Chapter IV-A will depend not merely on its statutory insertion, but on timely notification of eligible debtor classes, clear procedural regulations and institutional readiness.

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It also seems that policy factors played a role in the act of legislation. The Government began to take a more permissive attitude to the use of statutory consolidation rather than to procedural proliferation. The aim was to reinforce a single insolvency procedure with uniquely additional instruments in specific types of debtors where they were needed, instead of having several insolvency procedures with overlapping procedures. In the current scenario, it was considered the Fast Track CIRP was of little practical utility and was a redundant mechanism in the insolvency regime.

However, the closure of the Fast Track regime should not be seen as a sign that the problems of MSMEs have come to an end. Rather, it is a result of the legislatures decision that the old system of fast-track insolvency was not yielding any tangible benefits. An important question is whether the current framework, which will be supplemented by the PPIRP and the procedural changes that will be implemented in the future, fills the gap created by the absence of Chapter IV. The final decision lies with whether or not the ordinary CIRP achieves the speed, cost and commercial flexibility that was the original objective of the Fast Track process.

VII. FAST TRACK INSOLVENCY AND ITS PRACTICAL IMPLICATIONS FOR MSMES

Fast Track Corporate Insolvency Resolution Process (Fast Track CIRP) is not mentioned in the revised Code, which has important practical consequences for Micro, Small and Medium Enterprises (MSMEs) as compared to larger corporate debtors, given their financial capacity, complexity in operations and their ability to withstand distress. The purpose of the law may have been to simplify the statutory provisions, but the lack of an expedited insolvency regime creates questions about the availability, efficiency and effectiveness of insolvency resolution for smaller companies. These impacts are not limited to the corporate debtor, but extend to the creditors, employees, investors and credit system as a whole.

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A. Increased Resolution Timelines

With the termination of the Fast Track regime, eligible MSMEs will have to go through the normal Corporate Insolvency Resolution Process as governed by Chapter II of the IBC. While the Code sets a maximum completion period of 180 days (plus 330 days in the event of delay during the process of litigation), in reality many insolvency proceedings are delayed by multiple adjournments, disputes regarding the claims, avoidance applications and review proceedings and last-minute court hearings.

Time is a very valuable commercial asset for MSMEs. Small businesses often rely on regular cash flows and long-term business relationships to thrive, whereas big companies have diversified activities and more financial reserves. The long insolvency procedure can thus damage the trust of customers, the continuity of suppliers, working capital and, ultimately, the viability of corporate rescue. Therefore, liquidation of the Fast Track mechanism could make it more likely for viable MSMEs to end up in liquidation without successful restructuring.

B. Escalation of Resolution Costs

The ordinary CIRP aspects are much more harmful for MSMEs than for large corporate debtors. Insolvency proceedings are accompanied with the appointment of Insolvency professionals, public announcement, verification of claims, valuation exercise, legal representation, adherence to procedural requirements and frequent hearing before National Company Law Tribunal (NCLT). These costs are considered "costs of the insolvency resolution process" and therefore, are paid in priority under the Code.

C. Reduced Prospects of Corporate Rescue

This may be a viable business expense in large dollar bankruptcies but it can be a significant business expense in smaller businesses. The longer the proceedings last, the higher the litigation costs and professional fees, the less will be recovered for the creditors and the less the corporate debtor will likely have to pay back. Without the expedited procedure, therefore, the formal insolvency may end up being an economically unattainable solution to many distressed MSMEs.

D. Erosion of Business Relationships and Goodwill

The IBC is essentially a resolution-oriented legislation and not merely a liquidation framework. However, the prospects of successful restructuring depend substantially on the speed with which financial distress is addressed. Delays may result in further erosion of asset value, loss of skilled personnel, cancellation of business contracts and deterioration of goodwill in the market. Much of the value of MSMEs lies in their customer relationships, supplier networks and local reputation; once these relationships are disrupted, the loss may be difficult to reverse.

The withdrawal of Fast Track CIRP may thus lower the chances of preserving MSMEs as going concern. The long delay in a commercial insolvency can make the commercial value of a business unattractive to potential resolution applicants. Under these conditions, liquidation becomes more of a reality rather than the Code's goal of value maximisation.

E. Impact on Operational Creditors, Employees and Small Suppliers

The impact on operational creditors, employees and small suppliers is also significant. MSMEs often maintain close commercial relationships with suppliers, transporters, service providers and contract workers. Many of these stakeholders are themselves small businesses whose financial viability depends on timely payment. However, prolonged insolvency proceedings may delay recoveries and create liquidity stress that can spread across connected enterprises.

Employees also face increased uncertainty during a prolonged CIRP. Although the moratorium under Section 14 protects the assets of the corporate debtor, an extended insolvency process may result in salary delays, job losses and reduced employment prospects. Since MSMEs are a major source of employment generation in India, delays in restructuring may produce wider socio-economic consequences beyond the insolvency process itself.

F. Consequences for the Credit Market

Lending behaviour is directly affected by the effectiveness of insolvency law. Financial firms consider both the risk of repayment and how effective legal recourse will be if they are not repaid. A long and costly insolvency system raises credit risk, especially with regard to MSMEs, which typically have little collateral.

Eliminating a special expedited mechanism could then impact smaller enterprises' access to credit. In response, banks and Non-Banking Financial Companies (NBFCs) might implement more stringent lending criteria, demand more collateral, or result in higher interest rates, etc. to offset the rising enforcement expenses. These developments would negatively impact the overall government initiatives for financial inclusion and access to credit for MSMEs.

G. Pre-Packaged Insolvency Resolution: An Effective Alternative to Fast Track CIRP?

The effect of the removal of the Fast Track scheme can be said to be partially reduced by the Pre-Packaged Insolvency Resolution Process (PPIRP). The PPIRP is a more expedient and debtor-friendly process for eligible MSMEs, as it enables restructuring with continued management control and reduced disruption to business operations. However, its practical effectiveness depends substantially on whether the debtor is able to secure the required support of unrelated financial creditors before formal commencement of proceedings.

This limitation, however, must now be assessed in light of the Insolvency and Bankruptcy Code (Amendment) Act, 2026, which reduced the creditor-approval threshold for initiating PPIRP from 66% to 51% in value of unrelated financial creditors. This reduction is significant because it directly addresses one of the principal concerns regarding PPIRP: the difficulty faced by distressed MSMEs in securing high levels of creditor consensus before entering the process. By lowering the approval requirement to a simple majority in value, the amendment may make PPIRP more accessible for MSMEs and improve its utility as a restructuring mechanism.

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VIII. COMPARATIVE PERSPECTIVE: SIMPLIFIED INSOLVENCY REGIMES FOR SMALL BUSINESSES

Solving the problems of Micro, Small and Medium Enterprises (MSMEs) insolvency is not a unique problem only faced in India. In multi-jurisdictional contexts, the policymakers have decided that traditional corporate insolvency laws impose unfair costs and processes for smaller firms. This has prompted several countries to establish special restructuring mechanisms which maintain the fundamental principles of insolvency law and develop the procedural aspects to reflect the economic needs of smaller businesses. The comparative experiences are helpful to gain insight into the policy implications of the removal of the Fast Track Corporate Insolvency Resolution Process (Fast Track CIRP) in India.

The United Kingdom has been taking a more flexible stance on corporate restructuring with various new restructuring tools provided by the Corporate Insolvency and Governance Act 2020 (the "CIGA 2020"). The United Kingdom has been moving towards a more flexible approach to restructuring with the introduction of new restructuring powers under the Corporate Insolvency and Governance Act 2020 ("CIGA 2020"), including a new standalone moratorium and restructuring plan. While not necessarily aimed at small businesses, these mechanisms help to keep out the barriers of procedure, and to promote negotiation and early restructuring before enterprise value becomes very low. Moreover, the administration of the rescue process is simplified and the courts display greater flexibility in allowing financially troubled smaller companies to seek a rescue without undue procedural hassles.

A more straightforward example is in the United States via Subchapter V of Chapter 11 of the U.S. Bankruptcy Code, enacted by the Small Business Reorganization Act, 2019. To accommodate the needs of small businesses, Congress established a specialized restructuring process that significantly reduces the costs and time of the Chapter 11 process, cuts down on creditor committee membership, speeds up the process, and preserves control of the business during the restructuring from the existing management.

The focus is on sustaining viable businesses whilst providing a fast and cost-effective resolution.

Likewise, Singapore has been increasingly making its own restructuring framework more business-friendly by overhauling its insolvency laws. The Insolvency, Restructuring and Dissolution Act, 2018 brings together insolvency procedures and creates a good amount of flexibility in the restructuring procedures for the courts, depending on the size and complexity of the debtor. The emphasis of the legislation is not on the development of several parallel insolvency regimes, but on streamlining procedures, promoting early restructuring, and lowering transaction costs for financially challenged enterprises.

What these jurisdictions have in common is that the treatment of small businesses is specialised, not by providing 'shorter statutory timelines', but by 'procedural simplification'. However, these are considered more effective than imposing inflexible deadlines, by themselves.Documentation and judicial intervention, creditor participation, debtor-in-possession provisions and early negotiated restructuring are regarded as more effective. This is a significant learning for India after the scrap of the Fast Track CIRP.[12]

Future reforms can be geared towards introducing the procedural simpler in the existing insolvency process for MSMEs rather than a new insolvency process which will be on par with the existing ordinary CIRP but will be compressed. This would maintain the simplicity of the legislation and guarantee the continuity of the restructuring mechanisms for smaller companies, in accordance with the international best practices.

IX. CASE LAW ANALYSIS: JUDICIAL APPROACH TO TIMELINES, CORPORATE RESCUE AND MSME INSOLVENCY

The principles that guided the introduction of the Fast Track CIRP in the Insolvency and Bankruptcy Code (IBC) – the principles of speed, value maximisation and corporate rescue – continue to influence judicial interpretation of the Code, albeit without the Fast

[12] Insolvency and Bankruptcy Code, No. 31 of 2016, ch. III-A (India).

Track CIRP itself being incorporated into the IBC. In all its decisions, the Supreme Court and the National Company Law Appellate Tribunal (NCLAT) have been consistent in upholding the need to strike a balance between procedural justice and commercial efficiency in the insolvency sphere. The decisions below demonstrate the judicial approach that will be considered when assessing the impact of abolishing the Fast Track system.

A. Swiss Ribbons Pvt. Ltd. v. Union of India: Resolution as the Primary Objective

In the landmark case of Swiss Ribbons Pvt. Ltd. v. Union of India, the Supreme Court determined the constitutionality of certain provisions of the IBC.[13] The petitioners raised, inter alia, objections regarding differential treatment given to financial creditors and operational creditors and some of the issues regarding corporate insolvency resolution framework.

The Supreme Court reiterated that the Code is not a recovery law, but a tool to revive failing companies, while confirming the constitutional validity of the Code. The Court noted that the main purpose of the Code is to ensure the preservation of the corporate debtor as a going concern rather than its liquidation. Liquidation was stated to be a remedy of last resort and should be used only if there was no commercial alternative to corporate rescue.Liquidation was portrayed as a remedy of last resort and would only be used if there was no commercial alternative to corporate rescue.

This is directly relevant to the current debate. The concept of a Fast Track CIRP is introduced for the sole reason of improving the chances of revival of companies if they are resolved in time. Now, with its removal, the question is whether the same can still be achieved through ordinary CIRP for MSMEs, for which the procedural delays can significantly impact its viability as a business.

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[13] *Swiss Ribbons (P) Ltd. v. Union of India*, (2019) 4 SCC 17.

B. The Committee of Creditors of Essar Steel India Ltd. vs Satish Kumar Gupta: Timelines and Commercial Wisdom

There was a lot of litigation in the Essar Steel insolvency before the NCLT, NCLAT and finally the Supreme Court. One of the primary problems was the involvement of the court in the commercial proceedings of the Committee of Creditors (CoC), and the definition of the statutory time limits laid down in the IBC.[14]

The Supreme Court reiterated that the commercial sensibility of the CoC is at the heart of the insolvency process and is normally not replaceable with judicial reasoning. At the same time, the Court reiterated that the statutory deadlines provided for in the Code are intended to ensure that the insolvency proceedings are concluded in a timely manner, in the interest of preserving enterprise value. While the Court acknowledged that delays in litigation sometimes are unavoidable, it emphasized that such delays should not jeopardize that basic goal of speedy resolution.

One of the key points that the judgment notes after the termination of the Fast Track regime. Timely completion is a key requirement of a successful judicial process under the ordinary CIRP, else it will be difficult for smaller firms to avoid the irreparable loss of value during the extended duration of a CIRP.

C. ArcelorMittal India Pvt. Ltd. v. Satish Kumar Gupta: Value Maximisation Through Effective Resolution

The dispute in ArcelorMittal was mainly about who is a resolution applicant under Section 29A of the IBC. The Supreme Court, in tackling the controversy, looked at the underlying philosophy of the corporate insolvency resolution code.[15]

The Court noted that while the purpose of the IBC is to recover debt, it also has a broader purpose of maximising asset value through a proper corporate restructuring process. Resolution plans should therefore be evaluated in the context of maintaining viable

[14] Insolvency and Bankruptcy Code (Amendment) Act, 2021, No. 26 of 2021 (India), inserting Chapter III-A (Pre-Packaged Insolvency Resolution Process).
[15] *ArcelorMittal India (P) Ltd. v. Satish Kumar Gupta*, (2019) 2 SCC 1.

businesses with the efficient use of productive assets. The Court reiterated that the process of insolvency should facilitate a genuine resolution of the corporate debtor by potential resolution applicants who have the ability to turn the debtor around. The Court stressed that the insolvency process should be conducive to a genuine resolution of the debtor in possession by the resolution applicant(s) who show the capacity to revive the corporate debtor.

The decision comes with significance for MSMEs. Small businesses often have intangible assets such as customer connections, specialized knowledge, and the reputation they've built in the local community. This value can quickly start to decline in the case of lengthy insolvency proceedings. The decision to abolish an expedited mechanism could, therefore, have a negative impact on the goal of value maximisation that was stressed in ArcelorMittal.

D. Justice Indira Banerjee's Approach to Procedural Discipline and Commercial Realities in Vidarbha Industries Power Ltd. v. Axis Bank Ltd.

In *Vidarbha Industries Power Ltd. v. Axis Bank Ltd.*, a Bench comprising Indira Banerjee and J.K. Maheshwari, JJ., considered whether every application under Section 7 of the IBC must necessarily be admitted upon proof of debt and default, or whether the Adjudicating Authority retains limited discretion in exceptional circumstances.[16]

The Court, through the judgment authored by Indira Banerjee, J., held that the use of the word "may" in Section 7 indicates that the Adjudicating Authority possesses a limited degree of discretion at the admission stage. The decision suggested that, in exceptional cases, commercial realities may be relevant while considering whether insolvency should automatically follow every instance of default. Subsequent legislative developments and judicial clarification have narrowed the practical scope of this discretion, but the case remains significant for its emphasis on commercial context in insolvency admission.

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[16] *Vidarbha Industries Power Ltd. v. Axis Bank Ltd.*, (2022) 8 SCC 352; Civil Appeal No. 4633 of 2021, decided on 12 July 2022, per Indira Banerjee, J. for the Bench comprising Indira Banerjee and J.K. Maheshwari, JJ.

This is important for MSMEs because their financial distress may often arise from temporary liquidity constraints rather than structural business failure. In the absence of a separate expedited resolution mechanism, a commercially sensitive approach becomes particularly relevant to ensure that viable MSMEs are not pushed into avoidable insolvency or liquidation proceedings

E. The importance of certainty and procedural discipline in Kalpraj Dharamshi vs Kotak Investment Advisors Ltd.

In Kalpraj Dharamshi, the case involved two resolution plans and the scope of intervention by the courts in the resolution process post the completion of the resolution process.[17] The Supreme Court restated the thrust of the Insolvency and Bankruptcy Code (IBC) to ensure clarity, fairness, and speed in the insolvency proceedings.[18]

The Court warned that after finalization of any stage of the CIRP, the same should not be reopened for just the emergence of an alternative commercial proposal. This would undermine the certainty required to draw in serious resolution applicants and would frustrate the goal of the insolvency proceedings being completed within the statutory framework.

This judgment is of special significance in the wake of the abolition of the Fast Track CIRP. For both large corporations and MSMEs to benefit from the ordinary insolvency process, there is a need for procedural certainty. Small businesses are disproportionately impacted by the constant litigation, constant challenges and delays required for commercial decision making.

F. Judicial trends and its implications to MSMEs

As seen in these rulings, there is a judicial philosophy evident in these decisions. The Supreme Court has reiterated that the IBC is a resolution-centric legislation, with the objective of maximising value through the timely resolution of distressed companies,

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[17] *Kalpraj Dharamshi v. Kotak Investment Advisors Ltd.*, (2021) 10 SCC 401.

[18] Insolvency and Bankruptcy Code, No. 31 of 2016, § 12 (India).

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keeping the interference of courts over business decisions to a minimum, and ensuring the procedural certainty of the players. None of these principles relied solely on the existence of the Fast Track CIRP. However, the absence of Chapter IV creates a certain practical impediment to the possibility of achieving these judicial goals in the regular CIRP, in relation to a financially distressed MSMEs.[19]

The jurisprudence therefore indicates that what is important is not the presence of separate procedures in the post amendment law but the ordinary CIRP should ensure speed, efficiency and commercial flexibility repeatedly advocated by the Supreme Court.

X. REASSESSING THE NECESSITY OF FAST TRACK CIRP FOR MSMES: IS THERE STILL A CASE FOR A DEDICATED FAST-TRACK REGIME?

The de-notification of the Fast Track Corporate Insolvency Resolution Process (Fast Track CIRP) has raised a lot of questions on the future of the insolvency resolution process in Micro, Small and Medium Enterprises (MSMEs). The amendment to the legislation streamlines the existing legal framework of the Insolvency and Bankruptcy Code (IBC) but also leads to some reasonable doubts as to whether the existing framework is sufficient to cater to smaller businesses. This rationale for the amendment is thus a compromise between administrative efficiency and the reality of MSME distress.[20]

One of the strong arguments in favour of the amendment is that the Fast Track CIRP was a failure to meet its objectives as applied in actual practice. The mechanism was available to corporate debtors but had been used in a few cases since its introduction in 2017. The primary reason was that the Fast Track process followed almost all the same procedure as the Ordinary Corporate Insolvency Resolution Process (CIRP) with the only difference being the timelines prescribed. Insolvency practitioners, creditors and the adjudicating authorities were thus forced to carry out two concurrent procedures, each of which had

[19] Insolvency and Bankruptcy Code, No. 31 of 2016, §§ 5(13), 30(2)(a), 53 (India).
[20] *Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta*, (2020) 8 SCC 531.

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many similar requirements. The legislature seems to have decided that the process is not being widely used and that it is not worth having a separate chapter for it, unless there is a corresponding benefit in practice.[21] The amendment has, in turn, done away with the Fast Track regime and replaced it with a creditor-driven insolvency resolution process for the notified categories of debtors, in line with a wider policy reform towards streamlining insolvency proceedings.

Moreover, the Pre-Packaged Insolvency Resolution Process (PPIRP) for MSMEs has brought a significant shift in the insolvency framework. While the Fast Track CIRP is a mechanism for consensual restructuring prior to the initiation of formal insolvency proceedings, the PPIRP will also help to achieve these goals, but without the risk of litigation. Policy-wise, a restructuring regime which relies on the cooperation between the creditors and the debtors could be more successful than the mere speeding up of the procedure, which would otherwise be similar to the ordinary CIRP.[22]

However, there are strong arguments against the elimination of the Fast Track. This is a distinction between the organisations, the financial resources and the insolvency ability of MSMEs and large corporate debtors. Their commercial value is often tied to their customer base, proficient workers and ongoing contractual relationships, leading into a swift deterioration during a lengthy insolvency proceeding. There is a risk of disproportionate compliance costs and higher chances of liquidation than restructuring of MSMEs if they are subjected to a process similar to that for large corporate debtors.[23]

Furthermore, the availability of the PPIRP doesn't rule out the need for a simplified formal insolvency procedure. A pre-packaged process works best when the debtor and financial creditors agree on the process. However, in many situations, especially if there are several creditors or if there is already a controversy, it may be impossible to reach such agreement. The ordinary CIRP is the only remedy provided by the law for these

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[21] Corporate Insolvency and Governance Act 2020, c. 12 (U.K.).
[22] Vanessa Finch & David Milman, Corporate Insolvency Law: Perspectives and Principles 420–35 (4th ed. 2023).
[23] World Bank, Principles for Effective Insolvency and Creditor/Debtor Regimes (2021 rev. ed.).

businesses. There may therefore be a regulatory vacuum for distressed MSMEs requiring judicial resolution, if the process to do so is not streamlined.[24]

Overall, it is fair to say that the abolition of the Fast Track CIRP seems like a valid move, in terms of legislative efficiency and statutory consolidation. The amendment, however, can be seen as being fully justified only in the context of an improved ordinary CIRP which will become a truly proportionate insolvency mechanism for smaller companies. Simplification should not just limit the number of statutory procedures but also the time, costs and the number of procedures involved in the insolvency resolution process. In the absence of those goals, the implementation of the IBC without Chapter IV could have a negative impact on the promotion of the rescue culture that the IBC was intended to foster.[25]

The real question is not whether the Fast Track CIRP should have been allowed to remain in its current form, but whether the legal changes that have been proposed to replace the Fast Track are likely to provide the same or better results for financially distressed MSMEs. The effectiveness of the insolvency framework which will replace the statute itself will be a key measure of the success of the amendment and not whether it simplifies the statute.[26]

XI. SUGGESTIONS AND RECOMMENDATIONS

The omission of the Fast Track Corporate Insolvency Resolution Process (Fast Track CIRP) should not be viewed as the end of simplified insolvency resolution for Micro, Small and Medium Enterprises (MSMEs). Instead, it should be treated as an opportunity to reshape India's insolvency framework in a manner that is efficient, proportionate and

[24] *Vidarbha Industries Power Ltd. v. Axis Bank Ltd.*, (2022) 8 SCC 352.
[25] PRS Legislative Research, Summary of the Insolvency and Bankruptcy Code (Amendment) Bill, 2025; Insolvency and Bankruptcy Code (Amendment) Act, 2026, No. 6 of 2026 (India).
[26] Small Business Reorganization Act of 2019, Pub. L. No. 116-54, 133 Stat. 1079 (codified principally at 11 U.S.C. §§ 1181–1195).

commercially viable. The following suggestions are proposed to address the legal and practical difficulties created by the removal of the Fast Track CIRP.[27]

A simplified MSME-specific process should be incorporated within Chapter II of the Insolvency and Bankruptcy Code, 2016, rather than creating another parallel insolvency chapter. The legislature may prescribe differentiated procedural requirements for corporate debtors that meet specified turnover, asset or liability thresholds. Such a framework may include shortened claim-verification processes, simplified documentation, fewer mandatory hearings before the Adjudicating Authority and standardised forms for routine procedural applications. This would reduce compliance costs while preserving the institutional structure of the existing insolvency regime.[28]

1. **Prescribe enforceable timelines for MSME insolvency proceedings**

It is equally necessary to introduce binding and enforceable timelines for insolvency proceedings involving MSMEs. The experience of the Fast Track CIRP demonstrates that procedural simplification alone is insufficient unless accompanied by meaningful time discipline. Accordingly, reforms should aim to reduce unnecessary adjournments, mandate e-filing of applications, claims and pleadings, restrict repetitive objections to procedural orders and ensure timely disposal of interlocutory applications by the National Company Law Tribunal. Stronger case management would help complete MSME insolvency resolution within a commercially reasonable period.[29]

2. **Strengthen the PPIRP as a practical restructuring tool for MSMEs**

The Pre-Packaged Insolvency Resolution Process should be strengthened as a primary restructuring mechanism for viable MSMEs. Although the PPIRP protects creditor interests, its commencement requirements may restrict access for many distressed enterprises, particularly where creditor consensus is difficult to secure. Legislative and regulatory reforms may therefore consider greater procedural flexibility, improved

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[27] 11 U.S.C. ch. 11, subch. V.
[28] UNCITRAL, Legislative Guide on Insolvency Law: Part Five—Treatment of Enterprise Groups and Simplified Insolvency Regimes for Micro and Small Enterprises (2021).
[29] Insolvency, Restructuring and Dissolution Act 2018 (No. 40 of 2018) (Sing.).

mediation mechanisms and institutional support for debtor-creditor negotiations, so that the PPIRP becomes a more accessible and effective restructuring option for MSMEs.[30]

3. Expand digitisation of MSME insolvency processes

Technology should form an integral part of MSME insolvency reform. Existing digital initiatives relating to information utilities and electronic filing should be expanded to include fully digital claim verification, virtual meetings of the Committee of Creditors, electronic voting, standardised resolution-plan templates and integrated online case management. Such measures would reduce transaction costs and improve access to insolvency resolution, particularly for MSMEs operating in non-metropolitan regions.

4. Build institutional capacity for MSME insolvency cases

Institutional support for insolvency professionals handling MSME cases should also be strengthened. Standard operating procedures, sector-specific guidance notes and specialised training programmes would promote consistency in the administration of smaller insolvencies. Regulators should also periodically assess empirical data relating to resolution timelines, recovery rates and outcomes in MSME insolvency matters. This would ensure that future reforms are guided by practical experience and evidence-based policymaking rather than formal legislative restructuring alone.

5. Preserve proportionality, affordability and early rescue as guiding principles

If adequate procedural safeguards are introduced alongside the removal of the Fast Track CIRP, the amendment need not weaken India's insolvency framework. A modern MSME insolvency regime should be proportionate, affordable and digitally enabled, while also encouraging early restructuring. These reforms must remain consistent with the core objectives of the IBC: timely resolution, value maximisation and preservation of economically viable enterprises.[31]

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[30] Ministry of Law, Singapore, Committee to Strengthen Singapore as an International Centre for Debt Restructuring (2016).
[31] Insolvency and Bankruptcy Code, No. 31 of 2016, § 54A (India).

XII. CONCLUSION

The Fast Track Corporate Insolvency Resolution Process (Fast Track CIRP) was an early acknowledgment of Parliament that MSMEs need a process to deal with financial distress that is proportionate to their financial size, is less costly and faster. The objective of the mechanism, which was to enable businesses to be rescued in a timely manner through an expedited resolution process, is at the heart of the philosophy of the Insolvency and Bankruptcy Code (IBC) and its mechanism has been used in a limited manner in practice.

There is no denying that the omission of Chapter IV of Part II by the Insolvency and Bankruptcy Code (Amendment) Act, 2026 simplifies the statutory scheme by removing a parallel process that had become largely redundant in practice. Simplification should not, however, be synonymous with insolvency resolution simplification. The article has shown that the challenges that remain faced by MSMEs are unique, stemming from their limited financial resources, heightened sensitivity to procedural delays and disproportionate cost associated with the ordinary Corporate Insolvency Resolution Process (CIRP) proceedings. The abolition of the Fast Track regime could instead make it more difficult to avoid the liquidation of viable companies, and even allow for corporate rescue, if these concerns are not suitably managed.

Experience from other jurisdictions like the United Kingdom, the United States, and Singapore illustrates that the best small business insolvency regimes do not simply feature quick turnaround, but also easier, quicker and less onerous processes and early small restructuring solutions. The Pre-Packaged Insolvency Resolution Process (PPIRP) for MSMEs is a significant step taken by India in this direction. However, in situations where there is no creditor consensus, the PPIRP is not an adequate substitute for a more streamlined formal insolvency regime.

It is not whether the Fast Track CIRP could have survived in its original form, but whether the new insolvency framework, after the amendments, can provide the speed, affordability and commercial flexibility envisioned by the concept of Fast Track CIRP. The future of a successful Insolvency and Bankruptcy Code for MSMEs will, therefore,

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require the incorporation of MSME specific procedural simplifications in the ordinary CIRP while simultaneously meeting the underlying purpose of the IBC of delivering a timely resolution, maximisation of value and fostering a strong corporate rescue culture. The 'death of the Fast Track' does not have to mean the end of expedient insolvency proceedings for MSMEs; it should be the beginning of a structured, streamlined, and proportionate framework that is suited to the changing needs of India's small businesses.

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