RETHINKING THE PRE-PACKAGED INSOLVENCY FRAMEWORK FOR MSMES IN INDIA: NEED FOR REFORM

ABSTRACT

The Pre-Packaged Insolvency Resolution Process (PPIRP), introduced in April 2021, into the Insolvency and Bankruptcy Code, 2016, was expected to act as an efficient and quick alternative to the Corporate Insolvency Resolution Process for micro, small and medium enterprises. However, five years on, the pre-packaged mechanism has seen very few cases getting admitted, indicating that legislative intent did not meet market reality. This paper analyses the root causes of low adoption, including restrictive eligibility, a promoter-skewed base resolution plan, over-dependence on NCLT, stakeholder hesitancy, and exclusion of operational creditors, and proposes feasible solutions for the same. Drawing on primary legislation, empirical research, NCLT decisions and scholarly writings, the paper argues that the recent 2026 amendments are not enough to tackle these problems, and that structured reforms are the need of the hour.

Keywords: *Pre-Packaged Insolvency Resolution Framework, NCLT, Insolvency and Bankruptcy, MSMEs*

INTRODUCTION AND BACKGROUND

The Micro, Small, and Medium Enterprise ("**MSME**") sector forms the backbone of the Indian economy, contributing to around 31% of India's GDP and providing employment opportunities to over 32 crore people across manufacturing, trade, and services.[1] Given the sector's outsized importance, it has consistently received support in the form of government schemes and policies for encouraging entrepreneurship and easing the process of setting up such enterprises.[2] However, this kind of support did not always extend in the same way for the process of closing or reviving a business in case of insolvency.

The MSME sector is especially fragile, and closure of any of its businesses due to insolvency results in large scale economic instability, impacting the owners' household finances,

[1] Press Info. Bureau, Gov't of India, Ministry of MSME, *MSME Sector Accounts for 30.1% of India's GDP, 35.4% of Manufacturing and 45.73% of Exports in the Country: Union Minister for MSME* (July 4, 2025), https://www.pib.gov.in/PressReleasePage.aspx?PRID=2142170&reg=48&lang=2, archived at https://perma.cc/P97Y-GUBR (last visited Oct 20, 2026).

[2] J. Suresh Kumar & D. Shobana, *Government Schemes and Policies for Promoting Entrepreneurship in India*, 13 J. Dev. Econ. & Mgmt. Rsch. Stud. 76 (2026).

community employment levels, and the ability to recover from future shocks or crises.[3] It was only in April 2021, in the aftermath of the COVID-19 pandemic, that an ordinance recognising the need for a faster, cheaper and less disruptive insolvency resolution process for MSMEs was promulgated. A Sub-Committee under the Insolvency Law Committee recommended a two-stage resolution structure: an informal negotiation phase between the debtor and its financial creditors prior to the filing of a resolution plan, followed by a limited and time-bound formal phase before the National Company Law Tribunal ("**NCLT**").[4]

Giving effect to these recommendations, the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021, promulgated on 4 April 2021, added Chapter III-A into Part II of the Insolvency and Bankruptcy Code, 2016 ("**IBC**")[5] to introduce the Pre-Packaged Insolvency Resolution Process ("**PPIRP**") as a better alternative to the existing Corporate Insolvency Resolution Process ("**CIRP**") under the IBC for MSMEs. Soon after, the Insolvency and Bankruptcy Board of India ("**IBBI**") also issued the Pre-Packaged Insolvency Resolution Process Regulations, 2021 ("**IBBI Regulations**")[6] to give operational effect to the procedures laid out under this new chapter. Yet, five years after the ordinance, the PPIRP framework of the IBC remains promising only on paper. Of the total 17 applications admitted, only 10 have been successfully resolved (with an average resolution period of 355 days), 6 remain pending, and 1 was withdrawn. [7]

This paper examines why the PPIRP did not work as planned, whether the 2026 amendments change anything, and what can be done to improve the situation. **Part I** of the paper outlines the governing framework of PPIRP under the IBC, the eligibility criteria, timelines, and key features. **Part II** examines its shortcomings: restrictive eligibility, a promoter-skewed base resolution plan, over-dependence on NCLT, stakeholder hesitancy, and exclusion of operational creditors. **Part III** compares this with the UK and US pre-pack regimes. **Part IV** assesses the

[3] Shradha Modi et. al., Ctr. for Fin. Inclusion, *The Precarious State of MSMEs: Understanding the Impact of COVID-19 and Opportunities to Support Their Recovery* (2021), https://www.centerforfinancialinclusion.org/brief/the-precarious-state-of-msmes-understanding-the-impact-of-covid-19-and-opportunities-to-support-their-recovery/, archived at https://perma.cc/ZNP5-Y7A2 (last visited Sep. 20, 2026).

[4] Insolvency Law Committee, *Report of the Sub-Committee of the Insolvency Law Committee on Pre-Packaged Insolvency Resolution Process* (Gov't of India, Ministry of Corp. Affairs, Oct. 2020).

[5] Insolvency and Bankruptcy Code (Amendment) Act, 2021, No. 26 of 2021, § 8 (India) (inserting Chapter III-A, §§ 54A–54P, into the Insolvency and Bankruptcy Code, 2016, No. 31 of 2016, India Code (2016)).

[6] Insolvency and Bankruptcy Board of India (Pre-Packaged Insolvency Resolution Process) Regulations, 2021, Notification No. IBBI/2021-22/GN/REG071 (Apr. 9, 2021) (India).

[7] Lok Sabha, Unstarred Question No. 3813, Ministry of Corporate Affairs (Gov't of India) (Mar. 16, 2026), http://sansad.in/getFile/loksabhaquestions/annex/187/AU3813_3TnFbA.pdf?source=pqals (last visited Sep. 20, 2026).

2026 amendments specific to the PPIRP. **Part V** recommends reforms by increasing operational creditor participation, fixing the base resolution plan problem, and reducing NCLT reliance.

I. Governing Framework: Understanding the Process and its Key Features

A. Eligibility and Pre-Initiation Stage

The PPIRP is available only to corporate debtors ("**CD**") classified as an MSME under the MSME Development Act, 2006, and applies where the default exceeds ₹10 lakh.[8] The process begins with the CD proposing a base resolution plan ("**BRP**") to its financial creditors before filing any formal insolvency application. It is only after the approval of the BRP by at least 66% (now 51%) of its unrelated financial creditors that an application before the NCLT for initiating PPIRP can be filed by the CD.[9] This informality before approaching the NCLT offers flexibility to the CD and its creditors to swiftly explore and negotiate the best way to resolve financial stress in the business, without the rigidity of a full-fledged adversarial process from the outset.[10] The private nature of the negotiations ensures that the company retains its market value[11] and maintains its reputation with its suppliers, customers, and investors.[12]

B. Admission and Tight Timelines

Once a PPIRP application is submitted, the NCLT must admit or reject it within 14 days. If the application is rejected, the NCLT must provide the CD with seven days to rectify those defects before resubmission.[13] Once the NCLT admits the application, a moratorium takes effect, and a Resolution Professional ("**RP**") is appointed to oversee the process through to completion.[14] The RP has a limited window of 120 days from the commencement date to see the process through. Within this overall period, the resolution plan itself must be approved by the committee of creditors ("**CoC**") and submitted to the NCLT within 90 days,[15] and the NCLT is then given a further 30 days to either approve or reject the plan under **Section 54L**.[16]

[8] Insolvency and Bankruptcy Code, 2016, §§ 4, 54A(1) (India); Micro, Small and Medium Enterprises Development Act, 2006, § 7(1), No. 27 of 2006, India Code (2006).
[9] Insolvency and Bankruptcy Code, 2016, §§ 54A(3), 54C(1) (India).
[10] Aparna Ravi, *Prepacks Under the IBC: A Tussle Between Speed and Fair Process*, *in* Insolvency and Bankruptcy Reforms in India 121 (Susan Thomas ed., 2022).
[11] M.P. Ram Mohan & Vishakha Raj, *Pre-Packaged Insolvency Regulation: What Can India Learn from the United Kingdom and the United States?*, 29 Am. Bankr. Inst. L. Rev. 231 (2021).
[12] Brian L. Betker, An Empirical Examination of Prepackaged Bankruptcy, 24 FIN. MGMT. 3, 7–8 (1995).
[13] Insolvency and Bankruptcy Code, 2016, § 54C(4) (India).
[14] Insolvency and Bankruptcy Code, 2016, § 54E(1) (India).
[15] Insolvency and Bankruptcy Code, 2016, § 54D(1)–(2) (India).
[16] Insolvency and Bankruptcy Code, 2016, § 54L(1) (India).

If no resolution plan is submitted within the 90-day window, the PPIRP is automatically terminated under **Section 54D**. The PPIRP is more time-sensitive than the CIRP. A CD would lose out on the very core advantage of the pre-pack if these timelines are not adhered to.[17] Within two days of PPIRP commencement, the CD must submit an updated list of claims with creditor details and a preliminary information memorandum to the RP, along with the base resolution plan. The RP must make a public announcement regarding the commencement under Regulation 19 of the IBBI Regulations[18] and perform duties under **Section 54F**.[19]

C. Debtor-in-Possession Model

While CIRP replaces the role of the board of directors with that of an interim resolution professional, PPIRP does just the opposite: the management of the affairs of the CD remains in the hands of its board of directors or partners at all times, under the supervision of the resolution professional and the committee of creditors.[20] The use of such a debtor-in-possession structure, which is more similar to Chapter 11 of the US Bankruptcy Code than to the UK administration regime, was a deliberate policy decision aimed at ensuring continuity of operations in small firms, where the departure of the promoters/management would lead to the loss of going-concern value.

II. SHORTCOMINGS OF THE PRE-PACK FRAMEWORK IN INDIA

A. Restrictive eligibility criteria

Firstly, the eligibility requirement of default being more than Rs. 10 lakh excludes debtors who might otherwise use the mechanism. While this might seem like a low amount, defaults of less than the threshold place many MSMEs in a lot of distress yet in a situation where they cannot get help till it worsens.[21] This completely undermines the purpose of the framework and the very enterprises that would stand to benefit from a business-friendly, promoter-led restructuring mechanism are excluded.[22] Secondly, though India has many MSMEs, not all of them are

[17] Ram Mohan & Raj, *supra* note 11, at 234.
[18] Insolvency and Bankruptcy Code, 2016, § 54E(1)(c) (India).
[19] Insolvency and Bankruptcy Code, 2016, § 54F(2) (India).
[20] Akash Srivastava, *Pre-Packs: A New Regime of Insolvency in India*, IBC Laws (June 23, 2020), https://ibclaw.in/a-detail-study-of-pre-packs-a-new-regime-of-insolvency-in-india-by-adv-akash-srivastava/, archived at (last visited Sep. 20, 2026).
[21] M.P. Ram Mohan & Sriram Prasad, *Lessons from Pre-Packaged Insolvency Cases in India: A Long Road Ahead* (Oct. 1, 2023) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4590500 (last visited Sep. 20, 2026).
[22] Ministry of Micro, Small & Medium Enterprises, Notification S.O. 2119(E),Gazette of India, pt. II, sec. 3(ii) (June 26, 2020) (New Delhi), https://d3u7ubx0okog7j.cloudfront.net/documents/2023-07-13_70_MSE_classification_SO_4926E.pdf , archived at https://perma.cc/E2A4-4C6Y (last visited Sep. 20, 2026).

correctly registered. Over 90% of MSMEs in India remain informal, with only 9% of registered firms having transitioned from unregistered status.[23] As a result, the framework applies only to a few businesses in the entire industry.

B. Reliance on the promoter's base resolution plan

Another major flaw in the PPIRP structure is its reliance on the resolution plan proposed by the promoter as its base plan which, in theory, is supposed to be outbid by competing bids through the use of Swiss Challenge bidding process that permits competing bidders to beat the base plan through outbidding.[24] However, this rarely works effectively since the whole system is heavily loaded in the promoter's favour. The third parties applying for the resolution have no access to all the financial details of the corporation, operational documents, and commercial knowledge as they are known only to the promoter owing to the control the promoter maintains over the company. Sometimes even Committee of Creditors do not know all the information about the company in question at the negotiation stage as pre-pack proceedings are conducted in a fast-track manner and in secrecy. The fact that the promoter stays "in possession" makes it almost impossible to replace his plan even if it is clearly suboptimal.[25]

C. Heavy reliance on courts

Although the pre-pack process is designed to operate primarily out-of-courts, the PPIRP framework in practice remains heavily dependent on the adjudicating authority, the NCLT. From approval of the PPIRP application, to the appointment of the insolvency professional overseeing the process, to the final adoption of the resolution plan, that is, every stage requires the NCLT's intervention. This can be a major cause of delay and a disincentive to use this framework.[26] The framework requires the NCLT to decide on admission within 14 days of filing. Of the 17 applications admitted so far, ten have been resolved; in these ten cases, admission took an average of 135 days in six and 79 days in the remaining four, a combined average of about 113 days, roughly eight times the prescribed limit.[27] The delay continues after admission: against a mandated resolution timeline of 120 days, these ten cases took an average

[23] NITI Aayog & Inst. for Competitiveness, Enhancing Competitiveness of MSMEs in India (2025), https://www.niti.gov.in/sites/default/files/2025-05/Enhancing_Competitiveness_of_MSMEs_in_India.pdf, archived at https://perma.cc/9QH6-EASP (last visited Sep. 20, 2026).
[24] Insolvency and Bankruptcy Board of India (Pre-Packaged Insolvency Resolution Process) Regulations, 2021, regs. 46–48 (India).
[25] Ram Mohan & Prasad, *supra* note 21, at 182.
[26] *Id.* at 187.
[27] *Id*. at 181 & 184.

of 355 days to resolve. Such delays undermine the very rationale for adopting a pre-pack mechanism, that is, speed and efficiency. By contrast, the UK's pre-pack framework is structured to be far less court-dependent, allowing for a genuinely faster resolution process.

D. Problems faced by stakeholders in utilising the PPIRP

There is also evident reluctance among MSME CDs/ stakeholders to take up the PPIRP route of IBC. Reports suggest that lenders tend to prefer a CIRP over a PPIRP, since a CIRP allows for a more competitive resolution process.[28] Also, promoters, particularly in the aftermath of COVID-19, often lacked sufficient funds to finance a base resolution plan, and consequently tend to favour attempts to sustain the company informally rather than initiate a PPIRP.

E. Exclusion of operational creditors

PPIRP limits pre-initiation approval and the CoC to financial creditors, leaving operational creditors outside the scope, which is illogical because MSMEs rely far more on operational credit in the form of trade credit, supplier credit, and unpaid vendor cycles than formal financial credit. The framers excluded operational creditors from the regular CIRP's CoC on the logic that sophisticated lenders would be better able to assess a restructuring than fragmented trade creditors.[29] This logic does not hold in the same way for MSMEs, which mainly rely on trade credit from other MSMEs that have a real stake in survival.

III. A COMPARATIVE PERSPECTIVE: UK AND US

A. The UK Perspective

UK's Insolvency Act 1986[30] provides for three formal routes of insolvency which include (1) company voluntary agreements, (2) administrative receivership, and (3) administration. India's PPIRP closely resembles the UK's informal "pre-pack administration", wherein an insolvency practitioner negotiates and reaches agreement on a sale of the company's business before he/she is appointed an administrator (similar to India's RP), so that the sale can be completed within hours of the appointment coming into effect.[31]

[28] *Id*. at 187.
[29] Vaibhav Gattani & Santosh Kumar, *Treatment of Operational Creditors under CIRP: An Unequal Playing Field?*, 8 Int'l J.L. Mgmt. & Human. 5054 (2025).
[30] Insolvency Act 1986, c. 45 (UK).
[31] Solventia Blog, *Proposed Pre-Package Insolvency in India and Conundrum of Connected Parties*, Ctr. for Insolvency & Bankr. Stud., (July 7, 2021) https://www.solventia.co.in/post/proposed-pre-package-insolvency-in-india-and-conundrum-of-connected-parties, archived at https://perma.cc/HNS7-KF4C (last visited Sep. 20, 2026).

Like India, in England too, administrators are mandatorily required to oversee the whole process of disposal of assets and are an indispensable part of the pre-pack, although this oversight does not extend to an independent inquiry into the sale, as held in ***Clydesdale v. Smailes***.[32] Next, the claims of the shareholders are not prioritised in the waterfall mechanism in both the countries,[33] and they are not allowed to make any commercial decisions regarding the resolution plan or sale of assets.

However, according to Schedule B1 of the UK Act,[34] the Administrator can dispose of assets without creditor approval, unlike the India model. Because this process bypasses creditor approval, concerns arose over transparency, especially in sales to connected parties. In response, the Insolvency Practitioners Association introduced Statement of Insolvency Practice 16 in 2009, requiring Administrators to disclose the purchaser, assets sold, sale price, and valuation method, and to justify why a pre-pack was chosen.

Continuing concerns led to the 2014 Graham Review,[35] which found persistent transparency gaps, particularly around sales to connected parties and repeat pre-packs. It recommended voluntary safeguards, including a "pre-pack pool" of experienced businesspeople to independently assess connected-party sales, along with better marketing and valuation standards. The UK Insolvency Act was also amended to let government regulate connected-party pre-packs, a power later revived and extended by the Corporate Insolvency and Governance Act, 2020.[36] However, a government review found the pre-pack pool was underused, prompting proposals for mandatory scrutiny of connected-party sales showing the pre-pack's gradual shift from informal practice to formal regulation in the UK.

B. The US Perspective

Chapter 11 of the US Bankruptcy Code handles corporate reorganizations and serves as the American equivalent to the corporate insolvency resolution process under the IBC.[37] It also provides one of the two pre-pack mechanisms available in the US, the other being found in

[32] Clydesdale Fin. Servs. Ltd. v. Smailes [2009] EWHC 1745 (Ch), [2009] BCC 810 (UK).
[33] Insolvency and Bankruptcy Code, 2016, § 53 (India); Insolvency Act 1986, c. 45, sch. B1 (UK).
[34] Insolvency Act 1986, c. 45, sch. B1 (UK).
[35] Teresa Graham, *Graham Review into Pre-Pack Administration: Report to the Rt Hon Vince Cable MP* (June 2014).
[36] Corporate Insolvency and Governance Act 2020, c. 12, § 20 (UK).
[37] 11 U.S.C. §§ 1101–1174 (2018).

Section 363(b) of the Bankruptcy Code.[38] The US, unlike India, prioritises the shareholders, requiring a two-thirds majority of them to approve the resolution plan under Chapter 11.

The role of the bankruptcy trustee (counterpart to India's RP and the UK's administrator) is limited in the US compared to India and UK. Appointing a trustee is not mandatorily required in most Chapter 11 or Section 363 pre-pack sales. The US framework does not rely as much on the courts either. The debtor in possession can sell all or substantially all of its assets outside the ordinary confirmation process, with only the permission of a bankruptcy court following a notice to the creditors. The court simply uses a checklist-style approach to reviewing the process without getting involved in the commercial negotiated decisions.[39] There is also no eligibility requirement like that found in the MSME Law, no threshold of a committee of creditors along the lines of the 66 percent majority requirement under the IBC and no analog to restrictions of Section 29A.[40] This largely explains why pre-packs have not emerged organically in India the way they have in the US.

IV. Recent IBC Amendments Enacted: A Missed Opportunity

A. Lowering the Voting Threshold to 51%

The Insolvency and Bankruptcy Code (Amendment) Act, 2026[41], given presidential assent on 6 April 2026, does address one long-standing criticism of the PPIRP: the supermajority requirement for creditor approval. The approval threshold for unrelated financial creditors has been reduced from 66% to 51%, applying both to voting for submission of application to NCLT to initiate process and to the appointment of the proposed RP. On paper, this closes that gap, but it remains to be seen whether this alone will be enough to overcome lender preference for CIRP, since the Swiss Challenge and information-asymmetry problems discussed in Section II(B) remain untouched.

B. The Creditor-Initiated Insolvency Resolution Process (CIIRP)

The more important change is insertion of Chapter IV-A[42] creating the Creditor-Initiated Insolvency Resolution Process ("**CIIRP**") whose eligibility of CDs is yet to be notified. It

[38] 11 U.S.C. § 363(b) (2018)
[39] Comm. of Equity Sec. Holders v. Lionel Corp. (*In re* Lionel Corp.), 722 F.2d 1063 (2d Cir. 1983).
[40] Insolvency Law Academy, *The Rise of Pre-Packs as a Restructuring Tool: Theory, Evidence and Policy* (2022) https://insolvencylawacademy.com/wp-content/uploads/2022/09/The-Rise-of-Pre-Packs-as-a-Restructuring-Tool_-Theory-Evidence-and-Policy.pdf, archived at https://perma.cc/W9XJ-4CH8 (last visited Sep. 20, 2026).
[41] Insolvency and Bankruptcy Code (Amendment) Act, 2026, No. 6 of 2026, India Code (2026).
[42] Insolvency and Bankruptcy Code (Amendment) Act, 2026, cl. 40, No. 6 of 2026, India Code (2026).

essentially gets triggered when a financial creditor in a notified class gets approval of at least 51% in value of such financial creditors after which the creditor has to inform the CD and allow at least 30 days for representation before proceeding with the process with management of the company remaining with the debtor subject to RP's oversight throughout. While this can ease eligibility restrictions for MSMEs, this was an opportunity to build the complete out-of-court mechanism that PPIRP had promised but never delivered. The other jurisdictions show what a genuinely court-light process looks like: pre-negotiated Chapter 11 plans in the US, and the UK's pre-pack administration, where an administrator is appointed with a buyer already lined up and the court's role is confined to a light-touch, after-the-fact check.

Instead, this remains an aspiration. According to the new amendment, the CIIRP must be completed within 150 days, extendable by 45 days by the NCLT upon a 66% CoC approval [43]making the NCLT still the gatekeeper for extensions and, in all likelihood, for approving the final plan and adjudicating disputes, exactly as it does under PPIRP today. Given the minimal number of cases filed for PPIRP in over 5 years, there was every reason for the legislature, and every opportunity within the same amendment, to cap or altogether remove judicial extension powers, impose automatic deemed-approval on lapse of the timeline or route routine approvals through the RP and CoC alone, reserving the NCLT strictly for genuine disputes. Yet none of this was done.

V. RECOMMENDATIONS: A WAY FORWARD

Recommendation 1: Extending Participation Rights to Operational Creditors

This paper does not recommend giving operational creditors full control outright in taking all decisions for the MSMEs as this could replicate the fragmentation and liquidation-bias concerns the framers wanted to avoid for CIRP. However, the PPIRP could adopt a threshold-based hybrid model. Operational creditors above a specified aggregate claim value (say, 10% of total admitted claims, mirroring the shareholder-approval thresholds used under CIRP) could be granted observer status on the CoC, with a right to be heard before the BRP is approved, and access to the same information memorandum shared with financial creditors. Since most MSME trade creditors are themselves MSMEs, this reform would also serve the sector's own survival interest, as those creditors typically have a stake in the debtor continuing as a going concern rather than being liquidated.

Recommendation 2: Fixing the Base Resolution Plan Problem

[43] *Ibid*.

The core issue with the BRP is that the promoter gets to draft it with access to the company's financials, and the rival bidders cannot meaningfully compete without that same information. Regulation could require the RP, immediately upon appointment, to prepare and circulate a detailed information memorandum containing audited financials, material contracts, and operational data to all prospective challengers on the same terms given to the promoter, closing the information gap before the challenge period even begins. Next, borrowing from the UK's Statement of Insolvency Practice 16, the RP could be required to justify, in a public filing, why the promoter's BRP was accepted as the base plan and disclose the valuation methodology used, to keep accountability. These measures keep the existing debtor-in-possession framework central to PPIRP's design while also ensuring that there is a genuine competitive check rather than a formality.

Recommendation 3: Reducing Reliance on Courts and the NCLT

Given that such long NCLT delays could be a major driver of PPIRP's failure to meet its own timelines, reform should target the NCLT's role directly rather than merely shortening deadlines on paper. One, routine, undisputed approvals such as RP appointment where creditors are unanimous, or plan approval where no objection is filed within a fixed window should be deemed approved automatically upon expiry of that window without needing NCLT approval. The NCLT would decide only genuinely contested disputes, similar to checklist-style judicial review under the US's Section 363. Two, admission of PPIRP applications meeting basic eligibility criteria could be handled through a dedicated fast-track bench or a technical scrutiny committee within the IBBI, rather than requiring full judicial admission for every filing. Three, and most fundamentally, the infrastructural deficit itself must be addressed. Dedicated insolvency benches with adequate judicial and technical strength, similar to the UK's specialised Insolvency and Companies Court, are a precondition for any timeline reform to hold in practice.

CONCLUSION

In conclusion, five years after its introduction, the PPIRP has failed to become the fast, informal alternative as it was meant to be. The 2026 amendments help a little by lowering the voting threshold and adding the CIIRP, but they do not fix the deeper problems in the original framework like narrow eligibility, an unfair base resolution plan process, heavy reliance on the NCLT, and the exclusion of operational creditors. The UK and US examples show that a truly out-of-court insolvency process is possible, as long as courts step in only when there is a real dispute, not for routine approvals. Further, unless India closes the information imbalance in the

BRP process, gives operational creditors a genuine voice, and reduces the NCLT's role in everyday matters, the PPIRP will likely remain a good idea on paper rather than a working solution for MSMEs.

REFERENCES

Statutes & Legislation

India

1. Micro, Small and Medium Enterprises Development Act, 2006, § 7, No. 27, Acts of Parliament, 2006 (India).
2. Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021, No. 3 of 2021, § 3 (India) (inserting Chapter III-A, §§ 54A–54P, into the Insolvency and Bankruptcy Code, 2016).
3. Insolvency and Bankruptcy Code, 2016, § 53 (India).
4. Insolvency and Bankruptcy Code, 2016, § 54C (India) (application to initiate pre-packaged insolvency resolution process).
5. Insolvency and Bankruptcy Code, 2016, § 54C(3) (India).
6. Insolvency and Bankruptcy Code, 2016, §§ 54C(3), 54E (India).
7. Insolvency and Bankruptcy Code, 2016, § 54D (India).
8. Insolvency and Bankruptcy Code, 2016, § 54F (India).
9. Insolvency and Bankruptcy Code, 2016, § 54L (India).
10. Insolvency and Bankruptcy Code (Amendment) Act, 2026, No. 6 of 2026, India Code (2026).
11. Insolvency and Bankruptcy Code (Amendment) Act, 2026, cl. 40, No. 6 of 2026, India Code (2026).

United Kingdom

12. Insolvency Act 1986, c. 45 (UK).
13. Insolvency Act 1986, c. 45, sch. B1 (UK).
14. Corporate Insolvency and Governance Act 2020, c. 12, § 20 (UK).

United States

15. 11 U.S.C. §§ 1101–1174 (2018).
16. 11 U.S.C. § 363(b) (2018).

Regulations & Rules (India)

17. Insolvency and Bankruptcy Board of India (Pre-Packaged Insolvency Resolution Process) Regulations, 2021, Notification No. IBBI/2021-22/GN/REG071 (Apr. 9, 2021) (India).

18. Insolvency and Bankruptcy Board of India (Pre-Packaged Insolvency Resolution Process) Regulations, 2021, regs. 46–48 (India).

19. Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, Regulation 19, Gazette of India, pt. III, sec. 4 (Nov. 30, 2016) (India).

20. MSME Notification No. 2119(E) (2020), https://d3u7ubx0okog7j.cloudfront.net/documents/2023-07-13_70_MSE_classification_SO_4926E.pdf.

Case Laws

United Kingdom

21. Clydesdale Fin. Servs. Ltd. v. Smailes [2009] EWHC 1745 (Ch), [2009] BCC 810 (UK).

United States

22. Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.), 722 F.2d 1063 (2d Cir. 1983).

Government Reports, Notifications & Official Records

23. Press Information Bureau, Government of India, Ministry of MSME, *Empowering the Grassroots Economy: A Comprehensive Push for Rural and Semi-Urban MSMEs* (May 14, 2026), https://www.pib.gov.in/PressReleasePage.aspx?PRID=2142170&reg=48&lang=2.

24. Insolvency Law Committee, *Report of the Sub-Committee of the Insolvency Law Committee on Pre-Packaged Insolvency Resolution Process* (Gov't of India, Ministry of Corp. Affairs, Oct. 2020).

25. Lok Sabha, Unstarred Question No. 3813, Ministry of Corporate Affairs (Gov't of India), http://sansad.in/getFile/loksabhaquestions/annex/187/AU3813_3TnFbA.pdf?source=pqals.

26. NITI Aayog & Inst. for Competitiveness, *Enhancing Competitiveness of MSMEs in India* (2025), https://www.niti.gov.in/sites/default/files/2025-05/Enhancing_Competitiveness_of_MSMEs_in_India.pdf.

27. Teresa Graham, *Graham Review into Pre-Pack Administration: Report to the Rt Hon Vince Cable MP* (June 2014).

Journal Articles & Academic Papers

28. J. Suresh Kumar & D. Shobana, *Government Schemes and Policies for Promoting Entrepreneurship in India*, 13 J. Dev. Econ. & Mgmt. Rsch. Stud. 76 (2026).

29. M.P. Ram Mohan & Vishakha Raj, *Pre-Packaged Insolvency Regulation: What Can India Learn from the United Kingdom and the United States?*, 29 Am. Bankr. Inst. L. Rev. 231 (2021).

30. Brian L. Betker, *An Empirical Examination of Prepackaged Bankruptcy*, 24 Fin. Mgmt. 3, 7–8 (1995).

31. Vaibhav Gattani & Santosh Kumar, *Treatment of Operational Creditors under CIRP: An Unequal Playing Field?*, 8 Int'l J.L. Mgmt. & Human. 5054 (2025).

32. M.P. Ram Mohan & Sriram Prasad, *Lessons from Pre-Packaged Insolvency Cases in India: A Long Road Ahead* (Oct. 1, 2023), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4590500.

33. Insolvency Law Academy, *The Rise of Pre-Packs as a Restructuring Tool: Theory, Evidence and Policy* (2022), https://insolvencylawacademy.com/wp-content/uploads/2022/09/The-Rise-of-Pre-Packs-as-a-Restructuring-Tool_-Theory-Evidence-and-Policy.pdf.

Books & Book Chapters

34. Aparna Ravi, *Prepacks Under the IBC: A Tussle Between Speed and Fair Process*, in *Insolvency and Bankruptcy Reforms in India* 121 (Susan Thomas ed., 2022).

News, Web Articles & Blogs

35. S. Modi et al., Center for Financial Inclusion, *The Precarious State of MSMEs: Understanding the Impact of COVID-19 and Opportunities to Support Their Recovery* (2021), https://www.centerforfinancialinclusion.org/brief/the-precarious-state-of-msmes-understanding-the-impact-of-covid-19-and-opportunities-to-support-their-recovery/.

36. Akash Srivastava, *Pre-Packs: A New Regime of Insolvency in India*, IBC Laws (June 23, 2020), https://ibclaw.in/a-detail-study-of-pre-packs-a-new-regime-of-insolvency-in-india-by-adv-akash-srivastava/.

37. Solventia Blog, *Proposed Pre-Package Insolvency in India and Conundrum of Connected Parties*, Ctr. for Insolvency & Bankr. Stud. (July 7, 2021), https://www.solventia.co.in/post/proposed-pre-package-insolvency-in-india-and-conundrum-of-connected-parties.