

Indian Corporate Insolvency Law: Efficiency and efficacy from a Cross Border Perspective

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Abstract:

Corporate insolvency within domestic and cross boundary jurisdictions emerges as an important discipline of study because of the vast complexity of problems associated with these issues. Argument mooted across boundaries is that strong insolvency laws are a mandate of market economy which would rotate the investment wheel. The importance of corporate insolvency emerges from the fact that corporations are the favored vehicles of investment. The corporation acts as the project vehicle of any business venture, which attracts investment through different instruments, like equity, debenture and deposits etc., (in other words, the savings of public money). Realizing and relocating the corporate assets in bankruptcy is a prime objective of any insolvency law. The paper discusses Indian Corporate Insolvency Laws under certain parameters, namely, corporate insolvency practice; dispute settlement process and implications of foreign insolvency court judgments.

While analyzing the above parameters with reference to recent amendment of the Companies Act 1956 (India), the author examines the UNCITRAL 'Model Law on Insolvency (2004)'; comparative references are made from other jurisdictions with the objective of testing its cross border compatibility with the Indian jurisdiction.