

Enterprise Management during Insolvency & Bankruptcy Proceedings

By : Atul Rajwadkar

Insolvency Professional & Chartered Accountant

Verve Asset Solutions LLP

Arthah Resolution Advisors (an IBBI Registered IPE)

Regd. Email: vervecapital@gmail.com

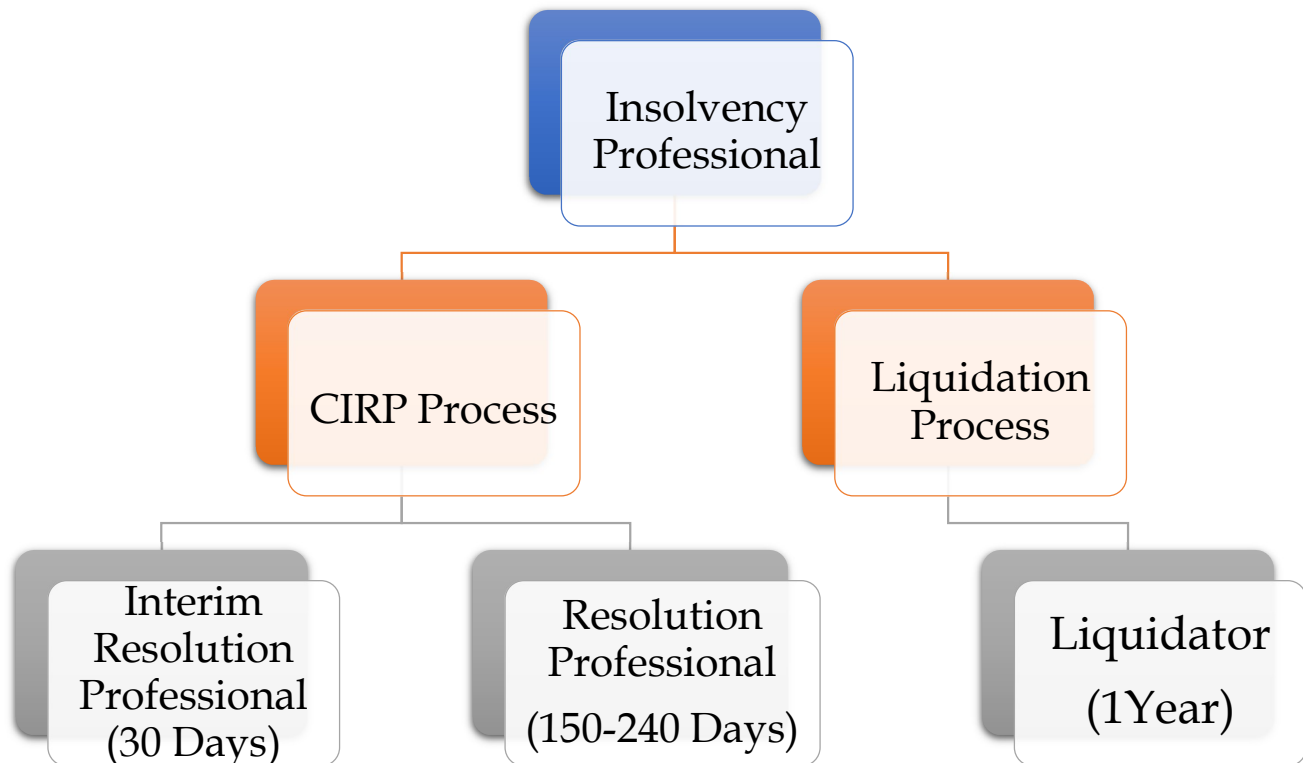
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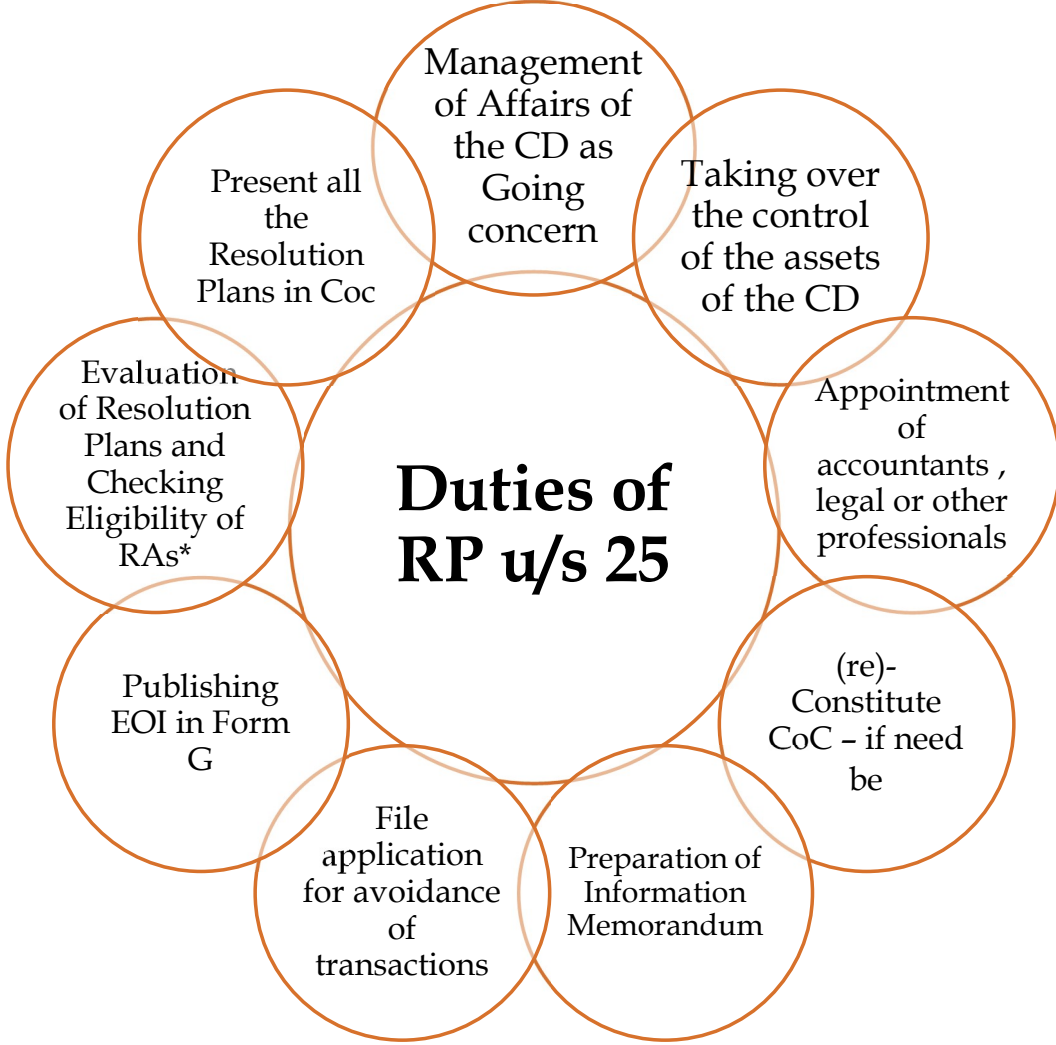
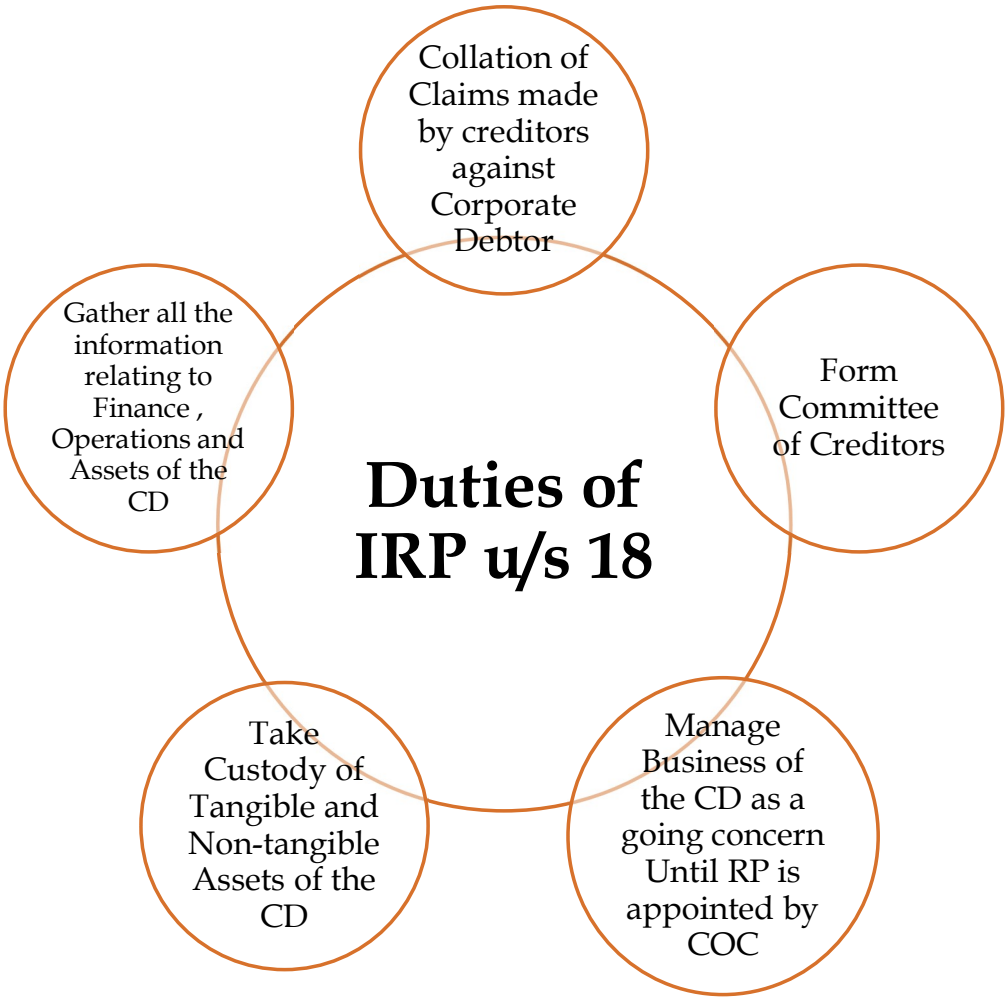
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Roles played by an Insolvency Professional during Insolvency and Bankruptcy Process



The respective period may get extended due to process

Some of the Duties of IRP and RP during CIRP Process

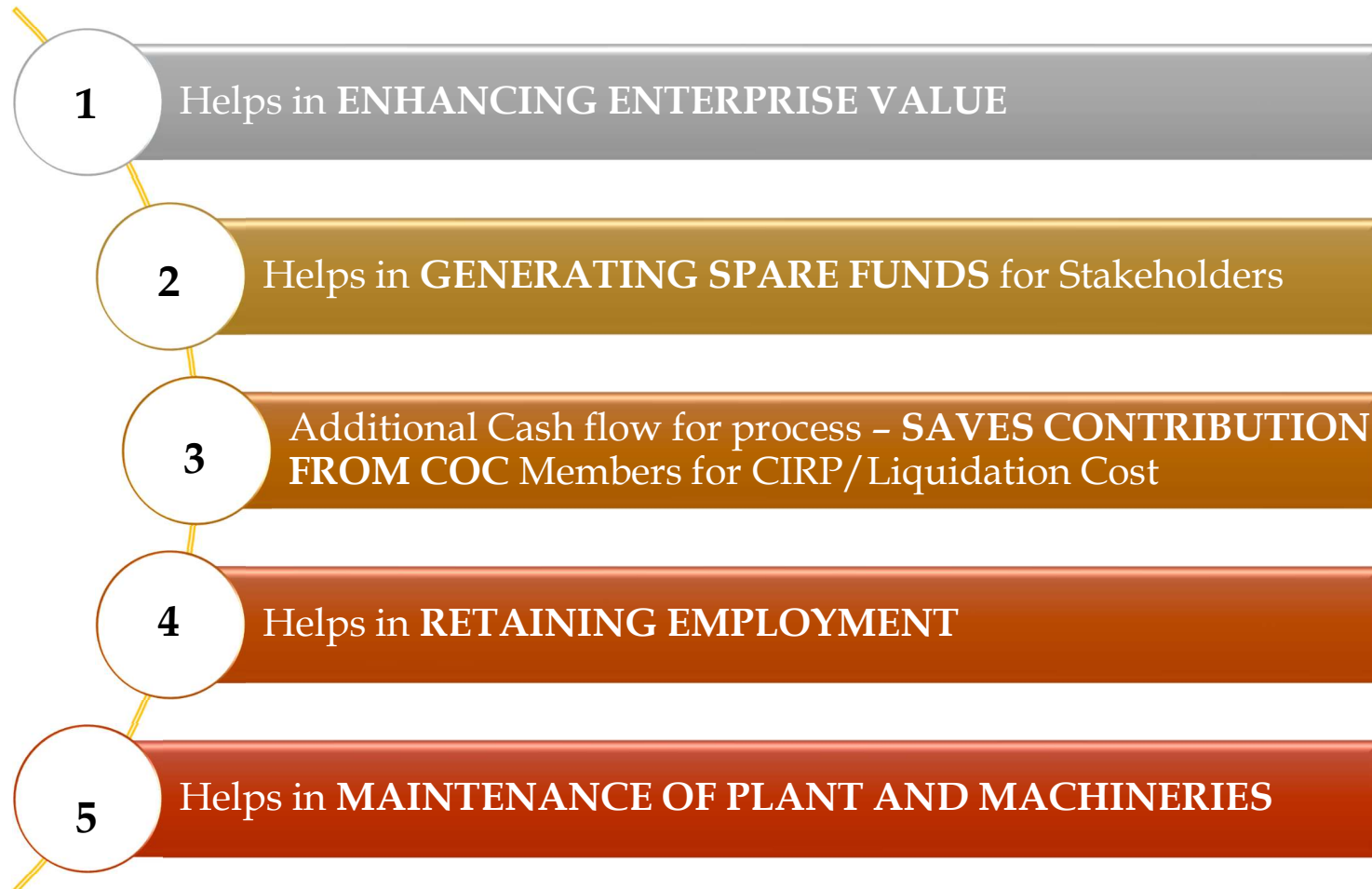


* *Resolution Applicants*

Some of the Powers and Duties of Liquidator under Section 35 of IBC,2016



Why is Enterprise Management Important in CIRP & Liquidation



A running machine is always better valued than non-operational one

Day to Day activities performed by Insolvency Professional in Enterprise Management

To conduct the business activities of the Corporate Debtor (CD)

Statutory Compliances

Cash flow planning & management of the CD

Managing Administrative activities of CD

Recovery of pending dues towards the CD & relevant correspondences

Application for renewal of Relevant Licenses

Retaining Staff

Production Planning

Resources allocation (manpower, machines, money)

- ❖ *Timely Reporting to IBBI - else face penal action*
- ❖ *Simultaneously file applications with Hon'ble NCLT seeking directions for Preferential, Undervalued, Fraudulent or Extortionate Transactions or for any other matters.*

Challenges faced by an Insolvency Professional in Enterprise Management - CIRP & Liquidation

- **Customer Dissatisfaction** - Retaining their confidence to continue business, routine interaction
- **Vendor Management** - Supply challenges, convincing for offering credit, better terms
- **Staff Retention** - Staff may leave for better & safer opportunities
- **Non co-operation** from Staff and Previous Management
- **Stakeholders education** - Staff, Customers, Creditors may not know/understand IBC Processes
- **Shortage of funds** -Cash Flow Management
- **Routine Recovery** - Customers may try to squeeze the CD due to its insolvent status - old dues are hard to crack

Challenges faced by an Insolvency Professional in Enterprise Management – CIRP & Liquidation

- **Statutory Departments** - Liabilities like GST, Income Tax, PF, ESIC, PT – Educating Government Departments and not letting them freeze assets.
 - **Multi Locational** GST Registrations, ESIC Dues
 - **Administrative** Challenges
 - **Bank Account** operations
 - **Multi Locational Operations** – Site Management
-
- ❖ *The intensity of Challenges may vary depending on the nature of business*
 - ❖ *IP has been given just 6-9 odd months to streamline things*
 - ❖ *Every major decision needs CoC approval*

Case Study - CD under CIRP - Service Sector Enterprise

Staff - 2200 +	Clients 40 +	Absence of CFO or Similar level Senior Employee	Service Sector Company
Old PF, ESIC, GST defaults	Promoters trying to retain control over affairs of CD	Loyalty of the Staff with erstwhile management	Non co-operation by Staff and Management
	Staff, Vendors, Customers oblivious of IBC	Staff misleading you to make certain payments of prior periods	

Facts and Hypothetical situations considered here

Case Study - CD under CIRP - Service Sector Enterprise

What the Insolvency Professional is supposed to do

- Let all the stakeholders of the business know the process of CIRP
- Tell them facts about the possible impact of the process
- Try to assure Staff/KMPs that what-all efforts will be made to retain employment
- Communicate with Customers of the CD to assure them how the services can be continued without least hassles
- Talk with various suppliers to convince them that why they should supply in future in spite the fact that their previous dues may be at risk.
- Manage resources for better allocation.
- Channelise cash flow according to priorities

*Facts and Hypothetical situations considered here
IP will have to take CoCs appropriate Approval wherever required*

What the Insolvency Professional is supposed to do

- Ensure no payments are being done for periods prior to commencement of CIRP.
- Raise Interim Finance, wherever required and possible
- New vendor development, if required
- Communicate with Statutory Authorities to remove any liens, directions, etc.... (PF/GST, etc)
- Follow up with customers or past customers for old pending dues. IPs have been successful in recovering old dues.
- Simultaneous efforts for seeking Resolution Plans

Facts and Hypothetical situations considered here

IP will have to take CoCs appropriate Approval wherever required

Case Study - CD under Liquidation

- Mall Developer Company under BOOT basis
- Land belonged to Government given on lease to CD
- Old lease dues pending
- Clause of termination of Lease Agreement if Company goes into Liquidation
- Numerous tenants
- Long lease agreements due for renewal
- Non payment of rentals
- Mall Shut Down due to Corona Lead Lock down
- Decision about rentals or discounts with tenants
- Tenants demanded zero rentals for lockdown

Facts and Hypothetical situations considered here

Case Study - CD under Liquidation

- Recurring costs were involved
- Post opening Tenants' business was suffering
- Rental reduction demands were made
- Different tenants different needs
- Tenants wanted to leave for better offers by other malls
- Government refused to reduce annual lease dues
- Cash flow had to be tackled
- Old GST defaults
- Rentals renegotiated with tenants with the approval of stakeholders (14 in number)
- Most of the Tenants were retained

Facts and Hypothetical situations considered here

Case Study - CD under Liquidation

Actions taken by or expected from Liquidator

- Take Control of assets
- Channelise Cash flows
- Communicate to Local Government Authorities who owned land to convince them not to take step for cancellation of lease
- Continuous dialogue with tenants for their retention
- During Covid Lockdown taking decisions on rental issues in consultation with stakeholders
- Post lockdown address tenants demands for rent renegotiations
- Advertisement for vacant spaces

Facts and Hypothetical situations considered here

Liquidator will have to take requisite approvals wherever required

Actions taken by or expected from Liquidator

- Undertake activities for marketing of mall activities to increase footfall. This helps in retention of tenants
- Old recoveries
- Initiate action in consultation with stakeholders against defaulters
- Simultaneous efforts for sell off of the asset(s)

Facts and Hypothetical situations considered here

Liquidator will have to take requisite approvals wherever required

Professional Opportunities for CAs under IBC



Opportunities In Enterprise Management

GST, Income
Tax, Other
Statutory
Compliance

Statutory
Audits

Systems
Management

Systems
Audit

Internal
Audit &
Controls

Book Keeping

Business
development

Debtor
Recovery

Staff
outsourcing
some particular
division can be
outsourced

Suitable approval of CoC/Stakeholders will be required for any appointment of Professional as per the provisions of the Code.

Opportunities Under IBC Proceedings



Suitable approval of CoC/Stakeholders will be required for any appointment of Professional as per the provisions of the Code.

Thank You !!