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# **BANKRUPTCY AND INSOLVENCY LAWS: THE END OF MULTINATIONALS**

**- Pratham Munjal**

## **INTRODUCTION**

This project aims at discussing the rules governing bankruptcy and insolvency and how these are useful in a country's financial and economic structure. These forms are meant to solve the issues which come with fails on the part of the corporations or individuals to fulfill their contractual agreements. These laws help to fill the gap of an organized legal framework that facilitates the regulation of financial crises, the framework enables fair solution to debt recovery by debtors and creditors. In India the reform on this area has been implemented through the passage of the Insolvency and Bankruptcy Code (IBC) in 2016.

The IBC's purpose is to present a comprehensive approach to tackling problems related to insolvency and bankruptcy through the simplification of other laws concerned with the subjects. That failure to conduct the business across borders can sometimes be wear the problems of financial crises, which lead to insolvency or even business bankruptcy may from at some point emanate from poor management of expenses resulting from wrong business modalities adopted by the multinationals. Big corporate cases associated with major worldwide companies that have fallen on bankruptcy have happened in India, including a Kingfisher Airlines company that was shut down due to insolvency of the company, and more recently, Spice Jet.

Companies operating across borders may face bankruptcy or insolvency due to poor risk management and several challenges performing business cross-border. The problems faced by these multinational corporation are heterogenous regulatory environment, fluctuating currency rates and shifting market conditions. These cross-border considerations make handling of or dealing with bankruptcy or insolvency by far more difficult across borders when problems with finance occur. This project focuses on the bankruptcy and insolvency laws governing India as a host country for multinational enterprises and examines the effect of those legislation and policies on the fortunes of oversees firms venturing into the country. It aims to know the role played by the Insolvency and Bankruptcy Code, learn about how corporates' insolvency has been managed, and analyze its impact on multinationals.

The purpose of the project is to gain an insight into the problem and the eventual situation it presents through a comparative case study of SpiceJet and Kingfisher Airlines who have both suffered financial difficulties in recent years. SpiceJet, unlike Kingfisher Airlines, has gone into bankruptcy, having undergone nearly the same financial disorder. The central aim of this research will be to establish the causes of financial failures, evaluate the efficacy of the modern legal regimes targeting financial distress, and analyze the ability of such legal regimes to cope with the legal issues that multinational corporations face. The study's importance pertains to the impact of financial failures on the economy of a nation through the monetary system, within which the collapse of corporations that have significant assets in relation to the nation's wealth can be detrimental to that nation's exposition.

## **MOTIVATION BEHIND CHOOSING THIS TOPIC**

The motivation for this topic "Bankruptcy and Insolvency Laws" emanates from a true and acute passion to know how financial and legal factors align i.e. symbiosis between the two. Today, many global players have emerged as large-scale economic players influencing national, international markets and at the same time, influencing several national economies collectively. This leads to the question whether the legal frameworks that already exist are adequate to avoid and safeguard company failures like Kingfisher Airlines. The belief that even the largest firms may fail, and that the whack their failure generates is enough that I, any researcher, would turn to researching it.

In particular, I would like to know how global business transform because of the IBC for those multinationals and large corporations that are operating in India at the present time. Kingfisher Airlines is a typical illustration of a firm that shut down its operations without IBC and Spice Jet, an airline firm which prayed the same financial problems, continued operating after the IBC. This led to motivation to look for answers to my research questions focusing on the effectiveness of the bankruptcy laws in India and how they have evolved over the years in trying to solve the financial troubles of multinationals.

With the frequency of financial crises going up significantly to be tackled by large corporations in many sectors, there never has been a time when an understanding of how legal frameworks tackle such crises became the need of the hour than now. This project focuses on the bankruptcy and insolvency processes of multinationals to throw light on whether the legal structures in place are sufficient enough to prevent the collapse of such large corporations and whether they actually offer viable solutions for companies that are coming into financial distress.

## **STATEMENT OF PROBLEM**

The project shall solely concern itself with corporate bankruptcy and insolvency laws and multinational companies even though it contains a certain degree of specificity to the Indian market. Among them, I shall be interested in the working of the Insolvency and Bankruptcy Code (IBC) of 2016 because it covers corporate insolvency in India. The IBC reforms the procedure of insolvency resolution and improves the rate of creditors' recovery; therefore, threats for large companies and multinationals experiencing some financial troubles shall be analyzed in the research.

While undertaking this research, I shall examine how multinationals are affected by these laws: Bankruptcy and Insolvency Laws concerning Multinationals and Problems Encountered while Implementing Financial Solutions for These Emergencies in India. The CBI (Central Bureau of Investigation) deals with the mechanism of insolvency across the borders, part and parcel of creditors and the time frame of various resolution processes. Much emphasis will be placed on how creditors, employees, shareholders, and the government may be affected whenever an IMNC undergoes bankruptcy or insolvency.

The project is thereby devoted to the discussion of the topic through the comparative evaluation of Kingfisher Airlines and the SpiceJet case based on their financial urgencies. This project will endeavor to attempt to analyze what one might learn from these two cases in terms of lessons that can be learnt from the result and impact of introduction of IBC on corporate financial resolution. This leads to the rather question of whether the existing laws should be adequate to address the various financial issues that arises in a multinational or whether there should be possible amendments to make sure that large businesses are either right- sized or leave the market in a manner that inflicts minimal blows to the economy.

## **DEVELOPMENT OF BANKRUPTCY AND INSOLVENCY LAWS IN INDIA**

### **PRE-1947 (COLONIAL ERA)**

**1909:** In India, two statutes namely, The Provincial Insolvency Act, 1909 and The Evacuation of the Presidency Towns Insolvency Act, 1909 came into force. These legislations were promulgated with respect to the personal insolvency of the residents of British India and meant primarily for the provincial regions and cities of Bombay, Calcutta and Madras respectively.

### **1947–1990 (POST-INDEPENDENCE PERIOD)**

**1956:** The Companies Act, 1956. Its provisions relate to the winding up of companies. This legislation, however, was not primarily enacted to deal with corporate insolvency.

**1985:** Sick Industrial Companies (Special Provisions) Act, 1985 (SICA). For the first time in India, SICA specifically targeted industrial sickness. It deals with the identification of "sick" industries, followed by rehabilitation rather than liquidation.

### **1991–2001 (LIBERALIZATION)**

**1993:** To quicken the recovery process for banks and financial institutions, the RDDBFI Act, 1993 was passed- an action much needed to tackle the growing level of bad loans after liberalization.

**2001:** The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 was enacted with the foregoing aim so that the financial institutions can recover their non-performing assets without going to the courts.

### **2002-2015 (PRE-IBC ERA)**

**2002:** An Act to amend the provisions relating to companies was enacted and under its provisions NCLT (National Company Law Tribunal) and NCLAT (National Company Law Appellate Tribunal) were set up to deal with matters related to company law, especially who is winding up, mergers and corporate insolvency, amongst others.

**2002:** The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 came into force recognizable to the banks the power to dispose of any asset, house or commercial property in order to recover debts.

### **2016-TILL DATE (IBC ERADICATION)**

**2016:** Resolution and the Bankruptcy Code Act No. 31, 2016. Such decisive changes supersede all the laws which were heretofore enacted in relation to bankruptcy and insolvency and it is one code for all those laws. IBC included provisions introducing a time frame for completing the process of resolution of bankruptcy including individuals, partnerships as well as corporate bodies with the focus primarily on the resolution on corporate bankruptcy.

## **PAST RESEARCH ON THIS TOPIC AND ITS FINDINGS**

Indian bankruptcy and insolvency laws have been holding much research interest, primarily because of the promulgation of the Insolvency and Bankruptcy Code in 2016. Majority of earlier studies were, therefore, based on the inefficiencies of the existing norms, be it SICA or DRT framework. They explained that these provisions were not integrated and drawn-out, thus causing substantial lags in the resolution of financial distress as well as a low recovery rate on the part of the creditors. We can classify the studies done in this regard before and after the implementation of IBC.

**Pre-IBC Research Findings:** Previous studies, underlined the requirement of having an integrated, time-bound framework for the resolution of insolvency in India to the detriment of both

creditors and debtors. Studies found that although enacted with the purpose of reviving sick industries in India, unlike earlier acts, it was not time-bound, hence SICA led to erosion and dilution of asset value overtime. The already existing framework was further deficient to provide legal provision to cater to cross-border insolvency, hence the management of multinational corporations found it difficult to deal with such insolvency proceedings efficaciously.

**Post IBC Research Findings:** In light of IBC, the studies. Their investigation showed that, in comparison to years before, the IBC drastically shortened the number of days it takes to see the resolution of insolvency to as few as 270 days under the Code. Restoring the National Company Law Tribunal (NCLT) and mandating creditor-led processes were considered integral differences. Recovery percentages of creditors also improved significantly due to studies; the average was still at 43 percent, whereas earlier it was only at 25 percent.

The studies highlight how the IBC has given India a higher ranking in the Ease of Doing Business index of the World Bank. However, the implementation of these have been on the back foot of certain challenges like judicial delays and the necessity of implementing better cross-border insolvency mechanisms.

## LITERATURE REVIEW

**Bankruptcy and Insolvency Laws:** The provisions of the 1934 laws have their antecedent in a progressive transfer of bankruptcy and insolvency laws as a mechanism for the balance of interest between the creditors and debtors with fairness and justice in liquidation of accounts. This law is not the same across one jurisdiction to another under consideration owing to the different economical, legal, and political systems in place. For instance, the U.S has a debtor friendly Chapter 11 system where firms can reorganize and continue while carry on operations and repay debts at the same time. European systems are closer to creditor interests and also more rigorous when dealing with liquidations.

Studies have found information on the cross-border bankruptcy regulation in the work of economists such as Warren (1987) and Baird, (1994) to elucidate the economic purpose of insolvency law and argue how good bankruptcy laws shall assist the organizations to come out of the severe financial distress and prevent them from getting into a process of liquidation. However, with MNC's spanning over more than one jurisdiction, the issue or management of their insolvency becomes a headache. Ad hoc approaches are still visible in cross-border insolvency frameworks such as the UNCITRAL Model Law which strive to develop one unified approach but cannot encompass all lands and as such address inequality in the management of cross-country bankruptcies.

**Indian Legal Framework: The IBC:** Insolvency and Bankruptcy Code 2016 can be rightly described as the harbinger moment for corporate law in India. In its absence, it was expected that the law would ‘shed off’ the weaknesses of the existing laws and make the process of insolvency resolution complex, time consuming and lengthy. IBC made this job easier by encapsulating it under one law that deals with the insolvency of both, a natural person and a legal person under time bound processes of creditor driven, turnaround measures and mechanisms along with institutional integration in the form of IBBI and NCLT.

Both Singh (2017) and Mukherjee (2019) have rightly praised IBC in relation to the time taken to arrive at the particular solution in relation to the case of insolvency but still they have faced some issues. For instance, the creditor committees which are required under the Code to prepare reorganization plans, especially in respect of large MNCs may sometimes be slow. However, there are other questions concerning the IBC in terms of cross border insolvency which are always important questions for international businesses operating in Indian markets.

**Kingfisher Airlines and SpiceJet: Case Studies in Bankruptcy and Financial Distress**

Unluckily for Kingfisher Airlines, business endeavours Indians witnessed one of the magnificent failures of the year 2012. The shutters were closed for operations and thousands of its employees were left unpaid to its creditors because of unsuccessful business management, high operating expenses as well as increasing indebtedness from the airline. For instance, Desai argued that, Indian insolvency framework to handle the debt restructuring of the airline at the time of crisis, was not well developed. In fact, the above factors compelled Kingfisher to be an example of liquidation.

On the other hand, SpiceJet which was also on the similar financial deterioration path in 2014- 2015 was revived through strategic action of change of management, debt re-profiling and equity infusions through fresh investors. This has been with the adoption of the IBC in 2016 to provide for better structuring of resolution of insolvency. As Ghosh (2020) has identified recently while the King fisher stand as a clear example of underlining the sheer need for legal reforms, the SpiceJet on the other hand presents the immense possibility of pulling financially troubled companies through IBC.

## **INTERNATIONAL COMPARISON OF LEGAL REGIMES ON INSOLVENCY**

The unfortunate plight of multinational corporations, for instance, Kingfisher and Spicejet, has not been observed in India only. To illustrate, international MNCs went through a financial crisis, the world knew about it, and then one day, it became a common knowledge that these companies bankrupt. Therefore, the disarray of legal systems and the global economic crisis situations that MNCs have faced and managed to avoid such occurrences are in themselves among the challenges. The well

known Lehman Brothers case in the year 2008 exposed the problems associated with the coordination of different jurisdictions and their respective insolvency laws. The EU Insolvency Regulation and the UNCITRAL Model Law are both designed to tackle this scenario, but appear to be quite ineffective in practice, especially in two- terminal nations.

Research by Westbrook, 2010 and Paulus, 2012, among others, presents literature suggesting that non-localized insolvency practices may be beneficial to MNCs facing worldwide financial pressures. Nonetheless, there are always political and economic factors that create divergences hence bringing about different legal approaches to most students and increasing the instances of mint multinational bankruptcy.



## **RESEARCH METHODOLOGY**

This section elaborates the way the research would be conducted, the approaches for data collection that is going to be employed and the instruments that will be used for the purpose of conducting this study with regard to impacts of bankruptcy and insolvency laws on MNCs specifically with reference to Kingfisher Airlines and SpiceJet.

## **RESEARCH DESIGN**

This research is conducted with the use of a comparative case study research approach. Kingfisher Airlines and SpiceJet and their death and the final fate, is meant to be looked at from the lens of India's insolvency laws. The kind of sources used in this he said qualitative include secondary sources that offer a rich feel of the legal financial and Managerial concerns confronting these corporations.

## **NATURE AND SOURCE OF DATA**

This research is carried out solely with secondary data. Most of the data is sourced from:

- Annual reports and SEC filings (accessible)
- Media related articles and reports of the field.
- Links: Reporting on Kingfisher's tribunal proceedings and SpiceJet case review
- "Journal and book articles critiquing the Insolvency of Indian laws and the distress of Corporate restructuring"

All these sources are a continuation of the detailed picture of how each of the companies had dealt with their financial distress and the legal guidelines which were used in processing; these final

## **SAMPLE AND SAMPLING TECHNIQUE**

The project has selected two of the main Indian airline companies which went into liquidation and; SpiceJet which in the year 2014 as had a precarious state but had not declared bankruptcy. Here however purposive sampling has been used when sample here refers to where companies were selected in regard to the topic of research was to be carried out. Kingfisher has been selected for the present study as the firm was declared bankrupt in 2012, while SpiceJet, which was almost on the edge of bankruptcy in 2014 but came back into existence. These companies give a different performance during similar economic depressions, and therefore suit the research objective of comparing companies in this project.

## **TECHNIQUES OF DATA GATHERING**

A comparison of the balance sheets of the two firms with a view of evaluating the relative pressure that the two firms are subjecting themselves to. Litigation between the two firms containing the actual

business bankruptcies of the two firms and the subsequent reorganization. The existing newsprojects articles and opinion of the experts based on new positions of both the firms, from financial as well as from legal angles. Available judicial case summaries of court cases in India only focus on two of the major Indian Airlines which got bankrupt and SpiceJet which went through a severe financial problem in the year 2014 but did not go bankrupt. Here purposive sampling has been used sort samples where companies were selected because they are relevant to the topic of the research. Kingfisher has been selected because the company got shut down in the year 2012 and SpiceJet for the turmoil period that this company experienced in the year 2014. These firms provide a different result under the same economical conditions, further making them ideal for use in the comparison of the project.

## **DATA HANDLING AND ANALYSIS**

Content analysis and comparative analysis will be used on the data gathered from the cases. The focus of the analysis will lie on:

- Timeline of events leading to and post financial distress of both the companies.
- Legal steps that both the companies undertook while resolving their insolvency.
- An analysis for both Kingfisher and SpiceJet on how they handled the bankruptcy process, using India's Insolvency and Bankruptcy Code.

## **STATISTICAL TOOLS**

While the project does not rely particularly heavily on statistical data, in certain areas, descriptive statistics will be used in summarizing financial figures and timelines-the typical debt levels, equity infusions, and timelines of insolvency filings.

## **CASE STUDY 1: KINGFISHER AIRLINES**

### **INTRODUCTION**

Founded by the flamboyant industrialist Vijay Mallya in 2003, Kingfisher Airlines slowly came into India's airline market, known for its lavish flying experience. However in a few years after its inception, the rising debt situation due to the high-cost operating model and bad financial handling crippled the company's sustainability. In 2011, Kingfisher had been amassing huge debts along with glaring cash flow problems. The sickness-ridden airline closed its shop in October 2012.

### **FINANCIAL STRESS AND MANAGEMENT` FAILURE**

What really added to its increasing financial stress was the aggressive expansion strategy that featured the acquisition of Air Deccan in a pursuance to enter the low-cost carrier market. Again, management at its best failed to streamline operations and cut costs. The rising fuel price and increasing rivalry did not relent on making the operating cost of Kingfisher go further up. As the airline's revenues remain at

the same level, it finds itself in a situation of obligation of INR 7,000 crores payable to the government, workers, and suppliers by the beginning of 2012.

## **THE INFLUENCE OF BANKRUPTCY AND INSOLVENCY LAWS**

By the time of the fall of Kingfisher Airlines, insolvency legislation applicable in India had been a mere piecemeal legislative framework that was laborious and ineffective in implementation. Legal procedure under SICA and BIFR didn't allow fast-track resolutions under the mechanism. Due to the length and complexity of its court procedures and regulatory obstacles, the company was very easily unable to restructure its debts. In fact, its creditors in the airline filed suits in various courts, and this made the airline's already complex case even more so.

In the nutshell, it was not possible to resolve the financial distress of Kingfisher Airlines, for the fact that the airline could not raise further funding or restructure its debt under the existing legal system forced it towards liquidation. The case of the airline has underscored the need for a more streamlined process of insolvency that will eventually lead to the introduction of IBC in the country in the year 2016.

## **CASE STUDY 2: SPICEJET**

### **BACKGROUND**

Currently, SpiceJet is one of the largest low-cost airlines of India that was founded in 2005. The mishandling of the airline added to a series of blunders and monetary squeeze from the global economy forced the airline to a critical financial state in 2014. SpiceJet had managed to ground a significant number of its flights by the end of 2014, and the company was near its death's door. Nonetheless, it passed through this stage by strategic decisions regarding change of ownership as well as financial reestablishment.

### **ISSUES**

It had become a competitive business as were selling everything from many other airlines that sold SpiceJet's air tickets at prices lower than it paid for fuel. Its problem of financial vulnerability was therefore rooted in operational costs. SpiceJet airlines failed to meet salary demands for employees and fuel suppliers together with aircraft lessors before the end of December 2014. This change was primarily due to the Airline's decision to reduce its fleet significantly and grounding most of its routes right across the airline which caused it to tread a fine line between bankruptcy over increasing its losses.

### **RECOVERY STRATEGY AND LEGAL CONSEQUENCES**

Starting 2015, the fortunes of the airline took a turn for the better with the return of one of its founders, Ajay Singh, to run the airline. The management headed by Singh re-negotiated with the

creditors, as it infused funds into the airline and undertook measures to reduce costs. This time, the threat of restructuring did not appear so awful to the creditors because the new management was both pragmatic and responded appropriately when called for. The Insolvency and Bankruptcy Code (IBC) that came into force in 2016 already contained provisions that were more effective for the resolution of the insolvency disputes, however, SpiceJet managed to steer clear of the formal insolvency process. There were also external cues that came in the form of a global drop in oil price that aided the recuperation of the enterprise since the operating costs for SpiceJet reduced considerably by the year 2016. In the year 2016, SpiceJet went from making losses to a profit. Such a turnaround in finances has made it one of the very few stories of success in Indian aviation business.

## **COMPARATIVE ANALYSIS OF KINGFISHER AIRLINES AND SPICEJET**

Kingfisher Airlines and SpiceJet form a pair of contrasting case studies on how financial distress can be managed-or, indeed, mismanaged-under the umbrella of India's bankruptcy and insolvency laws. Although the two airlines are in the same industry and were exposed to basically the same macroeconomic factors, the fate that befell them was as divergent. The section below compares the two airlines on some key factors: the choices of management, financial health, and the handling of insolvency.

### **LACK OF FINANCIAL DISCIPLINE**

Kingfisher Airlines went for an expansion strategy on an aggressive scale, and acquiring Air Deccan played it rough on the pocket. Saddle of heavy debt acquired from taking over Air Deccan Kingfisher couldn't service and came to rely heavily on short-term financing. The airline could not slash operational cost to cut without being left to trim down the associated premium service model, which derailed its chariot. Mismanagement with lack of financial discipline has spiralled one's debt, ending into bankruptcy due to insolvency.

However, in the case of SpiceJet, even though the airline contended with high operational costs which were coupled with the decline in the industry, the financial restructuring implemented was less tactful. When the airline was nearly on the brink of receiving a bankruptcy declaration in 2014, the management headed by Ajay Singh restructured existing debts, arranged for fresh funds and implemented cost control measures. This in every respect strategic management, along with the timely injection of fresh capital, kept the firm from going into bankruptcy and normalized the finances of SpiceJet.

## **ROLE OF THE BANKRUPTCY LAWS**

Kingfisher's bankruptcy in 2012 was also due to the older bankruptcy mechanism, disintegrated in India. The legal machinery available those days-more particularly, the Sick Industrial Companies Act (SICA) and the Board for Industrial and Financial Reconstruction (BIFR)- resulted in a long-drawn procedure toward debt settlement. The individual cases the creditors filed against Kingfisher merely added to the complexity surrounding this financial distress. The lack of a integrated bankruptcy code didn't help Kingfisher in bargain or negotiating with its creditors or pursuing any meaningful restructuring.

SpiceJet also benefited from the IBC, which came in 2016. In contrast to the case of Kingfisher Airlines, SpiceJet circumvented any formal insolvency procedure. IBC provided a much more predictable environment with a clearer and a more time-bound procedure for the handling of cases. It facilitated creating a sense of better predictability in the process for the companies to negotiate with the creditors. Its proactive attitude towards the restructuring process along with support from creditors helped avoid the long legal battles which Kingfisher went through.

## **THE CONTRIBUTION OF MANAGERS IN DEALING WITH FINANCIAL DISTRESS**

A noticeable difference between Kingfisher and SpiceJet is management: Kingfisher's management had no serious strategy to turnaround the operations under D.Vijay Mallya, rather they relied on expensive loans and growth in all fronts. Recovery Plan was nonexistent, and investors and creditors strength were caused by external matters being imposed on the market.

The barriers and challenges to operations that are posed towards the management and the human resources of the organization were effectively countered by the management of SpiceJet with Ajay Singh at the helm of affairs when it came to restructuring of debts. Singh entered into conciliation with creditors and cost control measures careful management created surplus so capability Sik losses reduced drastically. Strategy revision was also made in order to meet the prevailing conditions of the market assisted the company in achieving profit once again.

## **EXTERNAL ECONOMIC FACTORS**

The competition from each the airlines faced increased fuel costs alongside challenging conditions in the markets for air travel within India. In addition, it enjoyed an advantage from falling oil prices within two years from 2015-2016, which greatly reduced its operational cost. Kingfisher on the contrary closed business when oil prices were high and the company had no sufficient cash to sustain its business.

## **DATA INTERPRETATION AND FINDINGS**

The dataset and analysis offered here allow for several acumen insights into how bankruptcy and

insolvency laws impact the multinational corporation, especially in relation to India. Important Findings:

**1. Role of Legal Structures:** Kingfisher airlines is a perfect example to prove the inefficiency of India's pre-IBC insolvency structure, which let the companies not restructure or recover. However, with the better legal structure given to SpiceJet by the IBC, it was recovered without any formal declaration of insolvency.

**2. Decisions of the Management:** The financial stress alone determines the fate of the company. Where and how the people of Kingfisher operated went wrong, while where and how the people of SpiceJet operated brought them on the path to success.

**3. Pre-emptive Restructuring and Creditor Negotiation:** This differentiated Kingfisher from SpiceJet, and gave SpiceJet the scope to breathe was creditor negotiation and new financing. Kingfisher never meaningfully interacted with creditors and got stuck in litigation. Thus it ended in liquidation.

**4. Implications to MNCs International:** The case studies show that while legal frameworks like IBC are relevant, they can be no silver bullet. For an MNC to work effectively in India, financial and management approaches should harmonise with local market conditions and the regulatory environment.

#### **5. Implications to Multinational Corporations End**

The case study of Kingfisher and SpiceJet poses significant implications for MNCs that engage in carrying out business in India and similar markets:

- **Local Legal Knowledge:** An MNC should be aware of the domestic bankruptcy laws of the countries it conducts its business within since differences in legal frameworks are found to exercise strong influences on financial distress outcomes.

- **Management Flexibility:** Here, in aviation and other sectors where the exogenous factors such as fuel prices affect the functioning of the MNC, MNCs have to be flexible and agile with their financial policies.

# RECOMMENDATIONS

Based on the findings, the following recommendations are made to enhance the effectiveness of bankruptcy and insolvency laws in India, and to help MNCs better navigate financial distress:

## 1. Legal Reforms

**Strengthen Cross-Border Insolvency Mechanisms:** Since many MNCs are involved in operations all across the globe, it is essential for India to adopt international instruments like UNCITRAL Model Law on Cross-border Insolvency as this law is very useful to have an efficient proceeding of insolvency of companies having assets as well as liabilities in several countries.

**Enhance the Speed of Resolution:** To some extent, the IBC has enhanced the speed of the insolvency proceedings, yet, valid efforts should be made to avoid delays in the courts, especially in large and complicated cases with MNCs.

**Increased Focus on Pre-Packaged Insolvency:** Pre-packaged arrangements, where a company seeking to restructure and its creditors co-present a pre-arranged plan of action to a court before it goes under could be of massive benefit as they eliminate drawn-out legal procedures. This model has other benefits and can be practiced in countries like the UK, the US or any other country; hence it could be employed in India.

## 2. Corporate Strategies for MNCs

**A) Proactive Engagement with Creditors:** Creditors must also establish an early relationship with MNCs when the money surge starts going south. When working faced with such difficulties as the economic crisis and its consequences, one has to establish clear and comprehensible communications, as well as have a distinct plan on restructuring the debt to avoid the aggravation of the situation.

**B) Diversification and Risk Management:** Administrations, especially those operating business ventures in large capital-intensive industries like aviation, need to find out ways of generating more revenues and put in place effective risk management mechanisms that can help to absorb the impact of any externalities, for instance, unpredictable fuel prices.

**C) Leverage Legal Frameworks:** Indian MNCs should fully take advantage of the IBC, which includes section 7 criteria whereby entities rescue themselves from the financial bleakness before ending up in the IBC net.

## **SUMMARY AND CONCLUSION**

This project examines the issue that bankruptcy and insolvency laws present for multinational corporations in particular with regard to the Indian legal framework. By assembling a comparison between the two airline cases of Kingfisher Airlines and SpiceJet, important conclusions can be drawn regarding the efficiency of these laws and the overall consequences of MNCs.

The downfall of Kingfisher Airlines in 2012 perhaps most aptly epitomized the 'shortcomings of India's pre-IBC insolvency framework. The case proved a mix of weak management, regulatory inefficiencies, and fragmentation of the legal environment created barriers that an airline could not overcome. In the days when such a unified bankruptcy code did not exist, creditors moved to their legal positions without a central, sequenced plan or timeline, generating a confusing, chaotic, and in the end unsuccessful restructuring attempt.

In 2014-15, SpiceJet was at the brink of insolvency, which proves that being in financial duress is a sign but not a cause of bankruptcy, most especially where management is quick in the restructuring of debts and holding talks with lenders. The introduction of the IBC in 2016 served as an additional boost to an already favorable environment basically for purposes of corporate insolvency resolution. Though SpiceJet did not officially go into an insolvency procedure under the IBC, indirect application of rules pertaining to the new laws might have revived the airline.

These case studies are very important lessons for the MNCs operating in India. Of course, the legal frameworks do represent an essential element in the factors influencing corporate survival but far from the only one. Instead, such issues as management decisions and creditor negotiations precede whatever form the legal framework takes, while those economic factors out of management control are also the most crucial. Especially, it is a robust, predictable legal framework that increases a chance of recovery in case of financial crises, as the IBC does in India.

## **LIMITATIONS OF THE PROJECT**

Even though such project has many merits when it comes to understanding the importance of bankruptcy and insolvency laws in relation to the sustainability of the MNCs, there are



a number of limitations that one must accept:

**Narrow Case Study:** This research only covers two firms in the context of the Indian aviation industry. Only Kingfisher and SpiceJet are focused on in this book. Even though Kingfisher and SpiceJet have different results, the results might not be entirely generalized beyond this sector or region.

**Use of Accessible Information:** The accomplishment of this project is based on information available in the public domain including financial records, legal files, and the media, published news. In order to gain an understanding of these issues more granular than what is possible from these two companies' public sources, interviews with relevant personnel or internal restricted data sources are needed.

**Discussion mainly driven by Indian Law:** Although the project touches on global insolvency regimes, it mainly focuses on the Indian legislative landscape. These results may not be completely applicable to MNCs based in other nations whose laws and economies are dissimilar.

## **FUTURE RESEARCH DIRECTIONS**

This project opens the door for several future research avenues that could further contribute to understanding the role of insolvency laws in the survival of multinational corporations:

**Cross-Sectoral Analysis:** New studies could also analyze the effect of insolvency laws on other industries of MNCs including manufacturing, retailing and technology industries. Every sector has its own problems and a comparison of the results across sectors could have possibly brought out how laws of bankruptcy impact MNCs in various industries.

**Cross-Border Insolvency:** In light of ever rising internationalization of business, there is a rising demand for a study on the cross-border insolvency law. When MNCs are insolvent, how can they handle the problem and what will be required to optimize the legal structures for cross border solutions?

**Quantitative Analysis of IBC Effectiveness:** Even though this project employs qualitative case studies, subsequent research could perform a quantitative evaluation of the IBC's contributions to corporate insolvency resolution in India. It is studies like these that could examine the performance of the firms that have embarked on the IBC procedure in

insolvency and factors that explain ideal restructuring outcomes.

**Comparative Legal Studies:** A study of the insolvency law of different countries especially the countries which have large multinational companies could give points of strength and weakness of different legal systems. These could be on comparisons between India's IBC to United States' Chapter 11 or Europe's insolvent structures.

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## **ABBREVIATIONS USED**

- 1. IBC**- Insolvency and Bankruptcy Code
- 2. CBI** - Central Bureau of Investigation
- 3. MNC** - Multinational Corporation
- 4. IMNC** - International Multinational Corporation
- 5. NCLT** - National Company Law Tribunal
- 6. NCLAT** - National Company Law Appellate Tribunal
- 7. SARFAESI** - Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest
- 8. SICA** - Sick Industrial Companies (Special Provisions) Act
- 9. RDDBFI** - Recovery of Debts Due to Banks and Financial Institutions
- 10. UNCITRAL** - United Nations Commission on International Trade Law
- 11. SEC** - Securities and Exchange Commission