SRI VENKATESWARA INTERNSHIP PROGRAM

FOR RESEARCH IN ACADEMICS

(SRI-VIPRA)

<u>Project Report of 2022: SVP-2219</u>

"Insolvency and Bankruptcy Code 2016: Some Case Studies of CIRP"

IQAC

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SRIVIPRA PROJECT 2022

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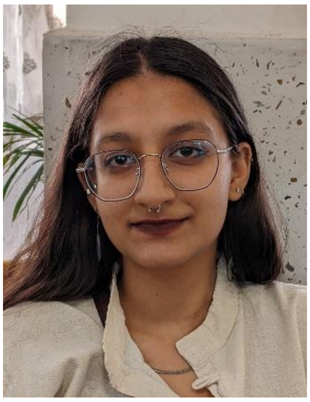
5	Ayushi Satrawal	B.A. (H) Economics	
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Certificate

This is to certify that the aforementioned students from Sri Venkateswara College have participated in the summer project SVP-2219 titled "**Insolvency and Bankruptcy Code 2016 - Some case Studies of CIRP"**.The participants have carried out the research project work under my guidance and supervision from 21st June 2022 to 7th October 2022. The work carried out is original and carried out in an online mode.

Signature of Mentor **Signature of Mentor**

Acknowledgements

This research paper was an eye-opener to the intricacies of the world of insolvency for all of us as would be in the case of all our readers. This paper was a huge opportunity for all of us and for this, we would like to the College management and Principal ma'am for granting the students such an opportunity. We focused on covering some of the main cases of insolvency that have either been resolved or concluded in the country in the past decade and try to draw an analysis of the various provisions of the IBC 2016. This project would not have been possible without the strong support and guidance for the mentors of the project, Dr Sindhu Mani Bag, and Dr S. Krishnakumar. We are highly indebted to them for motivating us even in times of difficulties so as to move ahead and put our effort in understanding the issues in depth and being able to present our findings before all of you .We further thank the managing committee of SRI-VIPRA for their efficiency and dedication in making this programme a grand success.

CONTENTS

Introduction

The institutional structure of bankruptcy resolution received a fillip with the passing of the Insolvency and Bankruptcy Code in our country. Though there have been number of institutions like the Debt Recovery Tribunal which have been dealing with the issue of recovery of debt from the part of the borrowers, there has been a large increase in the non-performing assets in the Indian economy. After the boom in the 2003-08 period which was driven and reinforced by the unprecedented lending by the banking system, the non-performing assets in the system was witness to a steady increase as a result of the downturn in the Indian economy in the period after the global financial crisis. Needless to say, a portion of the increase in non-performing assets has been due to the overall macroeconomic slowdown which also had had an effect on the decline in the price of commodities.

With part of the tax revenues in the country being diverted towards the infusion of capital into the public sector banking system to keep them afloat, there has been a hue and cry over the necessity of setting apart funds towards restoring the health of the banking system in the country. Time-bound recovery of the debts was considered to be an important priority, moreover, wherever it was possible to restore the company and manage the same with improvement of future prospects, it was thought that there should be options of that sort to be kept open. What has been the experience of the bankruptcy and insolvency regime which has evolved ever since the IBC which got a shot in the arm with the RBI Dirty 12 (which accounted for over 25% of the total non-performing assets of the banking system) being referred to the IBBI by the Government of India.

This study explores the insolvency regime in the country through the reports of the resolution professionals as well as the company reports apart from the various other details of the sector to which the corporation belongs. In this study, a group of ten students explore five case studies:. Binani Cements(Soumya Panwar and Avijit Sharma) , Dewan Housing Finance Corporate Ld. (Prerna Singla and Niyati Vashishtha), Essar Steel (Suraj Kumar and Adya Gupta), Jaypeee Infratech Ltd. (Ayushi Satrawal and Smriti Lakhani) and Ruchi Soya (Ishita Singh and Siddhi Sharma).

Chapter 1

Binani Cement Limited

Case Study Of Binani Cement Limited

The case study of Binani Cement Limited is a pivotal case for IBC and the whole framework of the **Corporate Insolvency Resolution Process** for more reasons than one.

The most obvious reason being when the company was finally resolved, the recovery rate of creditors was a hundred percent of their claim making Binani Cement's case one of the most successful resolutions under IBC since it had come into effect in 2016. It is a landmark case for raising crucial issues about the integrity of the law, its interpretation, priorities of the process and the discrimination against the Operational Creditors which were settled only when the Supreme Court made its unquestionable and final ruling. The operations of Binani Cement had all come to a complete standstill, being unable to meet the day-to-day operational expenses, 2 days before when its Corporate Insolvency Resolution Process began. It also had about eight subsidiaries which had its own subsidiaries, which were partially responsible for its working capital shortage, further making it difficult for the Resolution Professional to establish control.

Company Profile

Binani Cement Limited, a flagship subsidiary of Binani Industries Limited (BIL) and an integral part of Braj Binani Group, was known for producing, selling and distributing Cement and Clinker in Rajasthan, Maharashtra, Delhi and other states of India. The company was incorporated on 15th January 1996 under the name of Dynasty Dealer Private Limited which was later changed to Binani Cement Private Limited on 23rd April 1998. Further down the line, on 6th October 1998, the company was transformed into a public company and renamed 'Binani Cement Limited' with a fresh certificate of incorporation.

Major products manufactured by Binani Cement included Ordinary Portland Cement, Pozzolana Portland Cement and Ground Granulated Blast-Furnace Slag.

Starting with a small capacity manufacturing plant of 1.65 Million Tonnes per Annum(MTPA) in Binanigram, Rajasthan, established in 1997, it quickly reached the status of a global cement manufacturer by expanding its domestic production capacity and establishing its additional production units abroad. These foreign units included an integrated plant named Shandong Binani Rongan Cement Co. Limited with a 3 MTPA capacity in China and Binani Cement Factory LCC, a grinding unit with a 2 MTPA capacity in Dubai, making Binani's global capacity to be 11.25 Metric Tonnes Per Annum.

With Binani Cement's well-marketed brand, extensive distribution networks and quality products, its market grew in western and northern markets of India and also carved a reputation in the global markets, having well-connected sales networks in UAE, UK, Sudan, South Africa, Tanzania, and Namibia.

How Binani Cement was led to the quagmire of Bankruptcy?

Binani Cement was an up-and-coming ambitious company with plans to expand its capacity in China and Mauritius but there were some unexpected roadblocks in the way. The Chinese authority rejected the plan as it preferred industry consolidation. Furthermore, Binani cement wasn't able to secure land in Mauritius so the expansion project there was also scrapped. These failed expansion projects were only the beginning of the downfall of Binani.

On top of these both ill-timed projects, the **Construction sector of India slowed down after 2008 and continued to show low growth till its resolution**. To corroborate this by data, Figure 1.1 shows how the rate of Stalled Realty Projects increased steeply in June 2009 and then again in March 2012, and have continued to remain on the higher side. This affected the cement industry deeply as cement is the most integral raw material in the construction industry.

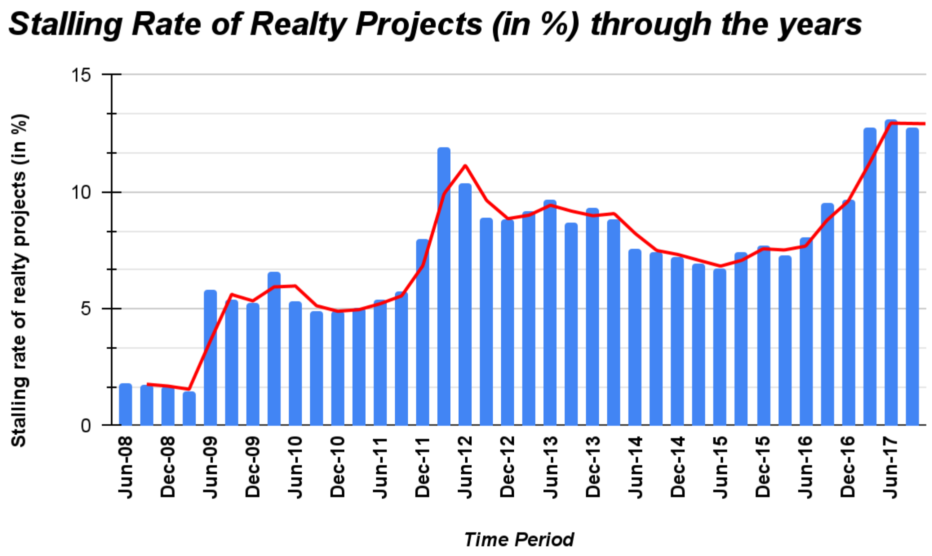

Figure 1.1

Source: The Great Indian Construction Slowdown, Mint

In 2012, under the allegations of market price-fixing, Binani cement was **heavily penalised by the Competition Commission of India (CCI)** alongside other major industry players. The fine levied was equal to 50% of the net profits of the company from 2009 to 2011.

The **increasing Unrealised Sales** (also called Trade Receivables or Sundry Debtors) for the finished product supplied by related parties led to the **working capital shortage**. From Figure 1.2, it is evident that the trade receivables rose sharply after 2014, leaving Binani grappling for cash to fulfil their day-to-day operations.

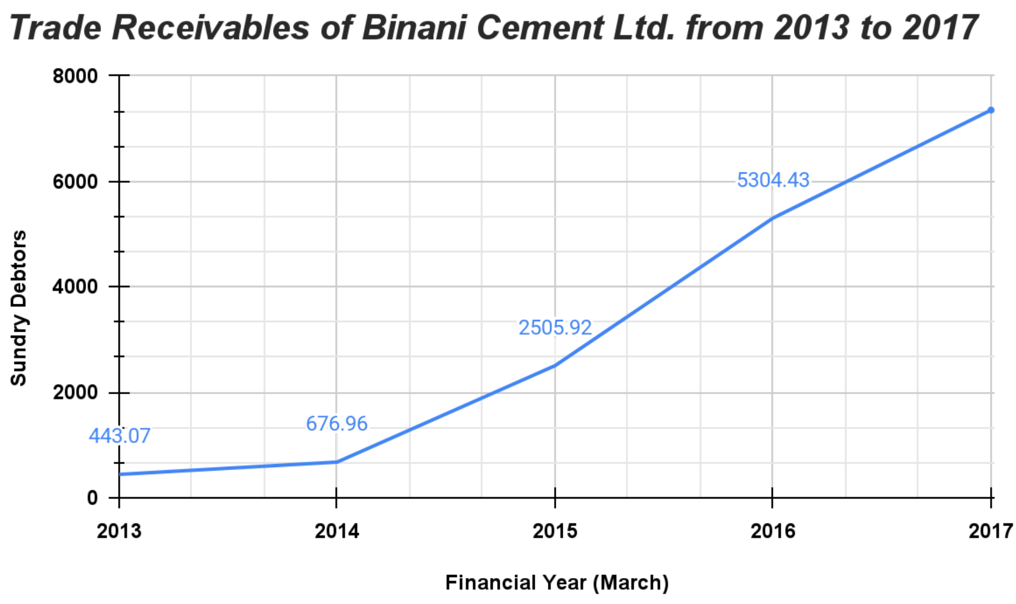

Figure 1.2

Source: B. C. Limited Annual Reports

The debt rose to 3,000 crores in 2015 which only went higher till it hit 6,500 crores when CIRP was initiated. Binani Industries, the parent company of Binani cement, citing the tight financial position sold a 40% stake in Binani Cement and also intended to sell the grinding unit in Rajasthan to raise capital and reduce debt. But, the attempt was not successful and the financial pressure remained.

Compounding all of this, the price of Coal, a major input that comprises 20% of the operational cost of production of cement, rose sharply in 2016 (as clearly depicted in Figure 1.3) and has remained high since. **This led to an increase in the prices of cement which ended up further hurting the sales of the company.**

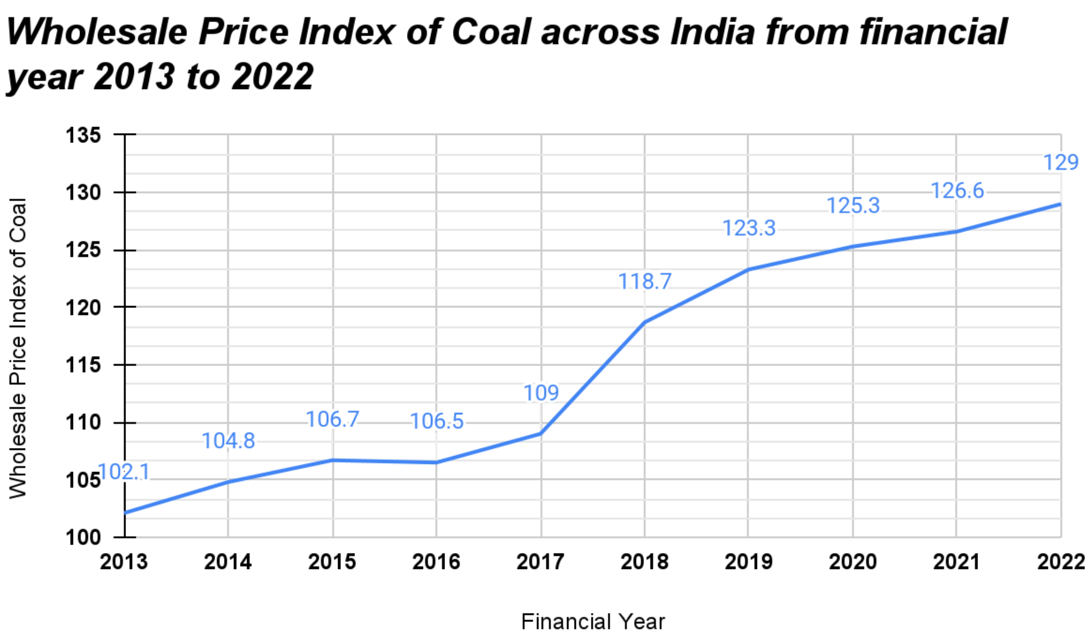

Figure 1.3

Source: Statista

Witnessing all the factors of de-accelerated growth, the group of banks who lent to Binani Cement agreed to restructure the account of Binani under the Joint Lenders Forum (JLF) and Master Restructuring Agreement was signed. A **Corrective Action Plan** was finalised but it failed to be implemented due to some lenders not disbursing the required facilities as per the CAP. The company, at last, was taken to NCLT for initiation of CIRP.

By this point, the company was buried under mounds of debt obligation and facing so much working capital shortage that the operations of Binani Cement Limited completely stopped on 23 July 2017.

BINANI CEMENT LIMITED

One Misfortune After Another

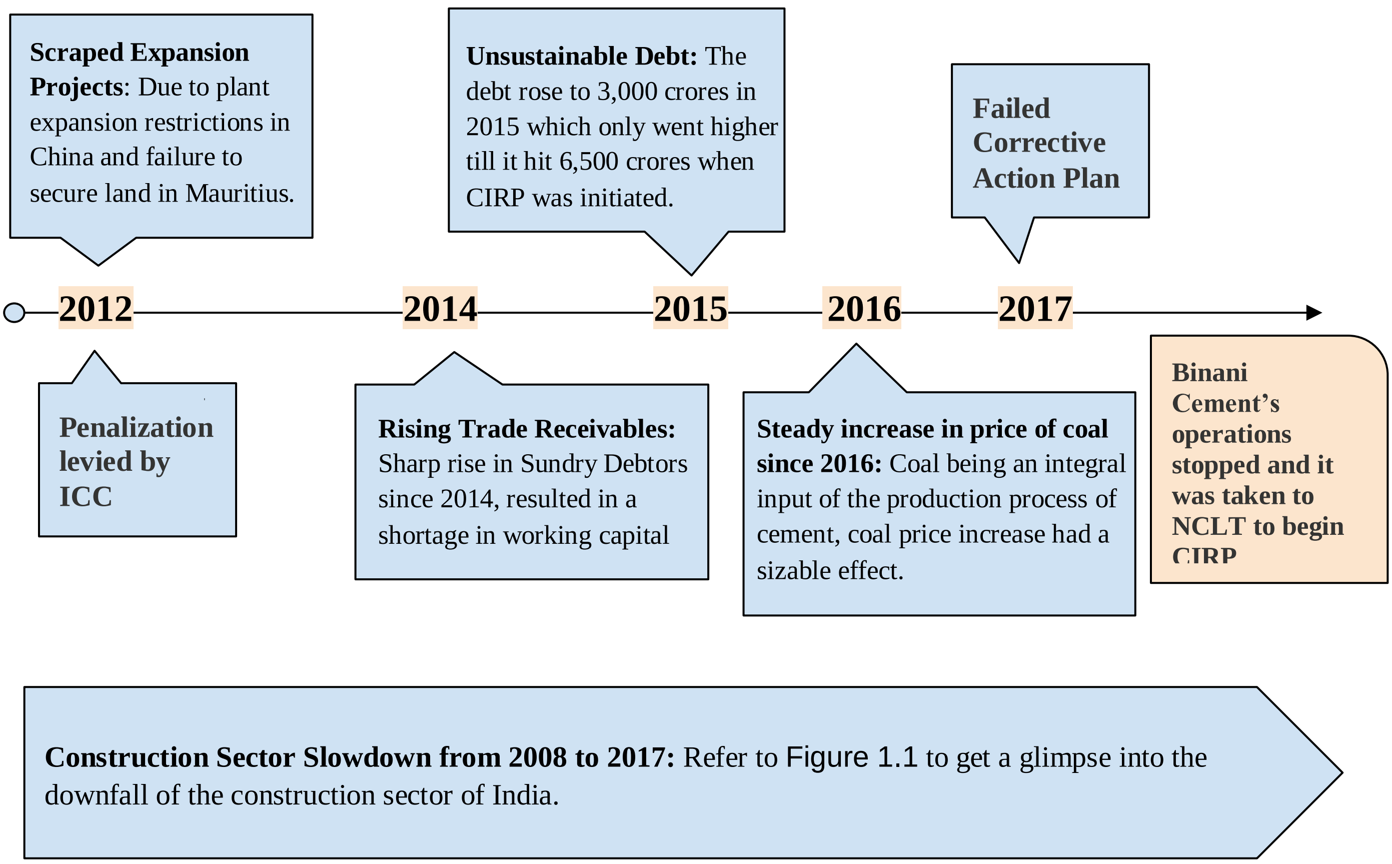

Figure 1.4

Timeline of Binani Cement's Financial Troubles

The Tug of War Over Binani Cement Limited:

Why was Binani Cement Ltd. eagerly sought after during the process of resolution?

The major asset of this company, considered the last of its kind, was its **Captive Limestone Reserves which were capable of serving its needs for the next 30 years**. Any cement company acquiring such an integral and indispensable asset on a haircut price could not go wrong, it would lower their cost considerably in near future.

The potential acquirers also wanted to **consolidate their presence in the northern markets** especially South Rajasthan by acquiring Binani which had an established market there.

These were the major reasons why Binani under CIRP garnered the interest of acquisition among 12 domestic cement companies and three major overseas leading companies of cement including Dalmia Bharat Cement, CRH, Lafarge Holcim, Heidelberg Cement, India Cement, Orient Cement, Ramco Cement, JSW Cement, Shree Cement, UltraTech Cement and Piramal Group.

Resolution Process

The resolution process commenced on 17 July 2017. Mr Vijaykumar V Iyer was appointed as the Interim and then confirmed as the Resolution Professional by the NCLT on the 22nd of August. The IRP met with the Committee of Creditors and came up with a suitable resolution procedure. As many as 15 companies, including three large overseas players, showed interest in Binani Cement, which faced bankruptcy proceedings from its lenders, senior officials, etc. Among the foreign players, Dublin-based CRH, one of the largest building material companies in the world, showed interest in response to initial bids called by the Resolution Professional.

Binani Industries, the promoters of Binani Cement, created problems for the insolvency process of the cement company by valuing it at Rs 173 billion even though the bids by Dalmia and UltraTech went up to a maximum of Rs 63 billion. The officials and directors of Binani Industries were neither called to be involved in the meetings of the Committee of Creditors nor invited by the Resolution Professional to help in the bidding process.

UltraTech cement questioned the NCLT when its bids were continuously rejected by them and the rights of the acquisition were given to Dalmia, who were emerging as clear favourites. Officials from UltraTech said that they did not receive any sort of communication from the resolution professional, except a single-line email which stated that their bid was rejected. “There was no transparency over how the bids were evaluated and why the UltraTech bid was rejected. The Birla group company and the Dalmia Bharat consortium emerged as the lead bidders for Binani Cement which was undergoing resolution under the Insolvency and Bankruptcy Code. The North-based cement firm was put on the block by the National Company Law Tribunal after lenders initiated insolvency proceedings against it. The company was in debt of Rs 3608 crore. Ultratech offered to clear the dues of all lenders and match the bid of the leaders. This forced the stakeholders to seriously consider their offer.

After a few grievances against the RP were raised, the Kolkata Bench of the National Company Law Tribunal (NCLT) asked Vijaykumar Iyer, a Resolution Professional of Binani Cement, to be physically present during the next hearing of the tribunal for answering questions on the bidding process followed during the resolution. Binani Industries also moved the National Company Law Appellate Tribunal against the Resolution Professional, alleging that its order was not followed while declaring the successful resolution plan. Filing a contempt plea against RP, Binani Industries also asked the NCLAT to annul the meeting of the Committee of Creditors (CoC) of Binani Cements held on March 14, 2018, where the Dalmia bid was accepted.

UltraTech had alleged that the bankruptcy resolution process at Binani Cement was completed in secrecy even as the panel of lenders to the debt-laden manufacturer voted in favour of a bid by a Dalmia Bharat-led consortium. It then filed a petition with the NCLT, seeking the cancellation of the lenders' vote in favour of the Dalmia-led resolution offer. Ultratech had increased its bid by Rs 700 crore earlier when they came to know that the Dalmia bid was going to be approved by the lenders. UltraTech raised its initial bid of Rs. 6,500 crores to a new bid of Rs. 7,266 crores which now covered the unsecured trade creditors and their entire dues. During this course of proceedings, Dalmia group blamed Binani Cements for thwarting the resolution process and causing hindrances in the smooth takeover of the company. This was due to the fact that Binani had considered dealing on the side to do away with criminal proceedings against them.

The Competition Commission cleared UltraTech's bid to acquire Binani Cement, pursuant to the insolvency proceedings. Binani Industries, the promoter of Binani Cement, had held discussions with UltraTech for arranging funds for the payment to the lenders. A comfort letter was issued by UltraTech's board to provide Rs 7,266 crore against a 98.43% stake in BCL.

Binani said it received an offer from the Aditya Birla group firm UltraTech to transfer its 98.43 per cent stake in BCL for Rs 72 billion. However, it demanded that the insolvency proceedings triggered by the Committee of Creditors-approved bid of Rs. 63 billion by Rajputana Properties Ltd. (owned by Dalmia Bharat Group) be stopped immediately. Since this was not done as planned by Binani, they filed an application for termination of the company insolvency and resolution proceedings (CIRP) of its subsidiary Binani Cements Ltd. The bidding hung in balance as both the leaders tried to come up with offers which matched, if not overtook each other's offers.

Providing a fresh lease of life for more than 3,000 OCs of Binani Cement, the Kolkata bench of National Company Law Tribunal (NCLT) then directed the Committee of Creditors to allow UltraTech to make a revised bid, and also allow Dalmia to match the offer made by them. The National Company Law Tribunal (NCLT) was right to direct the creditors of Binani Cement to consider UltraTech Cement's higher bid, even as it has allowed the Dalmia group to bid further. It wanted to achieve the public-policy objective of obtaining the highest value for the distressed asset under resolution. This, in turn, would pay off not only secured lenders and the banks but also the debts owed to unsecured creditors.

Finally, Financial creditors led by Edelweiss Asset Reconstruction Company Ltd. voted in UltraTech's favour, as it was the highest bid received during the whole of the resolution process. The bid promised a 100% recovery to almost all lenders of Binani (except the related parties), this was more than expected from the collective lender's perspective. Hence, UltraTech's bid was approved by lenders representing 90% of the outstanding dues of all financial creditors of BCL. Under the current rules, a proposal needs approval from at least 75 percent of lenders by value, to go through. The NCLAT approved UlteaTech's revised bid of Rs 7,950 crore for BCL and told Dalmia that their bid was discriminatory against some creditors. The order marked a near-conclusion for the 16-month-long battle for the asset after it was admitted by the insolvency tribunal for resolution. A day after the apex court cleared its bid for Binani Cement, Ultratech Cement announced that the Braj Binani group's flagship company had become a subsidiary of Ultratech. The board of Binani Cement had also been reconstituted. Through its offer of Rs 7,950 crore for the asset, Ultratech got the ownership of a 6.25 MT plant in the state of Rajasthan that comprised an integrated cement which had a capacity of 4.85 MT and a split grinding unit with a capacity of 1.4 MT. Binani Cement also expanded its operations to Dubai and China and apart from India, and enjoyed a major market share in countries like UAE, Sudan, South Africa, Tanzania, Madagascar and Namibia.

Financial Terms of Resolution Plan				
S NO.	**Particulars**	**Verified Claim (in Crores)**	**Payment**	**Percentage of Claim Recovered**
1	Insolvency Resolution Process Cost	115.91	115.91	100%
2	Workman Wages	18.01	18.01	100%
3	Edelweiss Asset Reconstruction Company	2775.82	2775.82	100%
4	IDBI Bank	335.85	335.85	100%
5	Bank of Baroda	427.69	427.69	100%
6	Canara Bank	370.34	370.34	100%
7	Bank of India	94.66	94.66	100%
8	State Bank of India	36.89	36.89	100%

9	Oriental Bank of Commerce	0.72	0.72	100%
10	IDBI Bank, Dubai	1567.45	1567.45	100%
11	Export Import Bank of India	619.95	619.95	100%
12	State Bank of India, Hong Kong	36.82	36.82	100%
13	Bank of Baroda, London	171.57	171.57	100%
14	State Bank of India, Bahrain	24.56	24.56	100%
15	Syndicate Bank	7.05	7.05	100%
16	Unrelated Parties	438.13	438.13	100%
17	Related Parties	60.75	0	0%
18	Statutory Liabilities	177.5	177.5	100%
19	Equity/Working Capital Infusion	NA	350	NA
	TOTAL	7289.05	7568.89	103.8391834%

Figure 1.5

Source: NCLAT

From the financial terms of the Resolution Plan, Ultratech Cement tried to maximize the value of the assets of the 'Corporate Debtor' while some amount of working capital had been infused (Rs. 350 Crores). All the Financial Creditors and the Operational Creditors have been paid 100% of dues except the related parties. In the Resolution Plan, Ultratech agreed to pay further interest @10% per annum quarterly to the rest of the financial creditors for the entire resolution period till the date of payment. The whole distribution can be seen in Figure 1.5.

From Downfall to Redemption:

Performance Analysis of Binani Cement Limited Before and After CIRP

Since the CIRP of Binani Cement Limited commenced on 25 July 2017. Here, the analysis is between the periods **Before (2016-2017)** and **After (2018-2020)** the watershed year of **2017-18** where the managerial reins of Binani Cement shifted to **Mr Vijaykumar V. Iyer** as the Interim Resolution Professional. Since the company was successfully transferred to resolution applicant **UltraTech Cement** on December 12, 2018, the period of 2019-20 is more indicative of how UltraTech Cement revamped the operations of Binani Cement to turn in profits.

The most relevant financial performance indicators of Binani Cement Limited in relation to the CIRP process have been compared in the subsequent graphs *(the data source of which is **B. C. Limited Annual Reports**).*

- ***Net Profit Ratio:*** *The Net Profit Ratio signifies the Net Profits recognised (after deducting all costs of production, administration, and financing) as a percentage of the Net Sales made by the company.*

- Corroborating with all the facts stated till now, in Figure 1.6 , we see a huge dip in the Net profit ratio (which was already a negative 17.58% to begin with) to -82.16% by the time it was admitted to CIRP. In the following years, we see a massive turnaround where the profits significantly improve and finally, in 2019-20 the company starts to yield a positive return of 4%.

Year	*Net Profit Ratio (%)* *= (Net Profit/ Revenue)x100*
2016-17	**-17.58%**
2017-18	**-82.16%**
2018-19	**-35.54%**
2019-20	**4%**

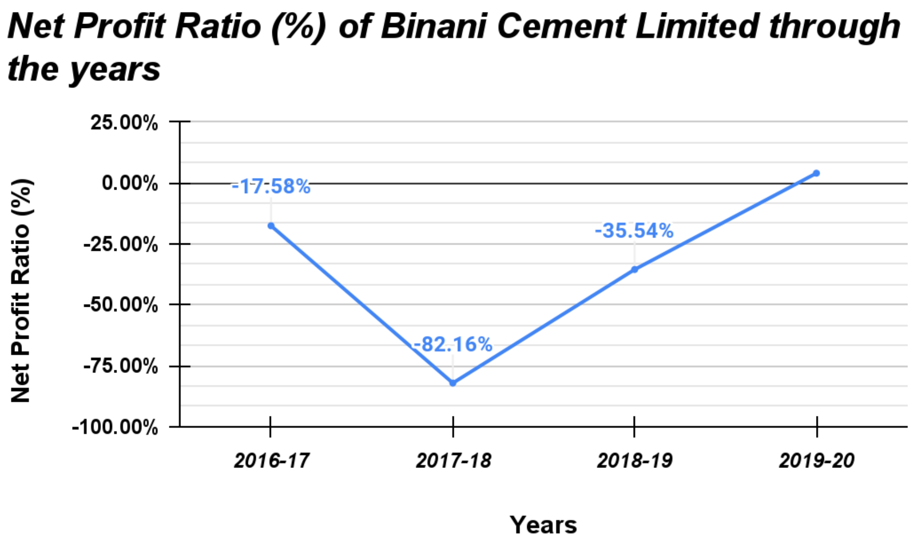

Figure 1.6

- ***EBITDA Margin:*** *Earnings before Interest, Taxes, Depreciation, and Amortisation (EBITDA) is a popular indicator of corporate profitability which measures profits (before deducting Interest, Taxes, Depreciation, and Amortisation) as a percentage of Net Sales made by the company.*
  - The EBITDA Margin fell to -36% as the company hits! rock-bottom but makes a remarkable v-shaped recovery to 36% in 2019-2020.

Year	*EBITDA Margin (%)* *= (EBITDA**/ Revenue)x100*
2016-17	**7%**
2017-18	**-36%**
2018-19	**10%**
2019-20	**36%**

** **EBITDA** stands for Earnings before Interest, Taxes, Depreciation, and Amortisation

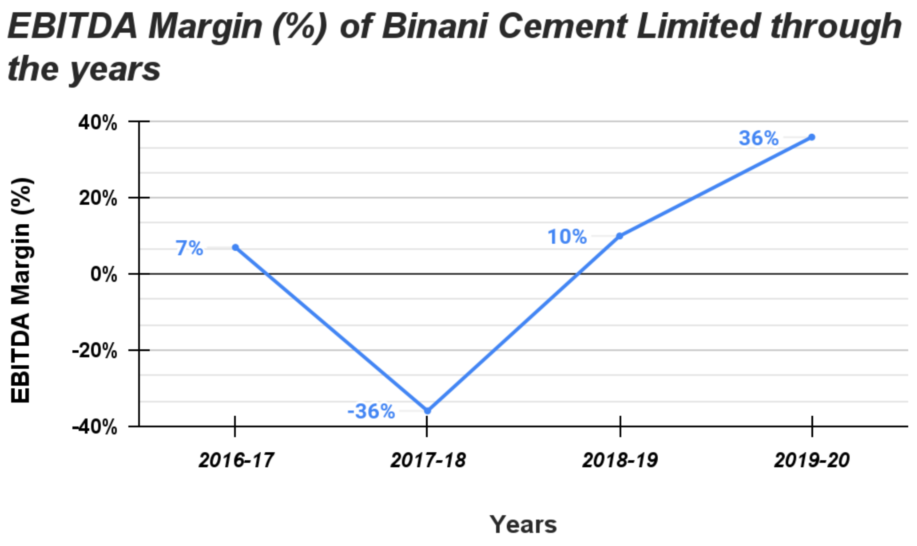

Figure 1.7

- ***Interest Coverage Ratio:*** *It is an important financial ratio to assess the solvency of a business and is hence often used by investors and lenders credit-worthiness of the company. The Interest Coverage Ratio signifies how comfortable the company is in repaying its interest on outstanding loans. It is calculated with Earning Before Interest and Tax (EBIT) divided by Interest expenses.*
    - The Interest Coverage Ratio of Binani Cement went from -1.39 times (with the negative sign indicating the company was making a loss) to 1.13 times, making a V-shaped recovery here too.

Year	**Interest Coverage ratio (Times) = EBIT / Interest Expenses**
2016-17	**0.06**
2017-18	**-1.39**
2018-19	**0.11**
2019-20	**1.13**
*** EBIT stands for Earnings before Interest and Taxes*	

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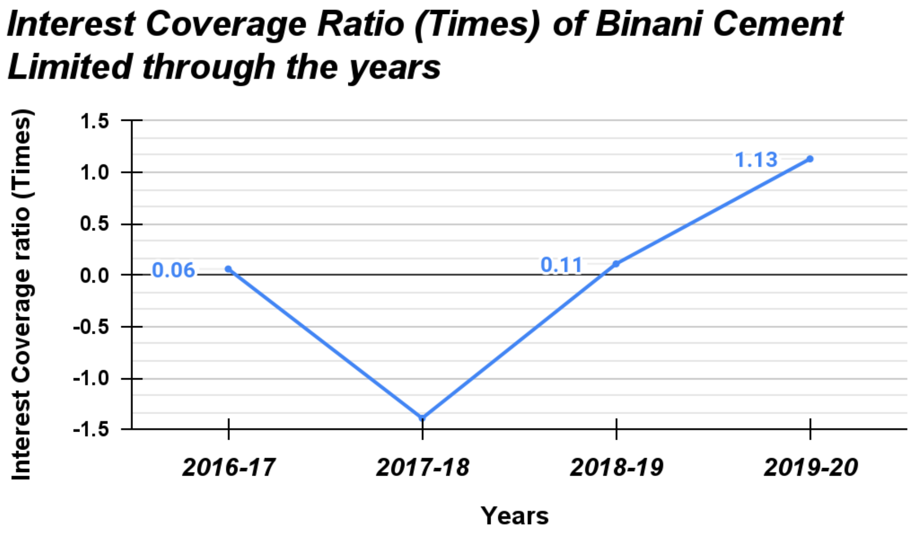

Figure 1.8

- ***Debt to Equity Ratio:*** *The debt to equity ratio is a ratio of a company's total debt to its total equity which signifies how risky is its financial structure. The ratio highlights the respective sizes of debt and equity used to finance the company***.**
  - In 2016-17, Binani cement had a Debt of about 30 times its Equity, making it evident why the company had no way to repay this enormous debt. Through the years of CIRP and acquisition, the ratio is much improved and comes down to a more normal figure of 1.21 in 2019-20.

Year	***Debt to Equity Ratio = Total Liabilities / Total Stockholders' Equity***
2016-17	**30.82**
2017-18	**18.36**
2018-19	**1.19**
2019-20	**1.21**

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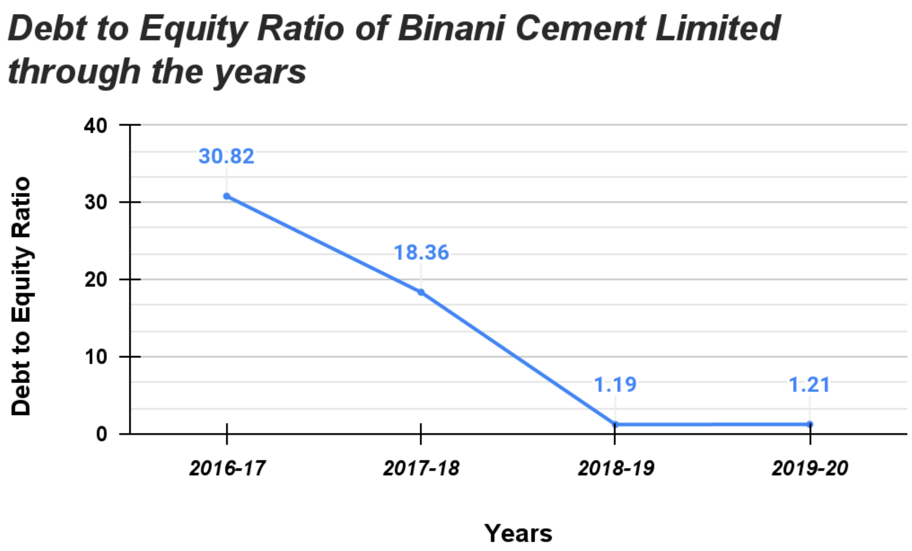

Figure 1.9

- ***Debtors Days:*** *Debtor day (or Debtor Collection Period) highlights the number of days it takes for the debtors of the company to pay back after a sale has been made. It is a crucial indicator of the cash availability of the company.*
    - As Figure 1.2 suggests, the amount due with Binani's debtors was rising at a problematic pace. Consistently, the Debtors Days Ratio was 109.82 days, meaning on average a sale was realised in 109.82 days after it has been made. This raised major issues with the company's cash availability, making Binani Cement incapable of fulfilling its debt obligations.
    - Through the better years of business after CIRP, Binani was able to slash the ratio to a mere 0.66 days, meaning a sale (on average) was realised in less than a day. This made sure the company had enough funds to function properly at any point of time.

Year	***Debtors days*** ***= (Trade receivables / Annual credit sales) x 365 days***
2016-17	**109.82**
2017-18	**109.33**
2018-19	**35.67**
2019-20	**0.66**

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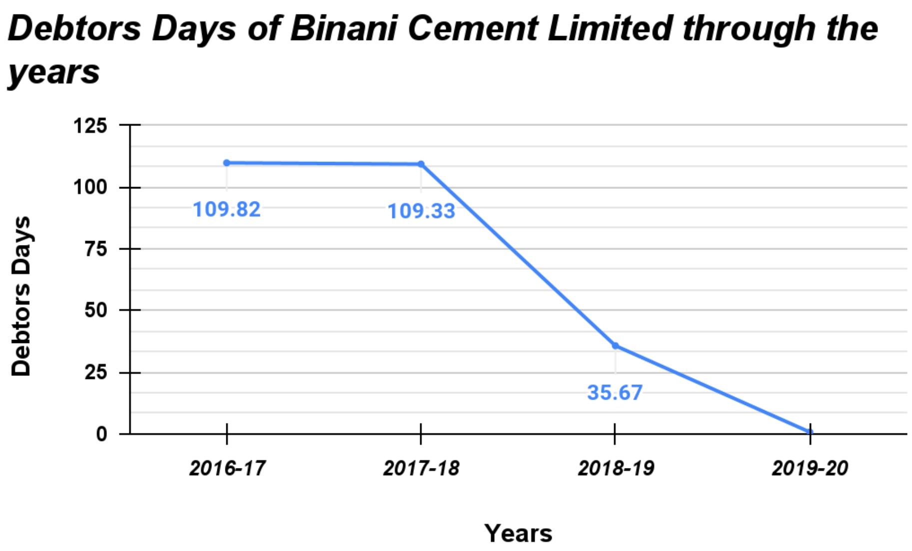


Figure 1.10

- ***Basic EPS:*** *Basic Earning Per Share signifies the magnitude of profit allotted to each share of common stock.*
    - For Binani, with the capital structure skewed towards common stock, this ratio was very crucial. The Basic EPS was negative while the company was on the cusp of insolvency, falling as low as -204.44 in 2017-18. It made a swift recovery in 2019-20, turning in a positive EPS after 3 consecutive years of loss per share.

Year	***Basic EPS*** ***= (Net Income - Preferred Dividends)*** ***÷ Weighted Average of Common Shares Outstanding***
2016-17	**-19.47**
2017-18	**-205.44**
2018-19	**-12.48**
2019-20	**0.15**

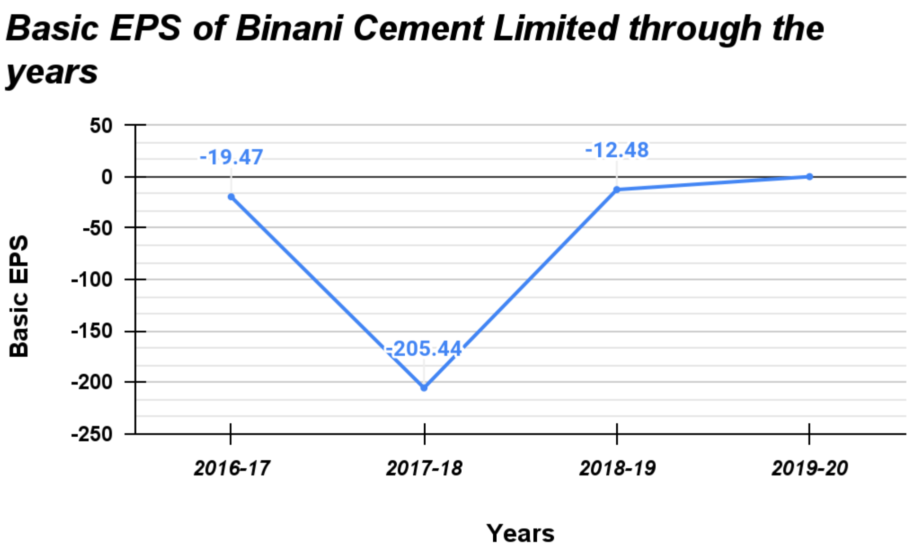


Figure 1.11

- ***Return on Capital Employed:*** *Return on Capital employed specifies how efficiently a company is using its capital (Debt and equity both included) to generate profits. The ratio holds much importance in an industry as capital-intensive as the cement industry, hence, making it a crucial indicator.*
    - The Return on Capital Employed started off with a very low 1% in the pre-CIRP phase but rose up to 21% during CIRP. On the account of finally paying off its climbing debt in 2018-19, the percentage fell to 4% only to recover with a strong 28% in the next year, showing great promise to rise even higher in future.

Year	***Return on Capital Employed = EBIT / Capital Employed****
2016-17	**1%**
2017-18	**21%**
2018-19	**4%**
2019-20	**28%**
**Capital employed = Equity + Non-current Liabilities	

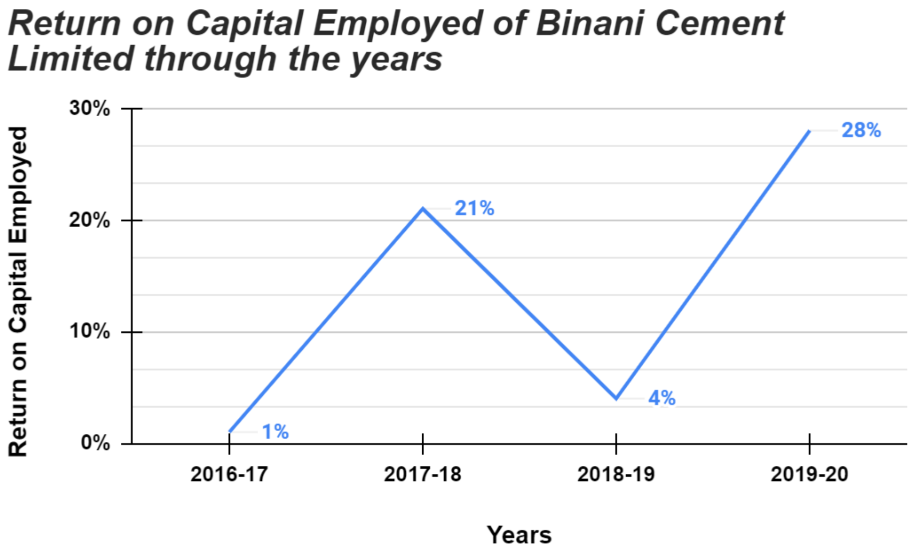


Figure 1.12

- ***Net Cash Flow from Operating Activities:*** *The net cash flow from Operating Activities analyses how successful is the core business in bringing cash to the company. It does not include capital expenditure or investment but only the transactions related to the main operations of the business.*
    - For a major business like Binani Cement whose operating activities were completely shut down for a period of time between starting of CIRP and the IR professional assuming the office. Therefore, this ratio becomes very important and an indicator of how well the IR professional turned around the situation.
    - Even with sour creditor relations, less than good machinery and a shortage of cash availability to run operations, the IR's management got the Net Cash flow (from Operating Activities) to almost double to Rs. 12,890 lakhs.
    - The figure dipped to Rs. -52,506 lakhs due to the repayment of loans but upon starting as a debt-free company (as Ultratech Nathdwara Cement Limited), it managed to bounce back quickly to Rs. 42,011 lakhs.

Year	***Net Cash Flow from Operating Activities (in lakhs)***
2016-17	**6,760**
2017-18	**12,890**
2018-19	**-52,506**
2019-20	**42,011**

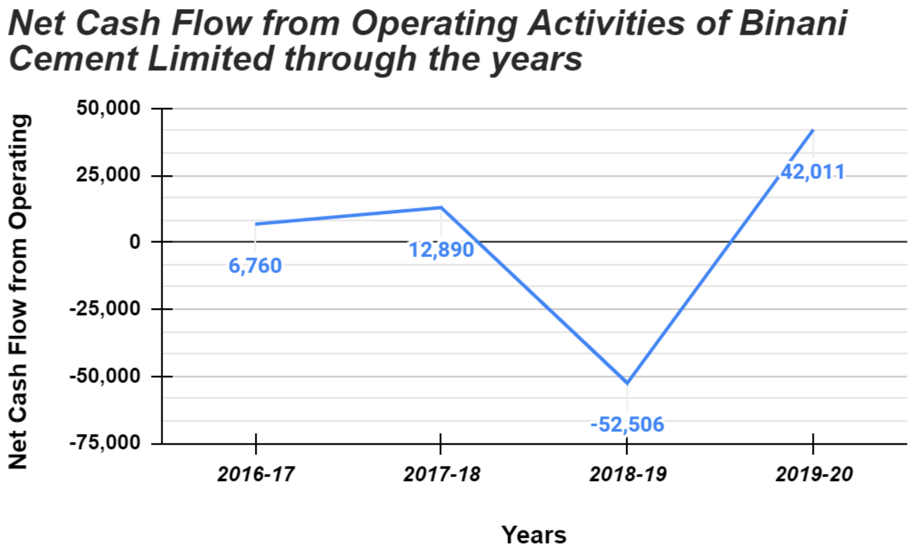


Figure 1.13

After analysing these important indicators of solvency and profitability of Binani, it is evident that each ratio improved for the better after Binani Cement Limited went under CIRP, making Binani Cement resolution a feather in IBC's (Insolvency and Bankruptcy Code) cap.

The ratios further improved as UltraTech Cement successfully overtook the company and made its growth trajectory steeper.

Contribution to 'Tying the loose ends of IBC'

At the time of Binani Cement's resolution, the priority of claim recovery across classes of creditors was governed by the **Waterfall mechanism which put the Financial Creditors above Operational Creditors** in terms of recovery. Furthermore, an Operational Creditor was not allowed participation in the proceedings of the CoC and was only granted a seat as a spectator even when its claim exceeded 10% of the total debt. Naturally, there was systemic discrimination towards the Operational Creditors in the resolution process.

An extended tug-of-war of resolution bids ensued between the leading bidders, **Rajputana Properties Private Limited (owned by Dalmia Bharat)** and **Ultratech Cement**. **By a sizable majority of 99.43% of the Committee of Creditors(CoC), the resolution bid of Dalmia Bharat was approved** while Ultratech Cement's bid was rejected by a small margin. But right after this, Ultratech Cement raised its bid by Rs. 700 crores making it a grand total of Rs 7,266 crore against its initial bid of Rs 6,500 crore and went to NCLT. Dalmia Bharat's bid was challenged by Ultratech on the grounds that the process of selection had not been transparent or fair towards the Operational Creditors. Moreover, it was also alleged by Binani Industries (promoter of Binani Cement) that the IR professional has undervalued the company and tried to actively choose a favoured player's resolution bid.

When the matter reached NCLT, it settled the matter once and for all and tied the loose ends of IBC, and set a precedent for all the resolution cases that followed.

The NCLT defined the prioritised list of objectives that the CoC should adhere to while working towards repayment of their respective dues:

[1] "Resolution"

[2] "Maximisation of Value of Assets of the 'Corporate Debtor'':

[3] "Promotion of Entrepreneurship, Availability of Credit and Balancing the Interests".

On the grounds that UltraTech Cement's new bid of Rs 7,266 crore maximised the value of Binani Cement's assets and offered an equitable payback of dues to all classes of creditors, the NCLT urged IR professional and CoC to reconsider UltraTech Cement's bid. The ruling also cleared any ambiguity around the fact that the Operational Creditors deserve equal treatment in the resolution process as any other class of creditors.

The New Face of Binani Cement:

Ultratech Nathdwara Cement Limited (UNCL)

After a long legal battle in court which questioned the very sanctity of the IBC code, Ultratech Cement Limited (UCL) emerged on top and acquired the company at last as its subsidiary. Upon being acquired by Ultratech Cement for a total of Rs 7,950 crores Binani Cement was renamed **Ultratech Nathdwara Cement Ltd** with effect from December 12, 2018.

UltraTech took over Binani Cement's legacy of running operations, ready-to-use assets, the vast capacity of **11.25 MTPA** and a well-connected distribution network in the northern market. With a grand total of **94.75 MTPA** capacity in India, Ultratech was well on its way to establish itself as an important player in the Indian market of Cement. Currently, UCL, with its total capacity of 119.95 Million Tonnes Per Annum (MTPA) of grey cement and strength of 22 integrated manufacturing units, 27 grinding units, one clinkerisation unit and 8 Bulk Packaging Terminals, is the largest producer of grey cement, RMC, and white cement in India. It also has a prominent presence in the international market of cement. All this success of a resolved subsidiary, which provided a 100% recovery to its lenders in its CIRP phase and is now turning in increasing returns to its current owner goes to solidify the success of IBC and its process of Corporate Insolvency Resolution Process.

Changing Landscape of the Cement Industry

Gone are the days when small and medium-sized cement producers thrived in the Indian market. Now, the cement business is all about big-shot companies that hold a sizable market share. Through the years, the mini producers of cement have been wiped off the market by big players by achieving economies of scale through acquiring the competitor firms, much like our very own case of UltraTech taking over Binani Cement.

Adani Group's recent takeover of Ambuja and ACC made it the second-largest producer of cement with about 70 MTPA of cement capacity. It has forced other Cement giants like **Ultratech, Adani, Shree Cement and Dalmia** to prepare to expand their own plants, production units and to gun for aggressive strategies to take a greater chunk of the market share.

The **Competition Commission of India** has been keeping a close watch on this **'Cartelisation' of the Cement Industry** and even launched an investigative probe into the suspiciously coordinated price spike of branded cement of major companies in various regions of India. While the company representatives are silent on this new development, the officials are yet to declare any fines or accusations upon the companies.

Despite all this, the question remains, '*Are these fines going to be enough to stop the Cartelisation of the whole industry? Or is it just going to be a bump in the road for these Cement giants?*

Chapter 2

DEWAN HOUSING FINANCE CORPORATE LIMITED

ABSTRACT:

DHFL was the first financial service provider to undergo a Corporate Insolvency Resolution Process. Despite several challenges arising such as being the first such instance, legacy issues within the company and its vast scale of operations, the company accomplished all the major CIRP milestones within the stipulated time frame.

The company's poor performance and fraud allegations; the RBI with the introduction of Section 227 of the IBC on November 15, 2019, by the central government bringing financial institutions under the ambit of RBI, superseded the board of directors.

DHFL was admitted into the corporate insolvency resolution process (CIRP) on December 03, 2019, and Mr R. Subramaniakumar was appointed as Interim Resolution Professional (IRP) who was confirmed as Resolution Professional (RP) by the Committee of Creditors (CoC). After the Approval of the Resolution Plan submitted by the successful Resolution Applicant which was placed before the CoC in its eighteenth meeting dated December 24, 2020, and was approved by the requisite majority vote of the CoC during the voting window pursuant to the CoC which remained open from December 30, 2020, to January 15, 2021.

At 38,000 crore, it is the second largest asset resolved under the IBC, next only to, and is definitely a feather in the cap of RBI.

INTRODUCTION:

In the past few years, the Indian economy has witnessed corporate fraud one after the other. Billionaire entrepreneurs like Nirav Modi and Vijay Mallya have defrauded the people of the country and disappeared from the country.

In 2019, Cobra Post, a media company founded in 2003, made some surprising revelations against one of the renowned non-banking financial corporations, Dewan Housing Finance Corporation Limited (DHFL).

- **Profile of the Corporate Debtor/ Company**

  DHFL is an India-based financial service company which provides home-related loans, some midsize enterprise loans and others, along with offering products and services like life insurance services, asset management, etc. it engages in the business of loans and advances and acquisition of shares/stocks/bonds/securities/debentures, etc.

  Furthermore, since all banks are supposed to lend a certain portion of their funds to companies like DHFL, money deposited by small depositors in banks like State Bank of India and Bank of Baroda, ends up in the hands of NBFCs like DHFL.

- **Pre- CIRP Performance and Major problems which led to Financial Distress:**

  1. The company was under a lot of stress due to liquidity issues faced by the industry and there were reported failures to pay coupons. The company had sold Rs 30,000 crore of retail loans to meet its debt obligation which slowed down its growth.
  2. Furthermore, the company faced allegations of sanctioning dubious loans to shell companies without collateral of almost $1.5 billion and round-tripping to primary promoters of DHFL.

3. Despite the allegations of committing systematic fraud to siphon off public money, credit agencies continued to issue high safety ratings to the company's financial products, which impacted the credit behavior of DHFL borrowers, taking a toll on collections and impacting the company's residual assets.
4. Problems arose when it defaulted in repayment of 900 crores which led to share price crashing and a downgrade in the rating of its products.

Reasons why RBI intervened:

On 20 November 2019, the Reserve Bank of India superseded the erstwhile board of directors of the Corporate Debtor, owning to governance concerts and defaults by DHFL in meeting various payment obligations, under Section 45-IE(2) which states, the supersession of Board of Directors of the non-banking financial company other than government company.

In 2019, the RBI Act of 1934 was amended to confer power to RBI to have a bigger role in the management of NBFCs in adverse situations. Moreover, the RBI doesn't have to wait for the actual default to take place.

Prudential Framework for Resolution of Stressed Assets:

DHFL was already working with the creditors on a restructuring plan with possible stakeholders to facilitate early and transparent resolution, giving complete discretion to lenders with regard to design and implementation. By 5th July 2019, all major banks had signed the ICA with banks holding debentures, LIC, NHB and NABARD and RP process could be initiated and all the ley processes were undertaken. But various litigations against the company which hindered ICA working along with the introduction of section 227, lead to RBI intervention.

CHALLENGES:

The first company to go through a Corporate Insolvency Resolution Process was DHFL. The company achieved all the important CIRP goals within the allotted time frame despite facing a number of difficulties, including the fact that this was the first occurrence of its kind, internal legacy problems, and its enormous scale of operations

1. Industry-specific liquidity problems: Over the past two years, the NBFC sector has been one of the industries that have been negatively impacted by liquidity problems. Additionally, the situation got worse during the lockdown.
2. Strict Timeline during COVID-19: Maintaining the asset's worth as it depreciated with each passing day was difficult, making it necessary to practice strict time management.
3. A number of regulators, including the RBI and IBC, as well as other enforcement organizations, including the Enforcement Directorate, were involved.
4. Providing interim financing: Future cash flows may be impacted if lenders begin to doubt whether current loans can be sustained or that collections will continue to come in. Thus, it was essential that the RP maintain open lines of communication with the principal lenders and manage everything else without incident.
5. There may be other snags, including a potential contradiction between the IBC and the regulations put forth and some ambiguity regarding the function of the banks and insolvency regulators.

WAYS TO TACKLE THE CHALLENGES:

1. Adapted to the new normal: holding CoC and advisory committee meetings virtually, digitizing the gathering process, and maintaining constant contact with investors for data exchange and conversations.
2. To adapt, the business introduced alternative technology, enabled work from home, and provided other functional and connection support for all of its employees.

CORPORATE INSOLVENCY RESOLUTION PROCESS:

- **Initiation and appointment of IRP/RP**
    1. On 22nd November 2019, RBI formed a three-member Advisory committee comprising r Rajiv Lall, Non-executive chairman of IDFC First Bank ltd, Mr N S Kannan, Managing Director and CEO, ICICI Prudential Life Insurance Co. Ltd and Mr NS Venkatesh, Chief Executive, Association of Mutual Funds in India with the aim to advise the Administrator in the operations of DHFL during the CIRP.

       National Company Law Tribunal (NCLT) vide order dated 29th November initiated the CIRP after RBI filed a captioned company petition before the Mumbai bench. The Adjudication Authority (AA) appointed Mr R Subramaniakumar as Interim Resolution Professional (IRP) of Corporate Debtor (CD) vide order 3rd December 2019. He was later confirmed as a Resolution Professional (RP) by the Committee of Creditors (CoC).

- **FORMATION OF COMMITTEE OF CREDITORS (CoC)**
    2. Post the appointment of the IRP, a public announcement inviting creditors and public depositors of DHFL to submit their claims on or before 17th December 2019 was issued. There were more than 10 public depositors of the Corporate debtor, which formed the 'class of creditors' and Mrs Charu Sandeep Desai was voted as their authorized representative.

       Thereafter, a list of creditors was prepared by collating the claims which were received from various creditors. On 24.12.2019, CoC was constituted and on 30.12.2019, the first meeting was held with EY as the ' Process advisor' and AZB & Partners as 'legal advisor'.

       In the second CoC meeting held on 16th January 2020, Kapil Maheshwari was appointed as the Registered Valuer for the purpose of determining the fair value and liquidation value of the Corporate Debtors. The eligibility criteria for submission of expression of interest, issuance of Invitation for EOI and Form G for submission of resolution plan were approved.

- **INVITATIONS FOR IOE (Issue of Interest)**
    3. The invitation for expression of interest published by the Administrator invited expression of interest from the prospective resolution applicant under two options.

       - Option 1: PRAs were invited to submit EOIs for the entire business of DHFL as a going concern.

       - Option 2: Having regard to the complexity and scale of operations of DHFL, the Administrator in consultation with CoC, categorized the business of DHFL into three 'Groups' and PRAs were invited to submit EOIs for one or more Groups as a going concern.

- **PROSPECTIVE RESOLUTION APPLICANTS:**

4. Post the publishing of Form G, 23 EOIs were shortlisted by the Applicant, CoC and the Process and legal advisors in accordance with the eligibility criteria. An information Memorandum with all information regarding insolvency resolution process cost, material ligation and other financial and operational updates was shared.

CHALLENGES BEFORE NCLAT AND DECISION TAKEN:

1. NCLT directed the Administrator to place Mr Kapil Wadhawan Proposal before CoC for its consideration and voting, but the CoC immediately challenged the above order before the NCLAT.
2. It was rejected since the promoter was himself responsible for the current plight of DHFL and CoC had lost faith in the Applicant and therefore, unwilling to consider the proposal.
3. But, NCLAT observed that the final approval lies with it, despite the initiation of CIRP and there is no end to CIRP if RP is allowed to intervene at a later stage for maximization of assets and resolution plan by Piramal Group was finally approved.

RESOLUTION PLAN AND ITS APPROVAL:

1. In consultation with CoC, a final request containing an evaluation matrix was issued on September 16, 2020. The resolution plans were received from companies like India Opportunities Investments Singapore (option 1), Piramal Capital & Housing Finance Limited (option 1), Resolution plan submitted by Piramal Capital & Housing Finance Limited in respect of Option IIA, Adani Properties Private Limited along with its wholly owned subsidiary Nirjara Pedestal Private Limited in respect of Option IIC (as defined under the RFRP).
2. After analyzing the feasibility, viability, and compliance with the provision of the Code and rules and regulations of submitted resolution plans, with the assistance of Dun & Bradstreet, Process Advisors, Legal Advisors and the Applicant; the Administrator duly presented the plans before CoC and were voted upon during the ensuing voting window which remained open till January 15.2021.
3. The resolution plan submitted by Piramal Capital & Housing Finance Limited in respect of Option I (as defined under the RFRP) received 93.65 % votes.
4. The administrator (on behalf of the CoC) issued a 'Letter of Intent to the Successful Resolution Applicant' and the RBI communicated it 'no objection' on February 16, 2021, for change in control/ownership/management in the Corporate Debtor. On January 27, 2021, the Applicant sent a letter of intimation to the Insurance Regulatory and Development Authority of India ("IRDAI") in relation to the CIRP of the Corporate Debtor, updating the IRDA for its information and records about the proposed transactions under the Resolution Plan.

> In view of the lockdown imposed by the Central and State Government, due to the Covid-19 pandemic, the period from March 25, 2020, to July 31, 2020, was excluded from the CIRP period and accordingly, the 180th day stood on October 07, 2020, and the last date of CIRP stood at January 05, 2021 (including the initial exclusion and extension of 90 days).

LIQUIDATION VALUE AND CLAIMS OF CREDITORS:

1. The liquidation value was INR 27,440.11 crore according to RBSA Valuation Advisors LLP and INR 26,259.95 crores according to Kapil Maheshwari, Govind Panchal and Anuj Kumar along with JLL. Whereas on the other hand, the fair value was 40,810.26 crores as evaluated by RBSA Valuation Advisors LLP and 44,168.37 crores by Kapil Maheshwari, Govind Panchal and Anuj Kumar along with JLL.
2. According to Kapil Maheshwari, Govind Panchal and Anuj Kumar along with JLL the fair value and the liquidation value were 44,168.37 Crores and 26,259.95 Crores respectively, whereas, on the other hand, RBSA Valuation Advisors LLP evaluated it as 40,810.26 Crores and INR 27,440.11 crore respectively.
3. Interim Distribution Working: Under Section 2.5.5 of Part A of the Resolution Plan, the Successful Resolution Applicant has acknowledged the discretion of the CoC in determining the distribution of the Financial Creditors Payment Amount.

Categories	**Amount Claimed**	**Amount Admitted**	**Amount provided under the plan**	**The amount provided to the amount claimed %**
Secured Financial Creditors (includes those not having the right to vote, those who didn't vote in favor of the resolution plan, and those who did vote in favor of the resolution plan)	88,44,668	83,30,469	34,54,631	39.06%
Unsecured Financial Creditors (includes those not having the right to vote, those who didn't vote in favor of the resolution plan, and those did vote in favor of the resolution plan)	6,27,880	3,77,830	17,799	2.83%
Operational creditor (Related party to the debtor and govt. workman employees)	22,981	16,470	603	2.63%
Other debts and dues	5,05,720	0.00	-	0.00%
Grand Total	1,00,01,249	87,24,769	34,73,033	34.73%

Table 2.1 Interim Distribution Working Source: DHFL RP report

Therefore, the total resolution amount is considered to be INR 37,250 crores, as per the resolution plan.

KEY MILESTONES:

The company's corporate governance was strengthened, the risk management system was improved, and operating costs were dramatically reduced through an austerity campaign.

DURING CIRP:

By February 2020, the company's business was at a low point, and it had been suggested that the retail lending operations should focus on serving the low- and middle-class segments. However, these plans were hampered by the lockdown that Covid-19 had enforced.

It also had an impact on a number of business operations, such as collection and field trips, as well as head office and branch operations.

1. Lending activities:

In the months of April 2020 and May 2020, about 32% and 36% of retail borrowers, respectively, took advantage of the moratorium. As a result, the retail collections were impacted by the borrowers' use of the moratorium as well as by the restricted movement of collections and field officers. But this extensive awareness and collection campaign helped lower the under-moratorium borrower position from 36% in May 2020 to 27% in June 2020 in terms of count after reaching out to 60% of the retail borrowers and explaining to them the repercussions of the moratorium on their loan accounts as well as encouraging them to make regular payments as per the monthly EMI payment cycle.

2. Securitization/Assignments of Loans:

DHFL sold/assigned numerous pools of loans totaling Rs 6,108.85 crore and is still reimbursing borrowers for Equated Monthly Installments.

3. Cost-Reduction Measures:

All cost components were thoroughly reviewed, and unnecessary costs were reduced while necessary costs were optimized. Numerous internal committees were established to investigate the exorbitant expenditures in further detail. Most leasing and outsourcing agreements have been reviewed and renegotiated, which has reduced costs and started a process that will pay off handsomely.

4. Recovery and collections:

Retail and wholesale district teams with a task force were established, striving to maximize recovery and focused on activities such asset tracing, attaching defaulters' salaries or cash flow, etc. Additionally, a strong and thorough collection setup consisting of call centers, field agents, law firms, and auctioneers to handle different stages of default has also been set up.

5. Deposits:

DHFL has stopped taking new deposits or renewing existing ones as of May 20, 2019, despite the fact that it is a housing finance company that accepts deposits, as a result of a downgrade to its credit rating.

6. Investments:

Because the company was experiencing liquidity problems, the Advisory Committee carefully considered its risk appetite before deciding to deposit excess cash in mutual fund overnight fund schemes. Although it suffered a loss of Rs 2 crore, it also made Rs 204 crore in profits from interest on bonds and bank deposits.

7. Information technology:

CIRO's Tech 2.0 programme, which was implemented in 2017, was revised by a third party, and solutions to improve customer relationship management and increase customer satisfaction, as well as digital channels to facilitate effective customer interaction and improve the deposits system and integration with fintech solutions, were sought.

8. 3R INITIATIVES:

Cross-functional teams were established to implement the Mission 3R (Reassess, Reorient, Restructure) project, which was started to increase revenue, achieve operational efficiency, increase productivity, and improve operational efficiency.

9. HUMAN RESOURCE:

Since the start of CIRP, there has been less attrition thanks to ongoing interaction with the entire workforce.

10. RISK MANAGEMENT:

The risk management system was improved and made more efficient. A risk management committee was established to examine the risk management process and the new risks to which your company is subject.

POST CIRP PERIOD/ STATUS OF THE COMPANY:

With the acquisition of debt-ridden DHFL, Piramal Group has predicted a growth trajectory and aims at loan disbursement of about Rs 3500 crore. Due to insufficient data, the post CIRP performance can't be evaluated, but, according to Ajay Piramal, Chairman of Piramal Group, the financial service arm is planning to expand the branch network further. According to him, "with a scalable, tech-driven, lending platform, significant firepower for organic growth as well as acquisitions, given our low debt/equity of the financial services business, at 2.7 times and considerable value-unlocking potential (i.e, investments in Shriram), we feel that we are well-poised to become one of the largest, top-quality NBFC in the coming years."

ANALYSIS OF FINANCIAL STATEMENTS:

(For the year 2018-19,2019-20 and 2021-21)

The financial statements of the Company have been taken on record by the Administrator while discharging the powers of the Board of Directors of the Company which were conferred by the RBI Order and in accordance with the NCLT Order solely for the purpose of ensuring regulatory compliance.

The Company consolidates all entities which are controlled by it.The Company has control over an entity when it: has authority over the entity; is exposed to or has a right to variable returns as a result of its involvement with the entity; and has the capacity to influence the entity's returns through the exercise of its authority over the entity's relevant activities.

Generally, the notion is that control results from having a majority of the vote. To support this assumption and when the Company has less than a majority of the voting or similar rights of an investee, the Company considers all relevant facts while determining whether it has authority over an investee, including:

1. the contract in writing between the investee and its other vote holders.
2. Rights arising from other contractual arrangements.
3. The Company's voting rights and potential voting rights.
4. The magnitude of the Company's voting rights holding in comparison to the size and distribution of the other voting rights holders' holdings.

The Company re-assesses whether or not it controls an investor if facts and circumstances indicate that there are changes to one or more of the three elements of control. Entities controlled by the Company are consolidated from the date control commences until the date control ceases. All interCompany transactions, balances and income and expenses are eliminated in full on consolidation.

Changes in the Company's interests in subsidiaries that do not result in a loss of control are accounted for as equity transactions.The carrying value of the Company's interests and non-controlling interests are revised to account for changes in their respective stakes in the subsidiaries. Any variance between the amount by which non-controlling interests are adjusted and the fair value of the consideration paid or received is directly recorded in equity and allocated to the Company's shareholders.

Uniform accounting standards are used to create consolidated financial accounts for similar transactions and other occurrences. When preparing the consolidated financial statements, appropriate adjustments are made to each Company member's financial statements to ensure compliance with the Company's accounting principles if those members use different accounting policies than those adopted in the consolidated financial statements for similar transactions and events in similar circumstances.

Below are the consolidated balance sheets of DHFL before and during the Resolution process.

Financial statements of DHFL:

BALANCE SHEET OF DEWAN HOUSING FINANCE CORPORATION (In Rs. Cr.)	**Mar 21**	**Mar 20**	**Mar 19**	**Mar 18**	**Mar 17**
	12 months	12 months	12 months	12 months	12 months
EQUITIES AND LIABILITIES SHAREHOLDER'S FUNDS					
Equity Share Capital	313.82	313.82	313.82	313.66	313.15
TOTAL SHARE CAPITAL	**313.82**	**313.82**	**313.82**	**313.66**	**313.15**
Reserves and Surplus	.20,959.13	-5885.36	7,580.23	8,684.35	7,417.45
TOTAL RESERVES AND SURPLUS	**-20,959.13**	**-5885.36**	**7,580.23**	**8,684.35**	**7,417.45**
TOTAL SHREHOLDERS'S FUNDS	**-20,645.31**	**-5546.14**	**7,937.37**	**8,998.01**	**7,730.60**
Minority Interest	0.00	0.00	0.00	0.00	0.00
NON-CURRENT LIABILITIES					
Long Term Borrowings	0.00	52,001.48	53,394.71	91,979.34	66,999.16
Deferred Tax Liabilities (Net)	0.00	0.00	0.00	0.00	309.44
Other Long Term Liabilities	79.34	139.37	163.25	164.92	0.30

Long Term Provisions	7.56	7.53	10.15	6.29	714.35
TOTAL NON-CURRENT LIABILITIES	**86.90**	**52,148.38**	**53,568.11**	**92,150.55**	**68,023.25**
CURRENT LIABILITIES					
Short Term Borrowings	89,851.19	38,410.77	40,604.21	0.00	4,269.94
Trade Payables	76.03	121.22	102.11	104.14	22.62
Other Current Liabilities	989.85	695.44	4,390.20	5,091.77	12,242.77
Short Term Provisions	0.00	0.00	0.00	0.00	0.89
TOTAL CURRENT LIABILITIES	**90,917.07**	**39,227.43**	**45,096.52**	**5,195.91**	**16,536.22**
TOTAL CAPITAL AND LIABILITIES	**70,358.66**	**85,829.67**	**106,602.00**	**106,344.47**	**92,290.07**
ASSETS **NON-CURRENT ASSETS**					
Tangible Assets	939.73	853.61	782.93	842.28	205.96
Intangible Assets	0.00	66.69	81.75	7.51	4.72
Capital Work-in-Progress	0.00	0.00	0.00	0.00	546.15
FIXED ASSETS	**939.73**	**1,025.47**	**968.69**	**978.84**	**844.45**
Non-Currents Assets	0.00	0.00	0.00	0.00	878.38
Deferred Tax Assets (Net)	10,200.77	5,043.30	433.96	95.63	0.00
Long Term Loans and Advances	0.00	0.00	0.00	0.00	68,644.70
Other Non-Current Assets	157.45	471.47	467.34	185.10	190.42

TOTAL NON-CURRENT ASSETS	**11,297.95**	**6,540.24**	**1,869.99**	**1,259.57**	**70,557.95**
CURRENT ASSETS					
Current Investments	8,448.65	3,880.51	2,487.22	8,120.33	12,631.11
Inventories	0.00	0.00	0.00	0.00	0.00
Trade Receivables	0.47	2.75	4.76	42.74	12.43
Cash and Cash Equivalents	10,323.80	7,719.92	3,000.68	2,953.50	3,430.09
Short Term Loans and Advances	38,455.29	66,202.68	97,976.97	93,114.62	5,577.36
Other Current Assets	1,832.50	1,483.57	1,262.38	853.71	81.13
TOTAL CURRENT ASSETS	**59,060.71**	**79,289.43**	**104,732.01**	**105,084.90**	**21,732.12**
TOTAL ASSETS	**70,358.66**	**85,829.67**	**106,602.00**	**106,344.47**	**92,290.07**

Table 2.2 DHFL Balance Sheet

FINANCIAL STATEMENTS FOR 2018-19 (PRE CIRP PERIOD)

The consolidated financial statements have been prepared under historical cost convention on an accrual basis in accordance with the Indian Accounting Standards (“Ind AS”) and the relevant provisions of the Companies Act, 2013 (to the extent notified). Ind AS are prescribed under Section 133 of the Act read with Rule 3 of the Companies (Indian Accounting Standards) Rules, 2015 and relevant amendment Rules issued thereafter.

Effective April 01, 2018, the Group (consists of Dewan Housing Finance Corporation Limited (the “Company”) and its subsidiaries constitute “the Group”) has adopted the Ind AS and the adoption was carried out in accordance with Ind AS 101 “First-time Adoption of Indian Accounting Standards” with April 01, 2017 being the transition date. The transition was carried out from Indian Accounting Principles generally accepted in India as prescribed under Section 133 of the Act, read with Rule 7 of the Companies (Accounts) Rules, 2014 (“IGAAP”), which was the previous GAAP. These financial statements have been prepared on a going concern basis.

FINANCIAL ASSETS

1. Cash and cash equivalents increased from Rs.2953.50 crores in 2018 to Rs.3000 crores in 2019. Cash on hand increased and balance with banks reduced with a significant reduction in deposit accounts. Short-term deposits are made for varying periods of between three months to thirteen months, depending on the

immediate cash requirements of the Company, and earn interest at the respective short-term deposit rates and fixed deposit with banks earns interest at fixed rate.

2. A financial instrument that derives its value or performance from or is dependent on changes in the value of an underlying group of assets, such as commodities, bonds, stocks, currencies, interest rates, and stock market indices, is referred to as a derivative. In this case, the Company uses derivatives for risk management. Hedge positions held for risk management include derivatives that either comply with hedge accounting standards or are economic hedges. 2019 would see a rise in derivative financial instruments.
3. The sum that customers owe a company after purchasing goods or services on credit is known as trade receivables.TR amount reduced to Rs 4.76 crores in 2019.
4. A house loan simply means a sum of money borrowed from a financial institution or bank to purchase a house. Home loans consist of an adjustable or fixed interest rate and payment terms. Housing and other loans reduced at amortized cost in 2019 as compared to 2018 and increased at fair value in 2019.
5. An Investment is an asset or item acquired with the goal of generating income or appreciation. Appreciation refers to an increase in the value of an asset over time. When an individual invests in a good, they do not intend to utilize it as a source of immediate consumption, but rather as a tool for future wealth creation. An investment always entails the expenditure of some capital—time, effort, money, or an asset—today with the expectation of a future return higher than the initial investment. So investments have reduced to Rs 2,487.22 crores and other financial assets improved in 2019.

<u>NON- FINANCIAL ASSETS</u>

1. Tangible assets decreased to Rs 782.93 in 2019.
2. Capital WIP is an important part of the non-current asset of an entity. Buildings under construction, machinery awaiting assembly, and other items are included in CWIP at the time the balance sheet is prepared.CWIP is the work that is not yet complete but the amount has already been paid. These payments, these funds which are claimed to have been paid for the said construction, which is not yet complete or machinery or plant which is under installation is sometimes found to have been used as a route to divert or siphon the funds – and thus, a cause for forensic audit.
3. Intangible assets increased in 2019 to Rs 81.15cr
4. Other intangible assets and other non-financial assets increased in 2019.
5. <u>FINANCIAL LIABILITIES</u>

1. Trade payables are the sums of money that a firm owes its suppliers for items linked to its inventory, such as materials or business supplies. All of the short-term debt owed by the corporation is included in accounts payable. As of March 31, 2019, there are no unpaid sums owed to micro, small, and medium-sized businesses for whom the Micro, Small, and Medium Enterprises Development Act, 2006, disclosure obligations, are relevant.
2. Outstanding due to creditors other than MSMEs increased considerably in 2018 but there was only a slight increase in 2019.
3. Short-term borrowings are defined as borrowings undertaken for a short period to meet immediate monetary requirements. Borrowings increased in 2019 to Rs 40,604.21 cr.
4. Other financial liabilities includes Interest accrued but not due on borrowings, Unclaimed dividend, Unclaimed matured deposits and interest accrued thereon Security and other deposits received etc.

NON FINANCIAL LIABILITIES

Long term borrowings decreased from Rs 91,979.34cr to Rs 53,394.71cr in 2019 and other non-current liabilities decreased slightly and provision increased in 2019 and the total amount of non-financial liabilities reduced to Rs 53,568cr in 2019.

EQUITY:

1. Equity was 313.66 crores and increased in 2019 as compared to 2018.
2. Reserves and surplus decreased in 2019 which resulted in total decrease in equity in 2019.

FINANCIAL STATEMENT OF DHFL FOR 2019-2020 AND 2020-2021 (DURING CIRP)

The financial statements of the Company are presented as per Schedule III (Division III) of the Companies Act, 2013 applicable to NBFCs, as notified by the Ministry of Corporate Affairs (MCA). Financial assets and financial liabilities are generally reported on a gross basis except when, there is an unconditional legally enforceable right to offset the recognized amounts without being contingent on a future event and the parties intend to settle on a net basis in the following circumstances:

1. The normal course of business
2. The event of default
3. The event of insolvency or bankruptcy of the Company and/or its counterparty

Derivative assets and liabilities with master netting arrangements (e.g. International Swaps and Derivative Association Arrangements) are presented net if all the above criteria are met.

The preparation of financial statements in conformity with the Ind AS requires the management to make judgments, estimates and assumptions that affect the reported amounts of revenues, expenses, assets and liabilities and the accompanying disclosure and the disclosure of contingent liabilities, at the end of the reporting period.The estimates and underlying presumptions are continuously examined. Accounting estimates are amended and the effects on subsequent periods are recognised in the period in which the estimates are revised. Uncertainty about these assumptions and estimates could need a significant change to the carrying values of assets or liabilities in future periods, even though these estimates are based on the management's best understanding of current events and actions.

FINANCIAL ASSETS

1. The net value of short-term, highly liquid investments that are easily convertible to known amounts of cash (short-term deposits with an initial maturity of three months or less) and are subject to a negligible risk of change in value, check availability, and bank balances, is represented by cash and cash equivalents. They are kept in order to meet urgent financial obligations (rather than for investment or other purposes).Cash and cash equivalents improved to Rs 7719.92 crores in 2020 and Rs 10,323 crores in 2021 and also Cheques received before 31st March, 2020 but deposited after 31st March, 2020 due to Covid-19 lockdown are included in the Bank Balances and accounted for as on 31st March, 2020.
2. Trade receivables reduced to Rs 2.75 crores in 2020 and Rs 0.47 crores in 2020 and 2021 respectively.Trade receivables are non-interest bearing and are generally on terms of 30 to 90 days.
3. Investments increased to Rs 8448.65 crores in 2021.
4. Other financial assets such as Receivable on assigned loans, Security Deposits, Receivable from mutual funds decreased in 2020.

NON-FINANCIAL ASSETS

1. Deferred tax assets increased to Rs 5,043.30 crores in 2020 and Rs 10,200 crores in 2021.

2. An intangible asset is recognized only when its cost can be measured reliably, and it is probable that the expected future economic benefits that are attributable to it will flow to the Company. Intangible assets acquired separately are measured on initial recognition at cost. The cost of an intangible asset comprises its purchase price and any directly attributable expenditure on making the asset ready for its intended use and net of any trade discounts and rebates. Following initial recognition, intangible assets are carried at cost less any accumulated amortization and any accumulated impairment losses. The useful lives of intangible assets are assessed to be either finite or indefinite. Intangible assets with finite lives are amortized over the useful economic life. The amortization period and the amortization method for an intangible asset with a finite useful life are reviewed at least at each financial year-end. Changes in the expected useful life, or the expected pattern of consumption of future economic benefits embodied in the asset, are accounted for by changing the amortization period or methodology, as appropriate, which are then treated as changes in accounting estimates. The amortization expense on intangible assets with finite lives is presented as a separate line item in the statement of profit and loss. Intangible assets reduced to nil in 2021.
3. Other non financial assets decreased to Rs 157.45 crores in 2021.

FINANCIAL LIABILITIES:

1. Borrowings are reduced to Rs 38,410.77 crores in 2020 and Rs 89,851.19 crores in 2021.
2. Trade payables were reduced to Rs 76.04 crores in 2021.
3. Total current liabilities were reduced to Rs 90,917.07 crores in 2021.

NON-FINANCIAL LIABILITIES:

Other non-financial liabilities reduced to Rs 86.90 crores in 2021.

RATIO ANALYSIS OF DHFL

1. Liquidity Ratios- Liquidity ratios are an important class of financial metrics used to determine a debtor's ability to pay off current debt obligations without raising external capital
   - Current Ratio- The current ratio is a liquidity ratio that measures a company’s ability to pay short-term obligations or those due within one year. CR in 2021 was 0.34 which was closer to the industry average of 0.69 which tells us that during the cirp process, the company is not at a risk of deep distress.
   - Quick Ratio-The quick ratio is an indicator of a company’s short-term liquidity position and measures a company’s ability to meet its short-term obligations with its most liquid assets.
     The higher the quick ratio, the better a company's liquidity and financial health, but it is important to look at other related measures to assess the whole picture of a company's financial health.

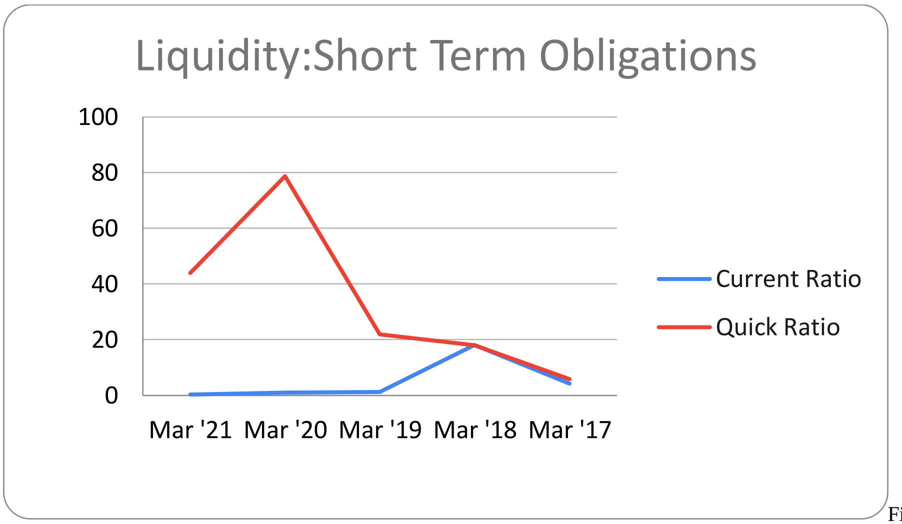


Figure 2.1 Liquidity Short Term Obligations

Ratio	2021-20	2020-19	2019-18	2018-17	2017-16
Current Ratio	0.34	1.04	1.2	18.12	4.18
Quick Ratio	44.04	78.75	22.01	18.1	5.87

Table 2.3 Current and Quick Ratios

2. Profitability Ratio- Profitability ratios are a class of financial metrics that are used to assess a business's ability to generate earnings relative to its revenue, operating costs, balance sheet assets, or shareholders' equity over time, using data from a specific point in time.
    - Gross Profit Margin- Gross Profit Ratio establishes the relationship between gross profit and Revenue from Operations, i.e. Net Sales of an enterprise. Here the figures do not show a desired level of efficiency.
    - Operating Profit Margin- operating cost includes Cost of Revenue from Operations and Operating Expenses. These are those costs which are incurred for operating activities of the business. The figures here do not indicate a desired operational efficiency since it is negative.
    - Net Profit Margin- Net Profit Ratio measures the relationship between Net Profit and Net Sales. It shows the percentage of Net Profit earned on Revenue from Operations.The overall efficiency is not desirable during the CIRP period.
    - Return On Investment- Return on Investment or Return on Capital Employed shows the relationship of profit (profit before interest and tax) with capital employed. Here the figures show that the total costs exceed the total returns.

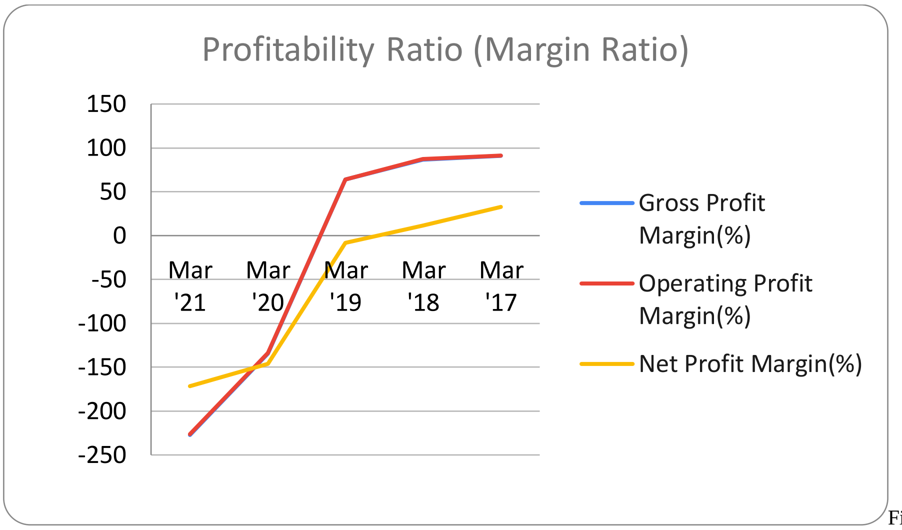


Figure 2.2 Profitability Ratio (Margin Ratio)

Year	21-20	20-19	19-18	18-17	17-16
GPR	-227.24	-134.55	63.71	86.71	90.94
OPR	-226.32	-133.7	64.11	86.96	91.21
NPR	-171.6	-146.01	-8.04	11.42	32.72

Table 2.4 GPR, OPR & NPR

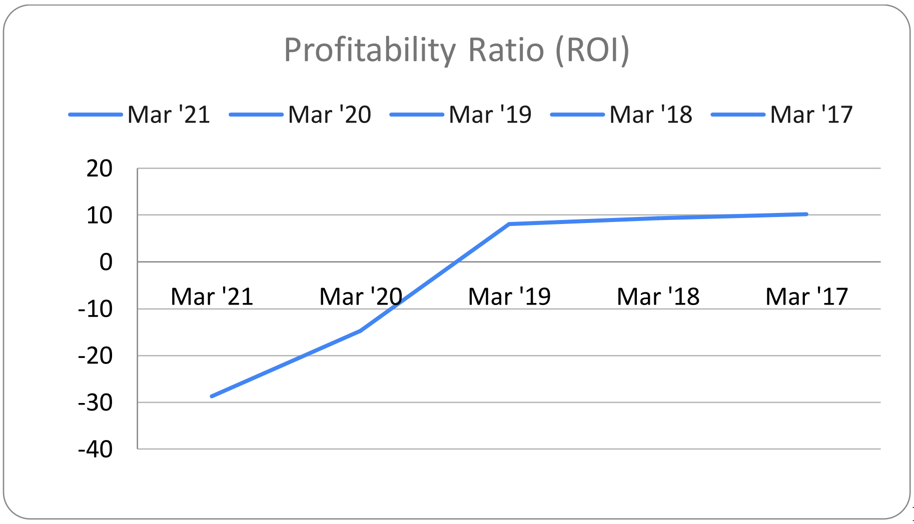


Figure 2.3 Profitability Ratio (ROI)

Year	2021-20	20-19	19-18	18-17	17-16
ROI	-28.74	-14.75	8.08	9.33	10.19

Table 2.5 ROI

3. <u>EFFICIENCY RATIOS</u>-Efficiency ratios measure a company's ability to use its assets and manage its liabilities effectively in the current period or in the short-term.The time it takes to create cash, income from a client, or to sell inventory is measured by a number of efficiency ratios, although they are all similar in this regard.

- <u>TOTAL ASSETS TURNOVER</u>-The asset turnover ratio measures a company's ability to efficiently generate revenues from its assets. The asset turnover ratio computes sales as a proportion of the company's assets. Here, a lower ratio shows that the management is not using the assets more efficiently.

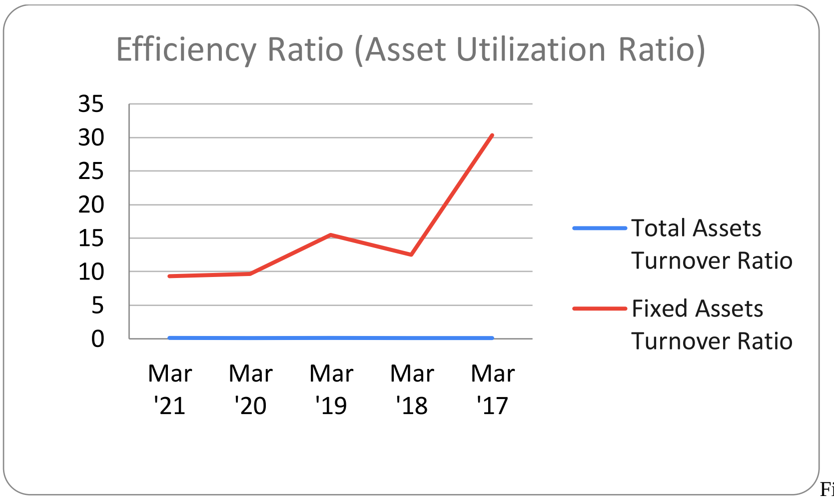


Figure 2.4 Efficiency Ratio (Asset Utilization Ratio)

Year	21-20	20-19	19-18	18-17	17-16
Total asset turnover	0.13	0.11	0.13	0.11	0.11

Table 2.5 Total asset turnover

FINDING:

- Many small investors had invested their funds in DHFL. It was highly suggested that Piramal Group reconsider the distribution method so as to increase their share of the money. Furthermore, paying the full admitted claim of the amount of Army Group Insurance Fund was advised, with regard to the services provided.
- It was also observed that NCLT has supervisory jurisdiction over CoC and can’t impart commercial wisdom and is legally bound to approve resolution plans until it doesn’t meet the requirement of Sections 30 and 31 of IBC.
- At the same time, the first successful resolution opens avenues for the resolution of debt-ridden financial service providers, rather than liquidation, considering the substantial number of financial service providers in a highly volatile financial market.
- Although, how future resolution plans would give importance to the interest of small investors is to be seen, since, in the above-approved plan, they were sidelined, especially in the case of financial corporations and banks.
- The experiment of RP being appointed by the regulator(RBI) rather than CoC and independence given to RBI benefitted all. It presents a good model which can be replicated in future. RBI played a crucial role and was forthcoming.
- The major challenge of value preservation was tackled by converting assets into cash, and the collection platform was maintained properly while pursuing investors who were potential bidders, and involving them

in evaluating DHFL value, showed how quickly RP grasped the situation of the company and ensured smoothening functioning during CIRP.

The most impressive was how the problematic portfolios were managed since in the finance sector confidence of the public in the asset is essential. The cleaning of books, declassification of fraud and non-fraud assets, and classifying them to determine good assets helped regain confidence, therefore, a successful resolution.

APPENDIX:

TIMELINE:

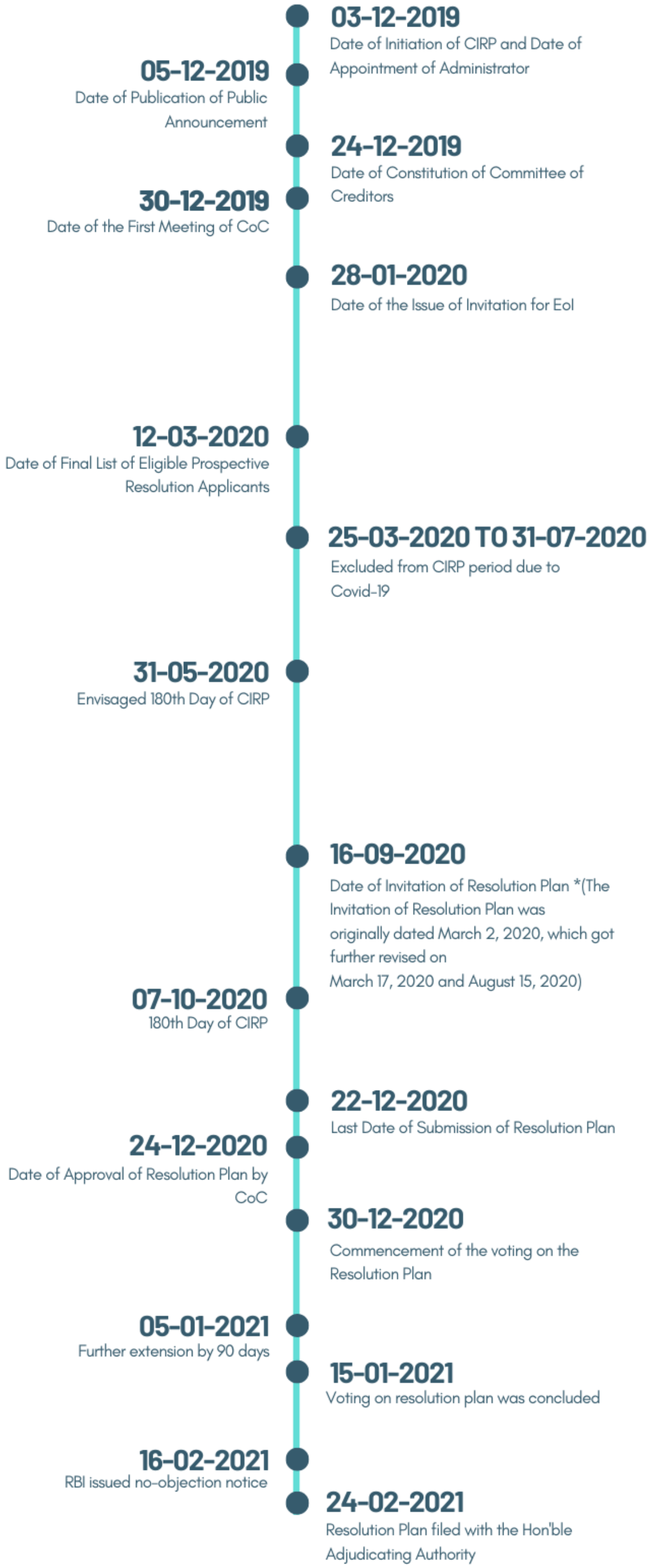


Figure 2.5 Timeline of DHFL resolution plan

Chapter 3 : ESSAR STEEL

Brief History

Essar Steel, a subsidiary of the Essar group was established on 1st June 1976 as Essar Construction Limited which was further renamed as Essar Gujarat Limited until finally attaining its present name of Essar Steel on 4th December 1995. The firm by being a fully integrated flat carbon steel manufacturer in Mumbai grew to become one of the common names in the industry of steel production. The company grew to increase its capacity of production to a whopping 9.6 million tonnes of steel per annum. The firm went on to produce steel which was used in crucial construction activities such as the Bogibeel Bridge in Assam, which is the longest railway bridge, built across the Brahmaputra, and also for the Chenab bridge. They also undertook production in bulletproof steel as well as steel for automotive production.

The Fall of the Giant: Reasons analyzed

1. Complexity in operations
   One of the premier causes leading the firm to its ultimate bankruptcy was the complications in its functioning. ESIL's production facilities were spread across eastern and western India with different components of the steel being made at geographically distant locations. While the slurry for steel was made in Dabuna and Kirandul, the pellet plants were located in Visakhapatnam and Paradip which were more than 200 kilometres away and were linked by pipelines. This was further moved to the steel manufacturing plants in Hazira with the help of ships. All these complications in turn increased the importance of logistics in the firm's operations and also an over-dependence on many of the ESSAR group subsidiaries which were not completely owned by the group. This also increased the risk to the firm where a possible non-cooperation from any of the subsidiaries led to a complete halt in production.
2. <u>Financial burden created by external factors</u>:
   The DRI (Direct Reduced Iron) or the midrex which was one of the three crucial machines required to make iron and also something owned by the plant required natural gas to produce steel. This high dependency on natural gas fueled by a reduction in natural gas production in India led to the firm ending up paying almost thrice the price for acquiring their crucial raw material.

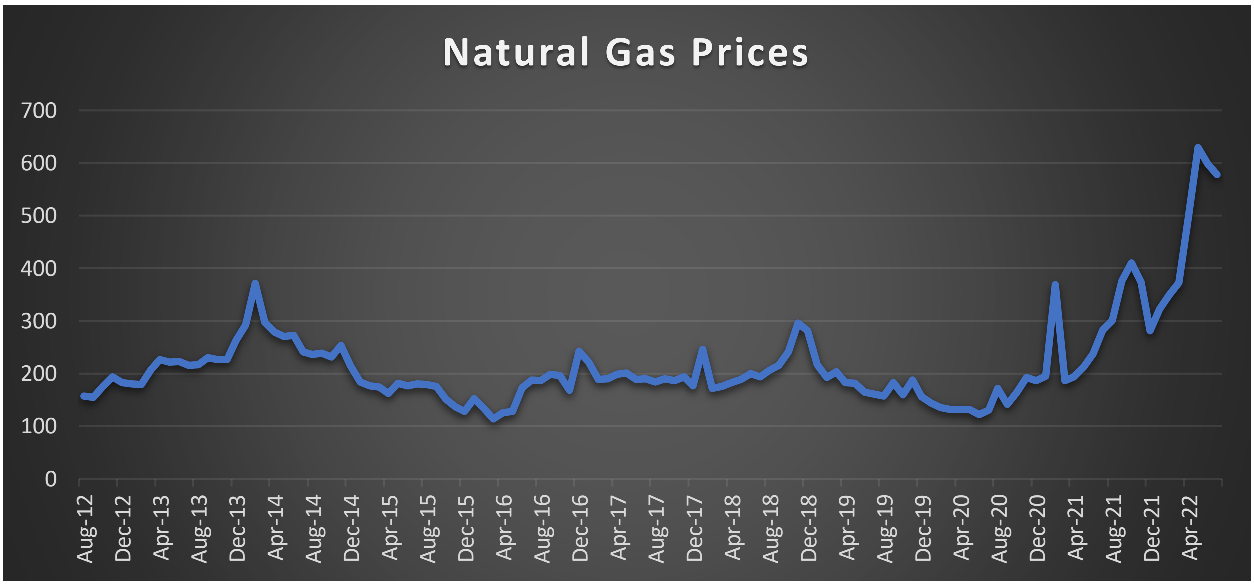


Figure 3.1- Natural Gas Price Movement

The rise in prices which happened in 2016 has only continued in recent years with the recent rise being off the charts pushed high by the limited supply situation caused by the war situation between Russia and Ukraine (Figure 3.1- Natural Gas Price Movement). However, the initial rise in prices after 2016 was a sudden blow to the already deteriorating balance sheet of ESIL.

Another curious factor to note along with the rise in prices of natural gas was a fall in the price of steel experienced during this period.

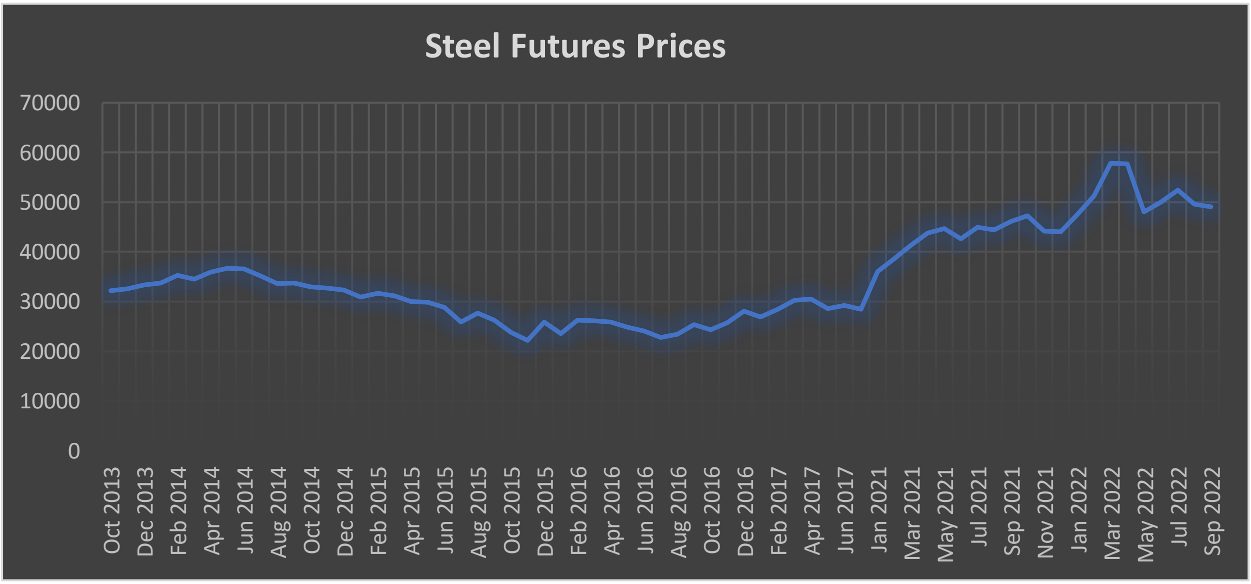


Figure 3.2

The price of steel fell during the entire period of 2016 extending into 2017 as well (Figure 3.2). This meant a further reduction in the revenue side of the firm. Increased costs coupled with decreasing revenues worsened the profit situation of the firm

- The firm also undertook to operationalize 2 corex production modules to reduce its dependence on natural gas and it indeed reduced requirements by 30%. Including this, capital expenditure on various other fronts were also undertaken for the development of the firm however this also backfired on the firm as many of these expenditures failed to be completed and a great proportion of this expenditure was leveraged on debt hence reducing liquidity to the firm and resulting in the profits of the firm not being able to meet the interest requirements of the firm.
By mid of 2017, this debt amount had risen to Rs 50,000 crore a few times higher than Earnings before Interest, Tax, and Direct Allowances. The ownership responded by halting salaries and appraisals for the top management as against the industry standards which were as high as 7% hence hurting the morale of the employees further.

Under the clouds of insolvency

- The initiation of insolvency was a result of a declaration made by the RBI on July 16, 2017, which directed banks in India to initiate insolvency against 12 large loan defaulters. The application to initiate CIRP against ESIL was filed by the State Bank of India and the Standard Chartered Bank with the National Company Law Tribunal in Ahmedabad. The case was however challenged by ESIL claiming that its operations were highly complex with a large number of stakeholders hence making it impossible for a single Interim Resolution Professional. However, the writ petition filed was dismissed by the Gujarat High court and on August 2nd, 2017, ESIL was inducted under the CIRP.
- Once inducted the IRP Satish Kumar Gupta issued a public announcement under Section 15 hence canceling the powers of the Board of Directors and also implemented Section 20 as per which the firm was to be treated as a going concern. The IRP also initiated the formation of the Committee of Creditors (CoC) as well.
- With the initiation of insolvency procedures under the Insolvency & Bankruptcy code, all the stakeholders were also informed about the initiation of CIRP and were asked to make applicable claims. Section 19 of the IBC was also upheld in any cases of non-compliance from the side of the stakeholders.
- The first issue that the IRP faced with the treatment of the firm was to keep the firm as a going concern (which implies treating the firm in such a manner that it does not have any chances of closure shortly). As CIRP was imposed, suppliers of raw materials limited their supply on a conditional basis until the credit extended by them to the firm was settled. Since the funds of the firm were already stuck in various capital expenditure undertakings that were initiated the liquidity of the firm came to face severe crunches.
- The liquidity concerns of the firm were handled with utmost priority. The initial helping hand came from a PSU, MSTC (Metal Scrap Trade Corporation Limited). The company undertook the role of an intermediary from which by providing ESIL with cash and carry facilities for acquiring raw materials. This was done by MSTC opening a Letter of Credit and financing the raw material requirements of ESIL. The firm also received support from its large customers in the automobile sector like Maruti Udyog, Mahindra, and Mahindra, JCB, etc. These customers continued to place their orders with the firm on the condition that there would not be any disruption of supply from the side of the firm.
- A judgment passed in the Amtek Auto Limited case by the NCLT in Chandigarh *(Corporation Bank vs Amtek Auto Limited, NCLT CA no:142)* also helped to increase the cash balances of the firm. This judgment required that any funds left in the current account balances were to be directed towards the control of the RP and

cannot be taken over by the banks through the process of tagging. Reducing costs by better inventory management, changing product mix, and controlling expenditure on natural gas by ensuring bulk purchases were some of the other methods that were adopted.

- After the initiation of CIRP, it is important to note that ESIL experiences a month-on-month growth in its volumes. This rapid increase in volume loosened the cash flow restrictions of the firm as the customers, suppliers, and employees started to regain trust in the capacity of the firm. During the same period, ESIL achieved a monthly production of 600 Kilo tonnes. On a year-on-year basis, ESIL grew from 5.47 million tonnes in 2016-17 to 6.78 million tonnes in 2018-19 and
- The firm also recorded an increase in the total income by almost Rs5000 crores. This remarkable recovery can also be associated with the rapid increase in demand and prices of the steel industry in India which had reached new lows during the time 2016-18. The introduction of minimum import prices and quality standards by the government also worked in favor of bringing the firm up (Figure 3.3)
- The major aim of CIRP was to bring the firm out of the high debts it was facing. When it came to the resolution of claims from creditors, out of the total Rs 82541 crores worth of claims a total of Rs 54,565 crores were identified and verified.

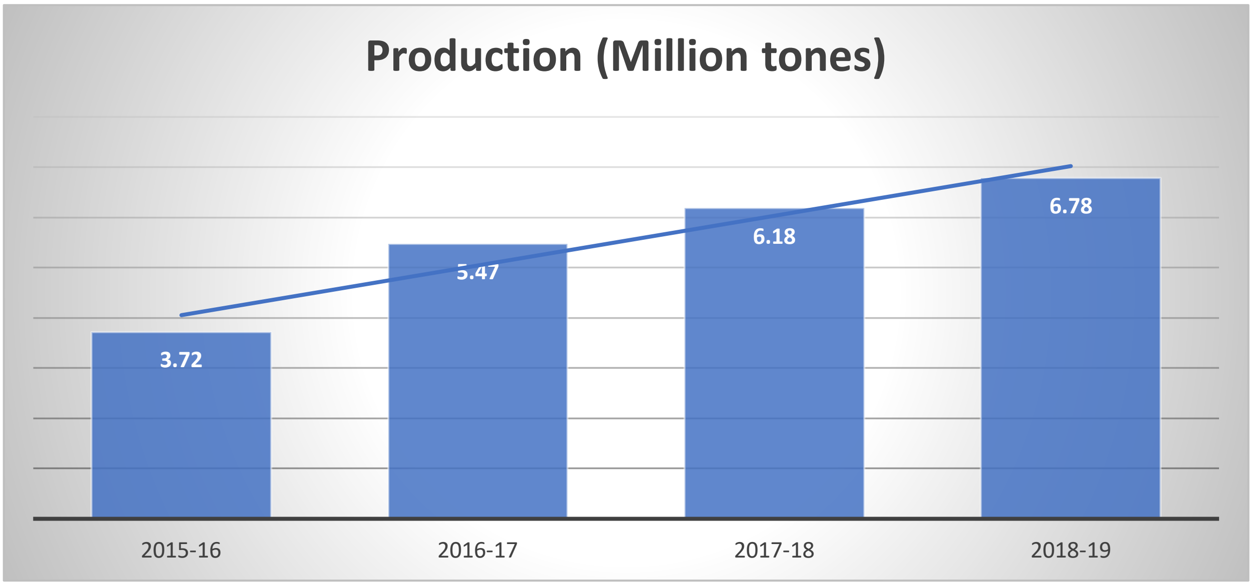


Figure 3.3 - Production in Million Tonnes Source: Annual Reports of the Company

- Rejection of claims was made due to multiple reasons. One of the reasons was when duly stamped documents acknowledging the debt were not available with the entity that had provided the credit facility in the first place. The NCLAT also maintained strict deadlines and non-adherence to these deadlines was also a major cause of the rejection of some of the claims.

The first round of litigation-

Bidders' grief-

Though various bidders showed interest in ESIL and analyzed the working of ESIL closely by following the due diligence however bids and resolution plans were only submitted by ArcelorMittal, the largest producer of steel in the world, and Numetal Ltd on February 12, 2018, with the EMD of ₹500 crores.

While due diligence was being carried out by the prospective bidders, IBC Amendment Act,2018 was passed, introducing provisions relating to the eligibility of the resolution applicants under Section 29A.

It provided that a person will not be eligible to submit a resolution plan if such person or any other person "acting jointly or in concert" of such person or any connected person of a such person fell within any of the criteria specified in section 29 A.

Apprehending its eligibility under the provisions of section 29 A Numetal applied the NCLT seeking that it be declared a successful resolution applicant. On March 23, 2018, the resolution professional declared both Numetal and ArcelorMittal India ineligible under various provisions of section 29, so the CoC decided to call for fresh plans. Though fresh bids along with Resolution Plans were submitted by AM India , Numetal and a new resolution applicant, Vedanta Resources Limited; AM India and Numetal also independently challenged the resolution professional's order dated March 23, 2018, to establish their eligibility by challenging the other resolution applicant's eligibility.

Ineligibility of Numetal and AM India:

- Arcelor Mittal India was a step-down subsidiary of AM, which was a shareholder in Uttam Galva which had its loans classified as NPAs for over a year. Further, the ultimate individual promoter in control of AM and hence indirectly AM India was also a promoter of KSS Petron. KSS Petron also had defaulted on its loans which were classified as NPAs for over a year so on these grounds AM was considered ineligible.
- Numetal was a company incorporated to file the bid and it's one of the shareholders was AEL, which was held by Mr. Rewant Ruia through companies and trusts. Mr. Rewant Ruia was the connected person with Mr. Ravi Ruia, the promoter of Essar steel so on this ground Numetal was considered ineligible to apply.

(ArcelorMittal India Private Limited vs Satish Kumar Gupta & Ors., 2018)

Overcoming the ineligibility

After the NCLT order and before NCLAT's order, both the ineligible companies made an effort towards overcoming their ineligibility.AM decided to transfer the shares of UGSL held by it indirectly to the other promoters of UGSL and also further transferred its shareholding in KSS Global BV, and accordingly, indirectly gave up its shareholding in KSS Petron.

Numetal on the other hand, changed its shareholding to remove AEL as a shareholder. While AEL held 25% of the shares of Numetal when the first resolution plan was submitted on February 12, 2018, however, when the second resolution plan was submitted on April 2018, AEL did not hold any shares of Numetal.

The first judgment of the Supreme Court on October 4, 2018

Against the order of NCLAT, the appeal was filed before the SC by resolution applicants. After hearing all parties in detail SC vide its order dated October 4, 2018 stating

-In respect of Section 29A –

A. To determine the applicability of the applicants under section 29 one would need to look at the "de facto" and not the "de jure" position of the applicant. Thereby enabling the corporate veil to be lifted in certain circumstances. Those circumstances are fulfilled particularly considering the use of expressions "persons acting jointly or in concert". The expression was interpreted by SC as "the test is not whether they have acted in concert but whether circumstances are such that human experience tells us that it can be safely taken that they must be acting together." Such persons falling under this category shall be rendered disqualified to participate in the bidding process

B. The SC also reduced the ambiguity regarding the expressions such as "management" and "control" under the IBC provisions -
   - Management: The term management refers to the de jure management of a corporate debtor, that is, the direct management of the corporate debtor. De jure management of a debtor would ordinarily vest with the board of directors, and will further include anyone who would fall under the definition of 'manager', 'managing director' and 'officer' as defined under the Companies Act, 2013.
   - Control: The Court has narrowed down the interpretation of the term 'control' as mentioned under Section 2(27) of the Companies Act, 2013. The Court held that 'control' will only cover positive or proactive control and will not cover a negative or reactive control such as a mere power to block the special resolutions of a company.

C. The SC said the provision to sub-clause c requires the applicant to repay all overdue amounts with interest thereon and charges relating to NPA before submission of a resolution plan. The court also held that the credentials of an applicant on the date of submission of the resolution plan need to be considered to determine the applicant's eligibility.

<u>Other highlights of the judgment –</u>

- Resolution Applicant has no vested right that his resolution plan is considered by COC, in light of which no challenge can be preferred before the NCLT by any resolution applicant, a challenge can be preferred only once a resolution plan is approved by the NCLT, before NCLAT and SC.
- The court further held that the time taken by AA in deciding a matter should not exceed the prescribed time limit of 180 days extendable by a further 90 days for completion of IRP and in case of delay proper reasons must be recorded for the same.
- The RP cannot take any decision regarding the approval of any resolution plan, the power to approve the plan is vested with the COC, and the RP is only empowered to examine the resolution plans and check whether they conform with the provisions of IBC.

<u>The final decision of the SC-</u>

Numetal was held ineligible as per section 29A (c) for both resolution plans on account of the presence of Revant Ruia, a person deemed to be a person acting in concert with Ravi Ruia, promoter of ESIL.

AM was held ineligible as per section 29 A (c) as shares of AM Netherlands in UGSL were sold at a time reasonably approximate to the date of submission of the resolution plan, to get out of the ineligibility. Both AM India and AM Netherlands controlled by LN Mittal are deemed to be Persons Acting in Concert (PAC). It was further held in eligible on account of KSS Petron, as Fraseli a group company of LN Mittal exercised positive control over KSS global and in turn KSS Petron, the other reason being the sale of shareholding in KSS global was a transaction reasonably proximate in UGSL.

Way ahead for Arcelor Mittal

After the SC judgment AM resubmitted its resolution plan on September 10, 2018, and was adjudged by the COC as the preferred bidder with more than 92% majority, over the resolution plan of Vedanta resources. The resolution plan proposed that an amount of INR 350 billion will be paid to the financial creditors of Essar steel; an amount of 5% of the outstanding amounts to the unsecured financial creditors; small operational creditors (up to INR 10 million each) were to be paid in full; other operational creditors were to be paid an amount of INR 1 .96 billion, being the government and trade creditors and workmen and employers were to be paid INR 180 million against their claims in full

Before the final approval on October 19, 2018, the resolution plan was negotiated between COC and Arcelor Mittal.

The second round of litigations

Creditors grief-

To admit a claim, it was required an RP to verify the claim documents, in particular, claims including the ones assigned to 3rd party should be stamped as per sections 5(7) and 5(20) of the code which also requires the creditors to pay the requisite stamp duty. Total claims of 82,541 crores were submitted out of which claims of 54,565 crores were admitted on verification. A large number of claims of creditors were not admitted on account of these being disputed or having other issues relating to the provisions of IBC such aggrieved creditors pursued litigations in huge numbers against ESIL.

The resolution plan was placed before the NCLT for its approval post-CoC's decision. NCLT stated in its judgment that the resolution plan was unfair to the operational creditors and hence determined that the treatment meted to the operational creditors should be at least similar to what has been provided to the financial creditors. The COC decided to appeal against the decision of the NCLT in NCLAT, the NCLAT approved AM's resolution plan and modified the distribution of amounts proposed to be paid to various creditors under the resolution plan such that all creditors were treated equally Many FCs were aggrieved about NCLAT's decision, as it would make secured lending unattractive in the commercial space, so they challenged its order before SC.

Legislative developments in IBC

While the appeals before SC were pending IBC Amendment Act, 2019 dated August 6 was introduced, it modified the minimum payment to OCs under a resolution plan to the higher liquidation value;

it also provided for the minimum payment of liquidation value to dissenting FCs; moreover it stated that the COC could determine the distribution of funds among the creditors by taking into account the respective priority of creditors under section 53(1) of the IBC and provided for mandatory completion of CIRP within a period of 330 days from ICD.

SC judgment November 15, 2019

SC's judgment dated November 15, settled several issues regarding the CIRP in India, the following were its key establishments-

Regarding the claims of the creditors-

- Under non-stamped documents – the RP can reject the claims of the applicants on the grounds of non-availability of duly stamped documents in support of their claims and failure to furnish documents regarding payment of stamp duty.
- Disputed claims – regarding various cases filed by operational creditors SC held that the resolution professional was correct in admitting these claims at a notional value of Re. 1 due to the pendency of the disputes about disputed claims so that such creditors remain involved in the CIRP.
- Claim filed after approval of resolution plan – SC held that NCLAT rightly rejected such claims because the claim was filed after the completion of the CIRP period.
- Clean slate – SC clarified that registration of undecided claims cannot be permitted and that all claims must be submitted to and decided by the resolution professional for considering them for admission so that the resolution applicant knows exactly what needs to be paid to take over and run the existing business
- the principle of equality cannot be held in the sense that all creditors are paid "equally", because if this was done secured creditors would always prefer the liquidation of the corporate debtor over the CIRP thus defeating the purpose of the IBC, for their position is such that they can even recover the number of their debts even if the company liquidated, from the monetization of the asset, so some incentive must be given to the secured creditors, by ensuring differential payment to the creditors. Minimum payment to the dissenting financial creditors should be the same as the amount which they would receive if the company went into liquidation
- concerning OCs the FC recognized that the IBC itself contemplated OCs as a separate class of creditors, certain safeguards such as priority in repayment were also built into the IBC to ensure the fair and equitable dealing of such OCs rights
- the SC stressed that discretion of whom to pay, how much to pay and what to pay to the creditors lies with COC, NCLT and NCLAT under no circumstance can contradict the commercial decision of COC. But COC must undertake the decision of distribution after considering the provisions of IBC.
- AA should ensure that the decision of COC takes into account the following factors –
  i) CD should be kept as a going concern during the resolution process
  ii) Assets value of CD should be maximized
  iii) interest of all stakeholders should be balanced
- it also held that the creditors with undecided claims shall have no right to file litigations or pursue their claims against the corporate debtor, such claims shall be extinguished once the resolution plan is accepted for it is in the interest of the resolution applicant to know their exact debt before acquiring and starting the business of the corporate debtor on a fresh slate.
- It also held that no right of subrogation in respect of any amounts paid under the guarantees be extended in respect of the date of the corporate debtor under the resolution plan.
- It held that distribution of profits made during a CIRP could not be applied towards payment of the debt of any of the creditors.

- SC also read down the provision by removing the word "mandatorily" in the IBC Amendment Act,2019 which required the "mandatory" completion of CIRP within 330 days from ICD. The SC held that normally CIRP must be completed within the prescribed time frame but in exceptional cases, relaxations can be made by extending the period, AA must look into the matter and see if the case is eligible for providing relaxation, and should further state the reasons for the same.

Final Acquisition

Post the second FC judgment the route was clear for ArcelorMittal India to acquire Essar steel. On December 15, 2019, AMNS India, the 60:40 joint venture of the world‘s largest steelmaker Arcelor Mittal, and Japan's Nippon Steel Corp completed the acquisition of ESIL by payment of Rs.42,785 crore after more than 800 days of Initiation of insolvency proceedings. Arcelor Mittal India had 99.99% shares of Essar steel with the balance shares being held by the other shareholders as nominees of Arcelor Mittal India the entity was renamed from Essar steel to ArcelorMittal Nippon steel India Ltd on December 27, 2019.

Final Distribution of proceeds to different classes of creditors

PARTICULARS	PERCENTAGE
Secured FCs	90.95%
Secured FC-SCB	1.72%
OC with Claim< 1 Crore	100%
OC with claim >1 Crore	20.49%
Workmen	100%

Table 3.1

Achievements of The successful CIRP of ESIL

ESIL's CIRP resulted in an increase in both the production and total income of ESIL during CIRP. Total production increased from 5.47 MT in 2016–17, 6.18MT in 2017–18 to its highest ever production of 6.78 MT in 2018–19 despite the various challenges. The highest ever monthly production of 618 KT was achieved by ESIL in December 2019. ESIL achieved a total income of Rs.31,974 crore in FY 2018-19 as compared with a total income of Rs.26,028 crore in FY 2017–18 seeing an increase of 23%.

Payments of more than 55,000 crores including taxes were made to operational creditors during CIRP for supplies and services. ESIL has fully paid its statutory due. Most FCs realized about a hundred percent of the principal outstanding and 90% of the claims, realizations of more than 42,500 crores by creditors of ESIL, was the highest realization under IBC in a single account. It improved the profitability of the lenders and had a salutary impact on the financial ecosystem being reported by major banks as their profits increased.

Amount of Rs.7500 crore was recovered by lenders of UGSL and KSS Petron paid by AM to cure its ineligibility. Many underperforming group companies of Essar performed much better and were able to meet their commitments to their lenders.A lot of ambiguity surrounding the IBC was addressed and cleared by NCLT, NCLAT, and SC in the litigations ensuring a smooth implementation of IBC in future cases.

Post-acquisition Events and performance of AMNS India

After the prolonged yet successful acquisition of ESIL, Aditya Mittal President and CFO of Arcelor Mittal had been appointed as the chairman of AMNS India and Dilip Oommen had been appointed AMNS India's CEO. Aditya Mittal post-acquisition in his statement said "India is a large and strategic market and we are delighted to be here. We aim to create sustainable and long-term value by becoming a leading steel manufacturer in the country by focusing on both volume and product quality. "

Improving Production Capacity

AMNS India for expanding its production capacity acquired the Bhander power plant in Hazira, Gujarat on March 3, 2020, thereby securing a major source of cheaper power from Edelweiss Asset Reconstruction Company. Later on February 20, 2020, it acquired an iron ore mining license in Thakurani block, Odisha, which would serve its long-term raw material requirements. It also acquired Odisha Slurry Pipeline Infrastructure Ltd through bidding in the CIRP process by payment of about 2350 crore rupees to its creditors. Later it also commissioned a six million tonne pellet plant in Odisha increasing its annual pellet production capacity to 20 MTPA. making Paradip plant the largest single-location pelletization complex in India.

On 26, August 2022 AMNS India inked a landmark agreement with Essar group to buy certain infrastructure assets that are strategic to its steelmaking operations in the country. Following this pact, the two parties are expected to withdraw all cases against each other in various courts. AMNS India will buy three ports, two power plants, and an electricity transmission line from Essar for $2.4 billion (19,000 crore rupees) which will strengthen the integration of its manufacturing and logistics operations. On the other hand, Essar will use most of the proceeds to retire its debt and towards safer growth capital requirements. With this deal, Essar will conclude its planned asset monetization program and complete the debt repayment plan of dollar 25 billion with the Indian banking sector being almost fully paid.

Increasing Total Revenue

It aimed to increase its sales revenue by not only increasing the revenue from the existing customers but also by inducing new customers to buy their products by providing better and innovative steel solutions to them. AMNS undertook product development through various measures like introducing two new high-grade steel brands named Stallion and Maximus, it also launched Kalash and Kalash Gold- a premium color-coated steel range.

It also declared relaunching and expanding Hypermart, its national network of retail outlets that serves India's vast vibrant MSME segment Hypermart offered great convenience to its customers, by giving direct access to the wide range of products it produced at a single location.

Outcome

AMNS on 6 May 2021 reported strong business performance with EBTIDA of dollar 403 million in, 21 versus the dollar 140 million in Q1 2020 a growth of 188% was seen. The company's crude steel production stood at 1.8 MT in 1Q,21 versus 1.7 MT in Q1,20, and annualized production of 7.3 MT remained unchanged. In 2Q,21, it reported with

EBITDA of dollar 607 million versus dollar 107 million in 2Q, 20, a year-on-year increase of more than 450%. After the deal with AMNS India is concluded the dollar 15 billion Essar will be left with a clutch of assets in India, the UK, the US, and other countries across energy, infrastructure, metals, mining, and technology services.

The resolution of ESIL achieved the objectives of the reforms undertaken by way of IBC and the ESIL business emerged stronger and more durable after going through intense pressure and heat under IBC.

Chapter 4 CIRP Case Study of Jaypee Infratech Limited

Housing is primarily a physiological need every human being demands. So many people in India desire to own their own homes, investing their hard-won savings in its construction or buying through the means of realtors. The consensus of Indian Homebuyers has been that the course of action when purchasing houses constitutes multiplex of decision-making, essentially because of the escalating **exploitative nature of real estate markets**. Incomplete information available with the buyers and increasing litigation-related cases on violation of agreements, construction defects, service deficiencies, and fraud selling has rendered the trust of homebuyers over sellers negligible.

Such has been the case of Jaypee Infratech Ltd. (JIL), where the company failed to roll out promised homes after collecting money from the buyers coupled with the failure of repayment of large debts led the company to bankruptcy in 2017 under IBC.

Company Introduction

Jaypee Infratech Limited a **publicly listed infrastructure development company** and a subsidiary of the Jaypee Group, was incorporated on April 5th 2007 as a Special Purpose Vehicle to (SVP) to **develop, operate and maintain the Yamuna Expressway** in the state of Uttar Pradesh connecting to Noida and Agra. The Yamuna Expressway is a 165 KM access-controlled six-lane concrete pavement expressway along the river Yamuna with the potential to be widened to an eight-lane expressway. The Company was **granted concessions from YEA to run the business** over the Yamuna Expressway in the State of Uttar Pradesh.

The Company also holds **rights to develop 25 million m^2** (approximately 6,175 acres) of land with a **90-year lease** along the Yamuna expressway at five locations. Each location sizes up to 1,235 acres of land, to be utilised for residential, commercial, amusement, industrial and institutional purposes. The company offers a **unique blend of Infrastructure and Real Estate Development** through Yamuna Expressway and five proposed integrated townships in surrounding land parcels of 6,175 acres of land. The real estate is presently marked under the "Jaypee Greens" brand. The Five Projects under Jaypee Greens included – Jaypee Greens Klassic, Jaypee Greens Kosmos, Jaypee Greens Kensington Park, Jaypee Greens Wish Town, and Jaypee Greens Aman. Collectively, these developments were approximately 88% sold on sq. foot basis as of March 2010.

The company's business model fabricates **strong synergistic benefits** of both the verticals – the **expressway aiding robust connectivity** and increase in economic activity around Jaypee Sports City at Gautam Budh Nagar. The model also constitutes future revenue from **traffic, toll and related facilities** on the expressway during the **36-year Concession period** and development of the associated real estate under the concession.

How Jaypee Infratech was declared Non-Performing Asset by RBI

The case involves Jaypee Infratech Ltd. (JIL), a subsidiary of Jaiprakash Associates Ltd. (JAL), both sharing the same promoters, Jaypee Group. Uttar Pradesh state government had proposed a plan to lay expressway between Noida and Agra, which delegated its power to Yamuna Expressway Industrial Authority (YEDIA). During float bids, JIL and JAL successfully took over the project, as concession on terms and conditions, government gave them land acquired from farmers to lay road on, came the paperwork which involved a bilateral agreement or **Concession Agreement with JIL by YEIDA** for laying expressway with a right to collect toll from users of the road for 36 years and the land adjacent to the road provided by YEDIA for commercial development with lease for 90 years. Consequently, in 2007, JIL floated project to develop residential flats with the requisite paraphernalia on the land leased out to them by government as projects, to the flat buyers with very **high bookings** as **Integrated Wish Town**. The project proposed **32,000 apartments** in sector - 128,129,131,133,134 of the Noida-Greater Noida and Noida Expressway; promising buyers to provide flats by 2011-12. Around **Rs.25,000 crores** were collected from around **35,000 Home-buyers.**

However, years after its genesis the company managed to **construct only 12,000 apartments** and the rest **20,000 were set for failure**. The project remained abandoned and merely a skeleton had been built to appeal to the homebuyers that something was built. It was alleged that in the name of the **Wish Town City project the money was diverted to Jaypee Group's other flagship projects**.

Soon after, **IDBI bank** filed a petition before the Allahabad bench of NCLT over the advanced loan of Rs.526 crores rupees to the company. The company had not paid back to the bank, and since the bank was a **secured creditor**, it had the right to ask for initiation of CIRP process under Section 7 of the Insolvency and Bankruptcy Code (IBC).

Real Estate Slowdown

Year of 2017 brought no cheer to the already **falling NCR residential market**. New launches and sales dwindled further on the backdrop of **slow sales velocity**, straightjacketed by policy initiatives such as the **Real Estate (Regulation and Development) Act, 2016** and the **Goods and Services Tax (GST).** Having taken cognizance of the situation, developers had **cautiously restricted new launches in 2017**, resulting in the **thinnest annual supply** observed in NCR with a steep **56% drop in the number of units launched** since its **peak in 2010**, NCR saw approximately 11,726 units launched in 2017 compared to 26,734 units in 2016 and **68% decline in sales** for 2017 since its peak in 2010 (**Error! Reference source not found.**).

NCR Market Snapshot

Parameter	H2 2017	Change YoY	2016	2017	Change YoY
Launches (housing units)	6,926	-25%	26,734	11,726	-56%
Sales (housing units)	20,465	21%	40,005	37,653	-6%
Price (wt. avg.)	-	-2%	4,250	37,653	-2%
Unsold inventory (housing units)	-	-13%	192,758	166,831	-13%
Quarters to sell	-	-	17.30	17.20	-
Age of unsold Inventory (in quarters)	-	-	15.00	18.50	-

Source : Knight Frank Research

Table 4.1 : NCR market snapshot for the year 2016-17

New launches in Noida and Greater Noida had declined 77% and 76% YoY, respectively in 2017 compared to the same period in 2016, even though the RERA authority in Uttar Pradesh has been instituted. **Accumulated inventory** and **delayed projects** in locations such as **Noida and Greater-Noida** have **deterred developers from launching**

any new project, which means that many developers in Noida and Greater-Noida were **seeking investments from funds to complete their projects** instead of launching new ones.

Many home-buyers had pushed back their decision of purchasing as Housing Price Indices took a steep increase after 2014. Clocking the largest percentage drop in supply volumes during the 2010-17, 2017 turned out to be a seminal year for the **Indian Residential Real Estate market**. The scale of the meltdown in market volumes can be gauged from the fact that the annual supply levels in the Indian real estate residential market were just 1/4th of those in 2015. The **NCR being the most affected market**, with its **annual supply volume at just 7% of its decadal high.**

As the Jaypee Infratech Ltd. (JIL) officiated most of its **operations through its real estate sales**, **deviations in real estate sectors** severely impacted the company performance before and during the CIRP process. Challenges of interest included **lacklustre demand scenario**s, **various policy hurdles**, **delay in approval cycle**, continuous **high borrowing costs -** both for the company and consumer. NCR residential market remains sticky at a 6-year low given the challenges of demand and supply mismatch and high unsold inventory across the country pushing the company towards IBC in 2017.

Performance of Jaypee Infratech pre-CIRP process

Economic slowdown of real estate market in conjunction with **operational inefficiency** of the company had an acute impact over the **sales from real estate**, which was the **major contributor** to its overall revenue. There was a sharp 76.42% decline in sales for the year 2017 (pre-CIRP), valued at only Rs.595.57 crores, while it was Rs.2525.88 crores in 2016. The sales from real estate further slumped to negative, running losses of Rs.531.44 crores in 2018 (Figure 4.1)

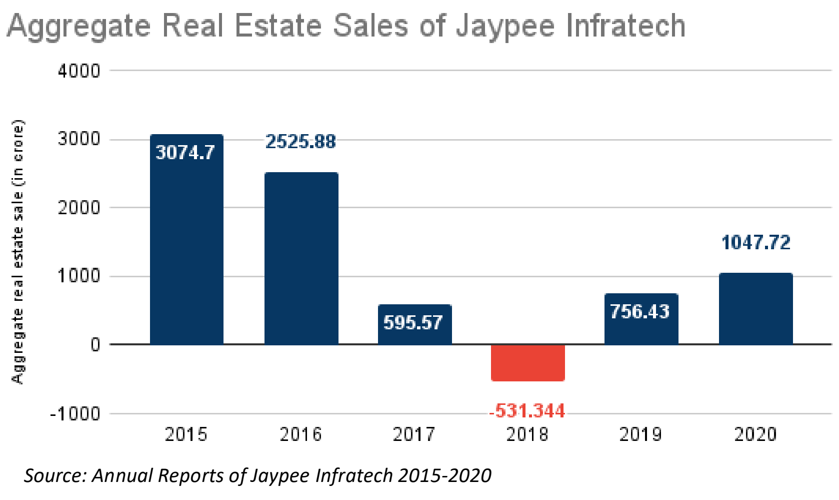
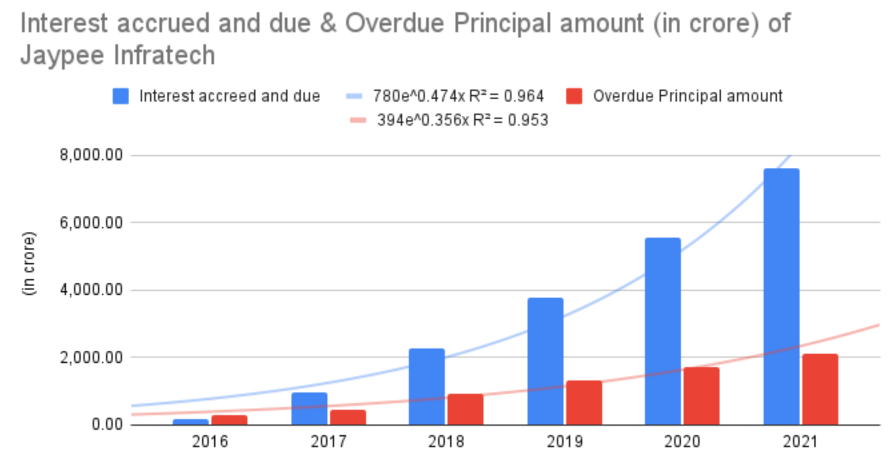


Figure 4.1

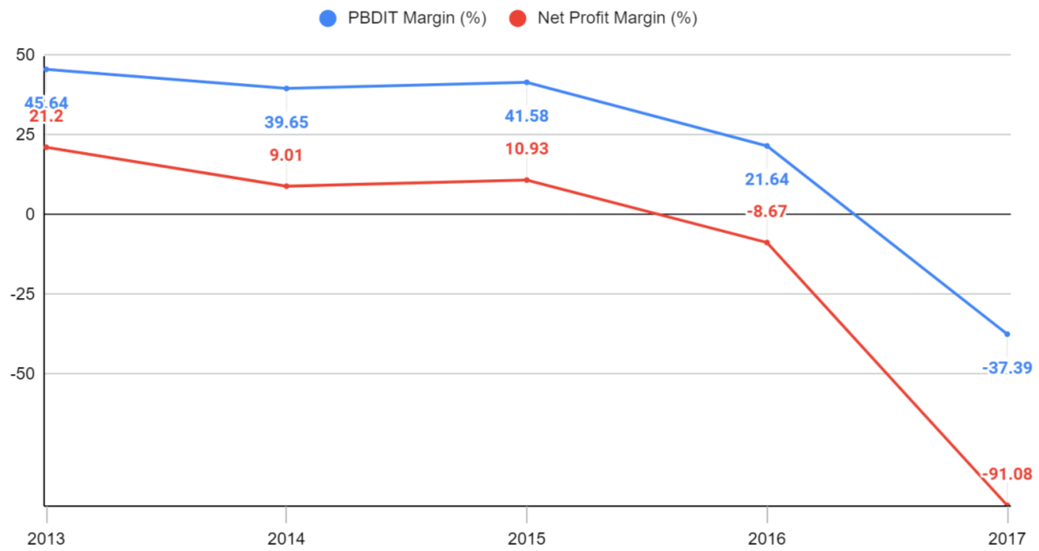
The company had been seeking majority of funds to keep the project running while also providing remuneration to its professional management. **Additions to loans during the period of 2016-2017** had set in motion the **vicious cycle of overgrowing interest payment**, taking more loans to pay off the due interest and so on. As on 2017, the interest accrued and due amounted to Rs.976.37 crores, in comparison to Rs.193.07 crores in 2016, indicating that the company had been working on tight financial restraint. Interest Accrued and due grew at a fast rate of 47.4 % and overdue Principal amount at 35.6% (Figure 4.2).



Source: Annual Reports of Jaypee Infratech 2016-2021

Figure 4.2

Major Lenders included – Corporation Bank, SBI, Syndicate Bank, Bank of Maharashtra, ICICI, Union Bank of India, IDBI, Axis Bank, SREI Equipment Finance Ltd., Jammu & Kashmir Bank, IIFCL, LIC and IFCI Ltd, who later formed a consortium of banks led by IDBI.

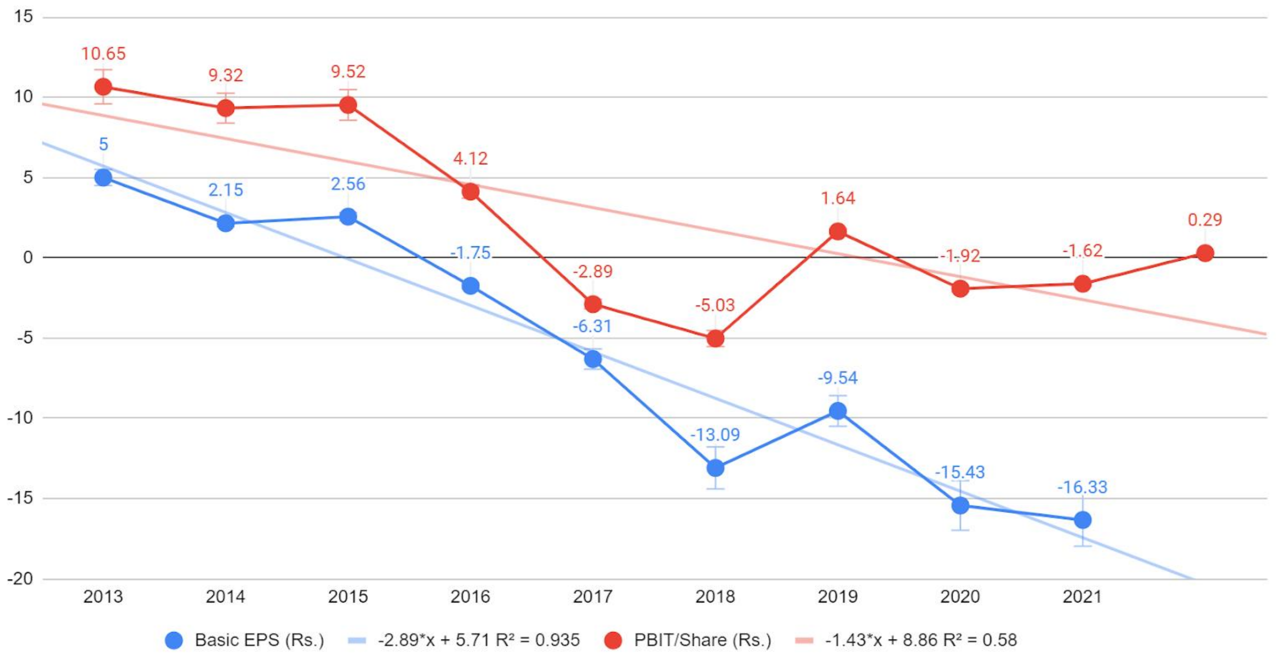


Source: Annual Reports of Jaypee Infratech 2013-2017

Figure 4.3 Pre CIRP PBDIT and Net Profit Margin

The profits have been declining since the year of 2013 until it reached its lowest in 2017. PBIT margin decreased from 21.64% in 2016 to (37.39) % in 2017. Net Profit margin reached its **all-time low of (91.08) % in 2017**, a sharp decline from (8.67) % in 2016 (Figure 4.3).

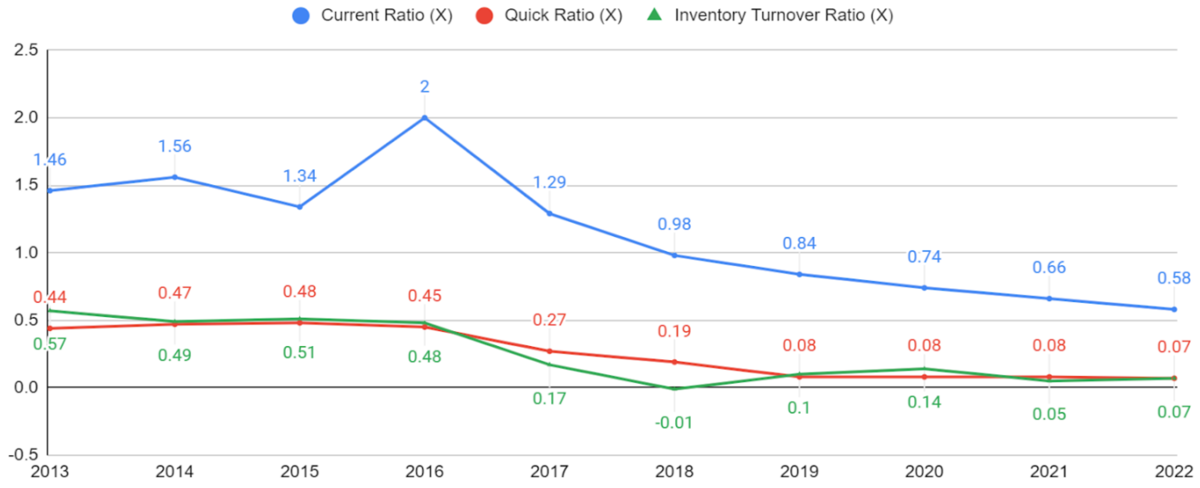
With a company running in losses and growing debt strain, the decrease in EPS/share had been no surprise. **Downward trend of Basic EPS** meant that the company had **poor financial health and returns on share were plummeting**. In 2017 Pre-CIPR, Basic EPS had been -Rs.6.31, with losses per share amounting to Rs.2.89 before **reaching its lowest in PBIT/share of (5.03)** in 2018 during the CIRP period. (Figure 4.4)



Source: Annual Reports of Jaypee Infratech 2013-2021

Figure 4.4 EPS and Profit before Tax of JIL

There was a sharp decline in its **current ratio** from 2 in 2016 to 1.29 in 2017 (pre-CIRP), implying that the **company had been struggling with generating enough cash**. **Quick ratio** also met steady decrease from 0.45 in 2016 to 0.27 in 2017 due to slow sales, numerous bills, and poor collections for your accounts receivable. Decrease in Inventory Turnover ratio to 0.17 in 2017 from 0.48 in 2016 indicated **weak sales combined with overstocking**, as had been the case of **increasing unsold housing units** till 2017 (Figure 4.4)



Source: Annual Reports of Jaypee Infratech 2013-2022

Figure 4.5 Ratio Analysis of JIL

<u>CIRP process of Jaypee Infratech Ltd.</u>

The year of 2017 marked a major turning point for 12 leading companies as India's Central Bank- RBI announced 12 NPAs and referred it for bankruptcy proceedings which included the realty company Jaypee Infratech Ltd.

On **9th August 2017**, the Allahabad Bench of NCLT admitted the plea to initiate Insolvency proceedings against Jaypee Infratech, **petitioned by IDBI** for defaulting for **loan worth** Rs.526 crores. The total corporate debt as on 9th

August stood at **Rs.685,96,46,999.26** (**Table 4.2**). The petitioned was filed under Section 7 of IBC 2016 with Rule 4 of IBC 2016. The apex Court declared **moratorium period under section 14 with the effect from 9th August** itself till the completion of the corporation insolvency resolution process or until the bench approved the resolution plan under sub-section 1 of Section 31. It was decided by AA of the Tribunal Bench that **Mr. Anuj Jain will serve as the Interim Resolution professional (IRP)**. IDBI Bank Limited, the lead lender for consortium of lender, the Committee of Creditors (CoC) along with the Corporate Debtor –JIL, were in **consensus of early approval of resolution plan**.

S.No	Name of the Financial Creditor	Date of Claim	Claims Filled (INR Crores)	Claims Admitted (INR Crores)
1	IDBI Bank Limited	24-Aug-17	4334.1	4334.1
2	IFCL	23-Aug-17	1034.5	1034.5
3	LIC of India	23-Aug-17	757.1	757.1
4	State Bank of India	24-Aug-17	756	756
5	Corporation Bank	21-Aug-17	704.2	704.2
6	Syndicate Bank	22-Aug-17	390.1	390.1
7	Bank of Maharashtra	24-Aug-17	403.2	398
8	ICICI Bank	22-Aug-17	304.1	304.1
9	Union Bank of India	22-Aug-17	338.5	334.8
10	IFCI	24-Aug-17	280.4	280.4
11	J&K Bank	24-Aug-17	244.3	244.3
12	Axis Bank	24-Aug-17	218	218
13	SREI Equipment Finance Limited	24-Aug-17	30.8	27
14	Yes Bank	24-Aug-17	189.4	-
Total			**9984.7**	**9782.6**

Table 4.2 : List of Financial Creditors of JIL and their claims admitted with NCLT (before amendment of IBC in 2018 where Home-buyers were at par with financial creditors)

Jaypee Infratech faced one the **most long-drawn out Corporate Resolution process** which has been going on for six years since its beginning in 2017. Longer had been the wait for the homebuyers who awaited the completion of construction their homes which remain standstill for approximately eleven years. With the amendments of Insolvency & Bankruptcy Code in 2018, the Resolution process continuously underwent **ceaseless modifications of resolution plan**. Over the course of five years, the proceedings constituted – **multiple scraping of plans** proposed by a myriad of prominent companies, seek to fabricate a resolution plan which would not only **fulfil the vested interest of the Secured creditors** but also the **Unsecured creditors mainly constituting Home-buyers**.

In the initial months of 2018, as many as 20 bidders were willing to compete for the pending projects of the debt-ridden Jaypee Infratech. These included firms who were willing to invest at least Rs.200 crores to complete the construction of proposed 32,000 apartments. Among the companies with Expressions of Interest (EOI) included – steel and energy giant **JSW Group, Anil-Agarwal led-Vedanta Ltd, Mumbai based Lodha Group, Essar Group, Deutsche Bank** and the parent Company of the Corporate Debtor itself, **Jaiprakash Associates Ltd**. (JAL). JAL in its resolution plan offered 2000 equity shares of JIL, the company facing insolvency proceedings to each home-buyer as part of the Rs.10,000 crores proposal to revive the projects. The proposal was **unequivocally rejected by the**

bench of NCLT, Committee of Creditors (CoC) and Home-buyers. It was argued that by allowing the parent company of the Corporate Debtor would **go against the Code of IBC with respect to Section 29**-debarring the promoter directors defaulted in repaying from participating in restructuring of the Corporate Debtor during CIRP. Simultaneously, it would create channels for other promoters to challenge the takeover of JIL by means of third-party intervention ultimately resulting in chaos. Besides the proposal of JAL, **first round of bidding contest in 2018 ended with Lakshadweep Pvt. Ltd.** a Joint Venture formed between **Sudhir Valia led-Suraksha ARC and Mumbai-based Dosti Realty** as the winners with a bid of **Rs.7350 crores.** This offer was also **rejected by the Committee of Creditors on the pretext of undervaluation**. The market estimates of the Company at original valued had stood at Rs.17,000 crores while the liquidation value projected by the two companies stood at Rs.12,496 and Rs.14,789 crores respectively. IDBI bank with largest lender of Jaypee with **44 per cent share of the outstanding debt** voted against the proposal among other financial institution who also vote against included – LIC, Union Bank of India, Axis Bank, Syndicate Bank & Corporation Bank. While Bank of Maharashtra and J&K Bank voted in favour, SBI decided to **sustain from voting.**

This implied that, on **12th May 2018**, the **expected end of CIRP process of 180 days** with the extension of 90 days, the **Committee of Creditors had not come up with any viable resolution plan.** In view of the situation the SC asked Committee of Creditors to expedite the case but **stayed for liquidation** as it would serve neither the interest of financial creditors, nor Debtor Company and nor the Home-buyers.

In **the background of CIRP**, the Supreme Court had directed promoters of JIL, to deposit Rs.2000 crores with the registry of apex court on/before 27th October 2017. The deadline was later extended to 5th November 2017. **Even after 10 months** of order the company managed to **pay only Rs.750 crores**. The payment was treated as the asset of the Corporate Debtor and part of the resolution plan. In the following months, the distressed Jaypee Infratech was allowed a concession with an order to deposit Rs.600 crores. Non-timely obligatory payments ordered to JIL/JAL stirred **growing concern in assessment of its credibility**. Publically, Homebuyers had marked the Company with "no ability, no credibility and no intent". **YEIDA maintained that it would cancel Jaypee's lease** and liquidate its assets to recover the money, if the developer failed to pay the first instalment of refunds by the end of October 2017.

Amendment of IBC 2018 bringing back CIRP to square-one

In **June 2018**, the **Amendment of IBC brought home-buyers on par with the financial creditors** allowing them seat in the Committee of Creditors by electing an Authorised Representative (**Table 4.3**). Upon reaching this critical juncture the Supreme Court managed to pave way to **reset the clock by re-commencing the CIRP**, calling of **fresh bids and proposals.**

S.No.	Financial Creditors	Count	Principal Value of Claim (INR Crores)	Interest Value for the purpose of Voting Share Calculation (INR Crores)	Total Value of Claim (INR Crores)	Voting share (%)
1	Active Allottees of real estate units #	24,318	10,403	4.051	14,454	55.0%

2	Allottees of Real estate units- Cancelled & Refunds Pending #	471	79	28	108	0.4%
3	Allottees of Real estate units- Offer of Possession issued #	3,324	1,279	532	1,811	6.90%
4	Fixed Deposit Holders #	5,670	113	-	113	0.4%
5	**Banks/ Financial Institutions**					
5.1	IDBI Bank Limited	1	4,334		4.334	16.5%
5.2	India Infrastructure Finance Company Limited	1	1,035		1,035	3.9%
5.3	Life Insurance Corporation of India	1	757		757	2.9%
5.4	State Bank of India*	1	756		756	2.9%
5.5	Corporation Bank	1	704		704	2.7%
5.6	Syndicate Bank	1	390		390	1.5%
5.7	Bank of Maharashtra	1	398		398	1.5%
5.8	ICICI Bank Limited	1	304		304	1.2%
5.9	Union Bank of India	1	335		335	1.3%
5.10	IFCI Limited	1	280		280	1.1%
5.11	The Jammu & Kashmir Bank Limited	1	244		244	0.9%
5.12	Axis Bank Limited	1	218		218	0.8%
5.13	SREI Equipment Finance Limited	1	27		27	0.1%
	Total	**33,796**	**21,658**	**4,611**	**26,269**	**100.0%**

Table 4.3 : List of Financial Creditors of JIL as per new amendment of IBC 2018

On **14th August 2018**, IRP permitted to invite fresh Expressions of Interest (EOI) for submission of resolution plan by the applicants, including to previously shortlisted bidders, as the case called **revised bids were also considered**. Out of the **five players** who had initially submitted EOI to acquire the Company included – **NBCC, Suraksha Group, Kotak Investment, Cube highways and L&T Infrastructure**. By February 2019, only two Companies had shown interest to take over the debt-ridden Jaypee Infratech – State-owned **NBCC and Suraksha Group**. This was the start of a series of multiple rounds of voting and rival biddings between Suraksha Group backed by Sudhir Walia of The Pharma Group & state-owned NBCC which lasted till 2022.

<u>Neck-to-neck competition between Surkasha Realty & NBCC creating unending adjustments in Resolution plan</u>

On **26th April 2019**, The Committee of Creditors had rejected the NBCC bid, terminating it conditional and without necessary approval from the government. Instantly after receiving government nod for it revised bid, NBCC asked

IRP to reconsider its bid. NBCC planned to provide relief to over 20,000 homebuyers and offered Rs.5000 crores worth of land and 100 per cent equity of Yamuna Expressway, the only cash generating asset of Jaypee Infratech. Meanwhile, financial creditors including home-buyers were voting on the bid of Suraksha Realty, concluded with **rejection of the offer on 3rd May 2019**.

A New Committee was formed when homeowners had a **59% voting share**. The IDBI lead consortium of banks and other financial institutions has a **40 per cent voting share**. The **remaining 1 per cent was held by the owners of a fixed deposit**.

The **CIRP-2 process completed its 270 days from Aug 9, 2018, to May 6, 2019**. This period was now extended by NCLT Allahabad until July 29, 2019. During these 270 days, the bids were processed. Various **banks re-voted against a bid from Suraksha Realty**. Real estate agents voted on the application, but without the cooperation of the banks, the decision was **unable to cover the required 66% of votes** needed to pass the decision.

On **5th September 2019,** the NBCC had agreed to submit a revised proposal to take over the unfinished units of the troubled company. During the trial, the Centre told the court it would waive the tax, amounting to thousands of dollars, for Jaypee Infratech, if the NBCC would take over the company that was being sold. On **6th November 2019**, the Supreme Court directed completion of Jaypee Infratech insolvency process **within 90 days** and said the revised resolution plan will be invited only from NBCC and Suraksha Realty. Followed by a week-long voting on the takeover resolution plan, the **results projected in favour towards state-owned NBCC**, with an overwhelming **majority of 97.36 % votes against Suraksha Realty** but were **yet to receive approval from NCLT.**

Onset of COVID-19 pandemic, the year of 2020 **didn't see any new developments** in the approval of the resolution plan **thus NBCC takeover was yet to be finalized**. It was only on **6th August 2021**; the SC transferred all pending appeals related to the Jaypee Infratech (JIL) insolvency case, from NCLAT back to itself so as to ensure that there was no further delay in resolving the case. Precisely because impact of pandemic had left significant **commercial impact on the operations of the Debtor Company**, **fresh resolution proposals were deemed necessary**. In March 2021, the apex court ruled that IRP can invite modified or fresh resolution plan from the two contenders only with 45-day deadline for resolution of the case. For next two months, the two companies made **several revisions** in their plan for takeover, seeking lenders **for extending bidding process under CIRP to 4th June 2021**.

The **intense bidding war**, to acquire assets of Jaypee Infratech at long last came to an end when **Suraksha Realty won with over 98% votes** in their favour with a **margin of just 0.12% votes** against NBCC. After receiving an approval from Committee of Creditors (CoC), including the financial creditors and home buyers, marked the end of uncertainties for Home-buyers spanning over a four-year period of CIRP for the embattled Jaypee Infratech Ltd. Surkasha Realty had proposed to **Rs.3,000 crores upfront** to start work on JIL's pending projects while NBCC proposed to come up with Rs.2,000 crores.

If given approval from NCLT and Supreme Court the acquisition would **result in the resolution of Rs.22,600** crores of debt given by banks to the cash-hit Jaypee, which was sent to the bankruptcy court in August 2017.

<u>How Home-buyers got caught in the crossfire of competitive bids between State-led NBCC and Mumbai's Suraksha Limited</u>

When the real estate company Jaypee Infratech Ltd. (JIL) went for a Company Resolution plan on 9th August 2017, around 32,000 Home-buyers deliberated that they would finally get the flats promised to them. Little did they know was that they would be **slotted under the caption of other creditors and not on par with financial creditors** in addition to the **inordinate delay in completion** of the CIRP process.

During the First round of CIRP process, the Home-buyers under IBC code of 2016, did not fall in the category of secured creditors like Banks & other financial institutions, hence they could get their money bank only if something was left after repaying the secured creditors of the Debtor Company. In response to this situation distressed Home-buyers **moved to the court seeking relief** in the issue.

After hearings their plea, the apex court directed opening of a **web-portal to profile together all the details of Home-buyers**. It was found that only **8% of Home-buyers were interested in seeking refunds** and the rest **92%** were interested in taking **possession of flats**. The counsel of JAL stated that approximately Rs.13,000 crores were required to be refunded to Home-buyers, thus it was sought to restraint the developers from raising demands towards outstanding or future payments from the flat buyers.

During the first year of the CIRP process when JAL hinted to regain control over JIL through Expression of Interest (EOI), a consortium of nine association consisting around 5,000 homebuyers clearly **opposed the proposal**, stating that JAL had **neither intent nor any financial strength to complete the construction of the remaining flats in the stalled projects**.

CIRP-2 which began after amendment of IBC code brought Home-buyers under financial creditors tipped the scales of the CIRP process. Outbreak of pandemic and never-ending modifications of plan proposed by Suraksha Realty and NBCC added to the aggrieved situation of Home-buyers, extending wait for their homes beyond a decade.

CIRP Timeline of Jaypee Infratech

2017

10 August
CIRP commenced against debt-ridden JIL

14 August
Court opened forms for filing submission of claim for both secured and unsecured

September
Apex court directed JIL's parent Company to deposit Rs.2000 crores before 27th October 2017 in the interest of Home-buyers

October
Deadline pertaining to deposit Rs.2000 crores extended to 5th November 2017

November
Any modifications against Rs.2000 crores directed earlier were refused by SC

December
IRP invited bids from interested buyers to buy Jaypee's assets

2018

March
JAL deposited Rs.750 crores with the SC registry against the ordered Rs.2000 crores

10 May
Suraksha-Dosti won bid but was rejected by CoC

16 May
SC stays liquidation proceedings against Jaypee

9 August
SC sets limitation period of 180 days to conclude the insolvency proceedings against JIL

2019

3 March
Committee of Creditors rejected Suraksha Realty's Bid for acquiring Jaypee Infratech.

3 June
The Yamuna Expressway Industrial Development Authority (YEIDA) said that Jaypee Sports International has one month to clear its pending dues of Rs.220 crores, or their lease on a 1,000-hectare land along the Yamuna Expressway will be cancelled.

30 July
NCLAT had allowed fresh bidding for the cash-strapped Jaypee Infratech but barred its promoter Jaypee Group from participating in the auction.

22 August
he Supreme Court ordered status quo for a eek on the insolvency proceeding after the aypee Group challenged an order of the ational Company Law Appellate Tribunal NCLAT) that allowed fresh bidding for Jaypee nfratech.

3 September
The apex court had sought to know from NBCC whether it was willing to give a revised proposal to complete the stalled projects of Jaypee Group.

17 October
NBCC submitted its revised resolution proposal but it was returned. Jaypee Infratech insisted that its appeal be heard, and proposal considered. SC to decide matter on October 22, 2019.

6 November
The SC directed completion of the corporate insolvency resolution process within 90 days, for Jaypee Infratech Ltd and said that the revised resolution plan will be invited only from NBCC and Suraksha Realty.

16 December
A Committee of Creditors (CoC) comprising 13 banks and around 21,000 homebuyers approved NBCC's resolution plan with 97.36 per cent votes in favour. The proposal was approved by the lenders in the third round of bidding process to find a buyer for

2020

26 February
The Supreme Court restored the National Company Law Tribunal (NCLT) order directing Jaiprakash Associates Ltd (JAL) to return 758 acres of land, which was pledged with several banks, to its debt-laden subsidiary firm Jaypee Infratech Ltd (JIL).

3 March
NCLT approved NBCC plan to acquire debt-laden Jaypee Infratech through an insolvency process and complete more than 20,000 pending flats over the next three and half years.

(Continued next page)

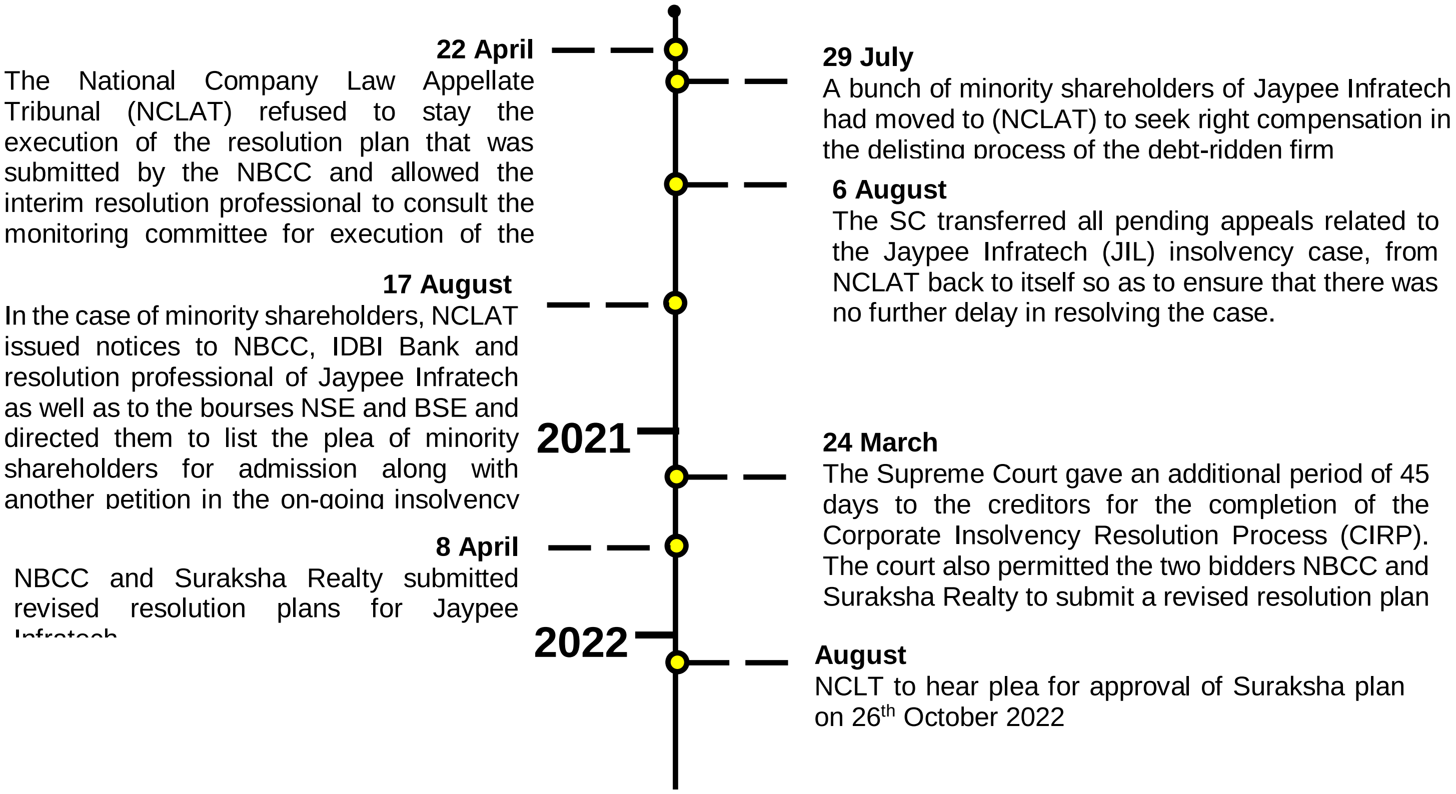


Figure 4.6 : CIRP Timeline of JIL

<u>Status-quo of Surkasha Realty takeover of Jaypee Infratech</u>

The resolution process of Jaypee indeed has witnessed various twist-and-turns ever since its journey began in 2017. When the Real Estate market got hit, the operational revenue ceased to exist for Jaypee Infratech, adding to their already overflowing debt. Restart of CIRP process in 2018 followed by delays in approval of resolution plan by Committee of Creditors (CoC) and Home-buyers and outbreak of pandemic over extended the completion of CIRP process.

While approval of Suraksha's resolution plan by Committee of Creditors (CoC) in July 2021 was a huge relief to all the stakeholders. Since then, the case has been pending with the Tribunal bench for its approval. JIL Homebuyers expressed that all the limits were crossed when the resolution process entered its sixth-year in August 2022.

As per the laws of IBC code 2016, a CIRP process should be ideally completed in 330 days. Albeit, the Supreme Courts intervention to expedite the case, only Yamuna Industrial Development Authority (YEIDA) has completed its argument against Suraksha's plan. The other three parties – ICIC Bank, Bank of Baroda and JAL are yet to give their submissions against the proposed plan.

In the most recent developments of the case, NCLT will be hearing plea on approval of Suraksha's bid for Jaypee Infratech on 26th October 2022 (Figure). Expecting to get the approval of NCLT, Suraksha is said to be making preparations internally to start construction work on all the stalled projects soon, giving hopes to thousands of Home-Buyers that they may finally get possession of their flats after years of delay.

Chapter 5 RUCHI SOYA INDUSTRIES LTD.

5.1 INTRODUCTION- IBC

The Insolvency and Bankruptcy Code (2016) is a law made to provide a consolidated framework for insolvency and bankruptcy proceedings of companies, firms, individuals, and partnerships.

Before the IBC, several legislative frameworks like the Companies Act 2013, Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and others were significant.

These institutions offered solutions which proved to be long, time taking and not economically viable. As a result, the IBC was formed to give a **one stop solution** to insolvency and bankruptcy issues in companies.

The purpose of IBC was to tackle the bad loan problems that was affecting the banking system.

5.1.1 THE PROCESS

IBC involves resolving insolvency in a time bound process. When a default in repayment occurs, creditors gain control over debtor’s assets and take decisions to resolve insolvency.

Companies ought to complete the entire insolvency exercise within 180 days under I&B Code. For smaller companies, with an annual turnover of Rs 1 crore, the whole exercise of insolvency is to be completed in 90 days and the deadline can be extended by 45 days. Liquidation takes place if debt resolution for the company doesn't take place.

The **Insolvency and Bankruptcy Board of India** is established under the Code to oversee the insolvency proceedings in the country.

Some successful cases undertaken by the IBBI are Essar Steel, Bhushan Steel, Alok Industries, Jet Airways, Dewan Housing Finance etc. One such important and dynamic case undertaken by IBBI was the case of **RUCHI SOYA INDUSTRIES LTD**.

5.2 INTRODUCTION- RUCHI SOYA

Ruchi Soya Industries Limited, through its subsidiaries, engaged in the manufacture and sale of edible oils, vanaspati, bakery fats, and soya food in India. It offered soya chunks, granules, and soya flour products. Nutrela, Mahakosh, Sunrich, Ruchi Star and Ruchi Gold were some of its leading brands.

These edibles were a part of Ruchi Soya’s product line. Despite their wide variety of product base, a large pie of their revenue was from **palm oil** and **soya chunks**.

5.2.1 INITIATION AND WORKING

Ruchi Soya Industries Limited was founded by Dinesh Sharma in **1986**. Producing and selling edible oils, bakery fats, soya food, Ruchi Soya became one of the country's largest FMCG companies. Spread over 7 lakh+ retail stores, with 6000+ distributors, Ruchi Soya produced about **3 million tons of oil per year.**

Ruchi also had approximately **13 well-maintained refinery units**. Customers cherished it, and so did the markets. It was one of the go-to options for any investor who was looking out for good dividends.

In 2012, Ruchi Soya was ranked at 175 in the top 250 consumer products companies. In short, Ruchi Soya was running smoothly until 2011. In fact, until the end of 2015, it still held good profits.

5.3 THE DOWNFALL

Ruchi Soya imported crude palm oil and sold the refined product that was used in everything from cooking oil to shampoos—a business that contributed to more than 70 percent of its sales. Being an agro-processing company, it operated on thin margins. So, an unfavorable duty structure in domestic and international markets would hurt the company.

Indonesia, in October 2011 made it cheaper to export the refined palm oil than the crude product. The Southeast Asian nation:

A) Increased the export duty on crude palm oil to 16.5 percent.
B) Reduced the levy on refined bulk and consumer packed oil to 8 percent and then to 2 percent, respectively.

Ruchi had to bear the burden of the increased cost. This had a toll on its profit margins as well.

For a company which was already struggling to deal with its expanding manufacturing costs, the **loss in the castor oil business** hit harder on Ruchi Soya. Even though castor seeds were a minor portion of the profits and revenue**, the losses incurred by the company were hefty.**

2017 saw a drastic decline in the global market of castor seeds. **Ruchi Soya had invested huge sums but due to the decline in the market, it incurred a serious loss.** A drought followed by the failure of crops in various parts of India affected their production to a great extent.

Once was a profit generator, now Ruchi Soya displayed humongous losses in its balance sheets. Further, the company's debts kept climbing new heights and stood approximately at 9000 crores. An increase in unrecoverable dues also followed as its customers failed to pay back. **Dues which summed up to 5000 crores were written off as bad debts.**

Bank documents reveal that RSIL had a large number of transactions with associated companies having massive outstanding.

a) Poor disclosure of material
b) adverse information
c) no qualification by the statutory auditors

led this company into **SBI's fraud report** and called **Red Flagged Accounts** (RFA).

The internal document of the consortium, led by IDBI Bank, revealed RSIL to have inflated stock amount as well. The company portrayed two different figures to get more bank loans. The stock as per audited results of the company was Rs 1,348.12 crore, but RSIL had offered Rs 2,179.98 crore to the bank.

5.4 ANALYSIS OF BALANCE SHEET AND ACCOUNTING RATIOS

5.4.1 BALANCE SHEET

	Mar 2012 12 mths	**Mar 2018** 12 mths	**Mar 2020** 12 mths
	Top 250	**Pre- CIRP**	**Post-CIRP**
EQUITIES AND LIABILITIES			
SHAREHOLDER'S FUNDS			
Equity Share Capital	66.67	65.29	59.15
Preference Share Capital	2	1.54	147.41
Total Share Capital	**68.67**	**66.83**	**206.56**
Reserves and Surplus	2,131.10	-4,613.89	3,311.75
Total Reserves and Surplus	**2,138.15**	**-4,613.89**	**3,311.75**
Total Shareholders' Funds	**2,206.82**	**-4,547.06**	**3,518.31**
NON-CURRENT LIABILITIES			
Long Term Borrowings	799.71	56.22	2,806.43
Other Long-Term Liabilities	33.25	6.06	311.54
Long Term Provisions	1.67	0	8.99
Total Non-Current Liabilities	**1,087.49**	**62.28**	**3,126.95**
CURRENT LIABILITIES			
Short Term Borrowings	3,787.40	6,592.10	630.3
Trade Payables	4,124.08	2,907.92	172.01
Other Current Liabilities	1,461.52	2,697.76	418.94
Short Term Provisions	17.03	7.56	1.11
Total Current Liabilities	**9,390.03**	**12,205.34**	**1,222.35**

Total Capital and Liabilities	**12,684.34**	**7,720.57**	**7,867.61**
ASSETS			
NON-CURRENT ASSETS			
Tangible Assets	2,341.38	3,841.68	3,554.15
Intangible Assets	3.62	1,516.34	1,515.85
Capital Work-In-Progress	237.01	28.12	25.2
Fixed Assets	**2,582.00**	**5,386.14**	**5,095.21**
Non-Current Investments	210.29	34.71	7.38
Long Term Loans and Advances	84.71	39.13	35.55
Other Non-Current Assets	1.66	115.8	120.77
Total Non-Current Assets	**2,878.65**	**5,575.78**	**5,258.90**
CURRENT ASSETS			
Current Investments	0.44	15.8	12.81
Inventories	3,660.20	1,191.06	1,354.61
Trade Receivables	3,099.02	249.61	273.99
Cash And Cash Equivalents	2,399.23	176.43	455.26
Short Term Loans and Advances	470.67	5.59	1.2
Other Current Assets	176.12	506.29	510.83
Total Current Assets	**9,805.69**	**2,144.79**	**2,608.71**
Total Assets	**12,684.34**	**7,720.57**	**7,867.61**

Table 5.1

5.4.2 ACCOUNTING RATIO ANALYSIS

a) **Working capital**- Working capital represents a company's ability to pay its current liabilities with its current assets. It is an indicator of firm's short term financial health, capacity to clear its debt within a year and operational efficiency.

Working Capital = Current Assets - Current Liabilities (in ₹ Cr.)	
2012	**2018**
Top 250	**Pre-CIRP**
415.66	-10,060.55

Table 5.2

b) **Current Ratio**- It is calculated by taking current assets and dividing by current liabilities. A ratio of above 1 means current assets exceed liabilities. Generally, the higher the ratio, the better the indicator of a company's ability to pay short term liabilities.

Current Ratio = Current Assets / Current Liabilities

2012	2018
Top 250	**Pre-CIRP**
1.04	0.17

Table 5.3

c) **Quick Ratio**- Creditors and investors use the quick ratio to determine whether a company is a suitable option for funding or investment. It enables investors and creditors in understanding the readiness of a company to face any financial unexpected crisis. A quick ratio of 1 or above indicates that the company has sufficient liquid assets to satisfy its short-term obligations.

Quick (Acid Test) Ratio ***= (Current Assets - Inventories - Prepaid Expenses)) / Current Liabilities***	
2012	**2018**
Top 250	**Pre-CIRP**
0.65	0.07

Table 5.4

d) **Debt to Equity Ratio:** The debt-to-equity ratio compares a company's total debt to its total equity to determine the riskiness of its financial structure. The ratio displays the proportions of debt and equity financing used by a company**.**

Debt to Equity Ratio ***= Total Liabilities / Total Stockholders' Equity***	
2012	**2018**
Top 250	**Pre-CIRP**
5.74	-1.69

Table 5.5

e) **Debt to Total Assets Ratio:** The total-debt-to-total-assets ratio shows the degree to which a company has used debt to finance its assets.

Debt to Total Assets ***= Total Liabilities / Total Assets***	
2012	**2018**
Top 250	**Pre-CIRP**
0.82	1.58

Table 5.6

5.5 THE AFTERMATH

The company was under the spotlight of the **SEBI for fraudulent trading practices** in the commodity exchange following which they were forced to delist from the stock exchanges.

According to the audited results, trade payables of the company were Rs 5,781 crore while the company informed the bank of Rs 3,000.13 crore only. Increasing losses and failing business caused the banks to panic. Eventually, they started knocking the doors of Ruchi Soya to pay back its debts.

In 2017, the company was dragged to the **bankruptcy court by its creditors which included SBI, IDFC, etc. for the repayment of the pending dues of Rs 9.63 crores.** The company was unable to meet its obligations and was soon announced as bankrupt and insolvent. Lenders declared Ruchi Soya Industries Ltd. as an NPA on March 30, 2017.

According to the limited audit review of RSIL, the company total liabilities exceeded its assets, and as on September 30, 2017, the company's net worth was fully eroded.

Standard Chartered and DBS Bank took the insolvency process to NCLT. A committee of creditors came into effect from Jan 2018. **The CoC comprised of SBI, PNB, Standard Chartered and ICICI Bank.**

They discussed the implementation of the recovery process against RSIL, including restrictions of the guarantors' overseas travels, criminal proceedings and hard recovery procedure for about Rs 12,000 crore loans.

But the banks opted for another alternative rather than opting for liquidation, and this is where fate played its game and gave the once greatest FMCG another shot towards success.

5.6 THE CORPORATE INSOLVENCY RESOLUTION PROCESS

1. The Miscellaneous Application was filed under Section 30(6) of Insolvency and Bankruptcy Code, 2016 dated 15.12.2017 initiating Corporate Insolvency Resolution Process (CIRP) against Ruchi Soya Industries Ltd., the Corporate Debtor. The financial creditors being Chartered Bank and DBS Bank. Shailendra Ajmera was appointed as resolution professional to manage the insolvency proceedings of the company.

2. After the initiation of the CIRP, the Interim RP published Public Announcement calling upon the creditors of the Corporate Debtor for submission of claims.

3. The Process Memorandum contained various terms and conditions about resolution plans to be submitted such as a deposit of EMD of Rs.50,00,00,000/- in two tranches, performance deposit of Rs.150,00,00,000/- as clear funds.

4. The RP invited submission of resolution plans from prospective eligible Resolution Applicants. The RP received resolution plans submitted by four resolution applicants i.e. from Adani Wilmar Limited (AWL), consortium of Patanjali Ayurved Limited, Divya Yog Mandir Trust, Patanjali Parivahan Pvt Ltd and Patanjali Gramudhyog Nyas (collectively, Patanjali Consortium), Godrej Agrovet Limited (Godrej) and Emami Agrotech Limited (Emami).

5. The applicant reviewed the plans and found that only the plans submitted by AWL and Patanjali Consortium provided for the corporate insolvency resolution of the Corporate Debtor.

6. The RP appointed T.R. Chadha & Co. to determine the liquidation value of the Corporate Debtor on 21.12.2017. The average liquidation value submitted by the registered valuers was Rs.2391.16 crores, and the Fair value submitted by the Registered Valuers was Rs.4161.86 crores.

7. AWL and Patanjali Consortium were told to improve certain commercial parameters of their resolution plans. After following the negotiation process set out in the Process for Negotiation, AWL had emerged as the “Potential Successful Applicant” as per the Process for Negotiation.

9. The resolution plan submitted by AWL was put for e-voting and was approved by a vote share of 96.85%. But, under the order of Hon’ble Supreme Court, the approval of the CoC of the resolution plan of AWL was interdicted.

10. It was decided and agreed by the members to put the resolution plan of Patanjali Consortium submitted on 2.5.2018 to e-vote. In the e-voting concluded on 30.4.2019, the CoC approved the resolution plan submitted by Consortium of Patanjali with a vote share of 96.95%.

<u>5.6.1 SALIENT FEATURES OF THE RESOLUTION PLAN</u>

It is stated in the resolution plan that as part of this Plan, the Resolution Applicant is required to infuse/bring in an aggregate amount of Rs. 4350 crores in SPV which shall be amalgamated with and into the Corporate Debtor on and from the Closing Date. From the aggregate amount to be infused Rs. 4,235 crores shall be towards a settlement to be provided to each of the class of creditors & stakeholders and the remaining amount of Rs. 115 shall be towards equity infusion for improving operations of the Corporate Debtor. A snapshot of the sources of the fund is set out below:

S. No.	PARTICULARS	AMOUNT (in crores)	SOURCE OF FUND

1.	Equity infusion by Resolution Applicant in SPV	204.75	Performance Deposit of Rs. 150 crores + Earnest Money Deposit of Rs. 50 crores deposited in favor of the Corporate Debtor in the designated bank accounts, amounting to a sum of Rs. 200 crores remaining 4.75 crores to be generated out of internal accruals of the Resolution Applicant.
2.	Non-Convertible Debentures subscribed by Resolution Applicant in SPV	450.00	To be subscribed by Patanjali Ayurved Limited. Break up of fund infusion of Rs. 900 Crores for subscription to these instruments: a) Rs. 300 Crores −In-Principle Sanction Letter for Funding from Bank of Baroda in favor of Patanjali Ayurved Limited b) The remaining sum of Rs 600 crores -To be generated out of internal funding/internal accruals/cash flow of the Resolution Applicant.
3.	Preference shares subscribed by PAL in SPV	450.00	
4.	New Debt infusion/arranged in SPV	3,233.36	Rs. 3245.25 crores - In Principle Sanction Letters for Funding from State Bank of India for Rupees 3300 crores in favor of the Patanjali Consortium and Union Bank of India for Rs 600 crores in favor of the SPV-Patanjali Consortium.
5.	Providing counter guarantee/ 100% margin/ replacement of existing bank guarantees that are not invoked	11.89	

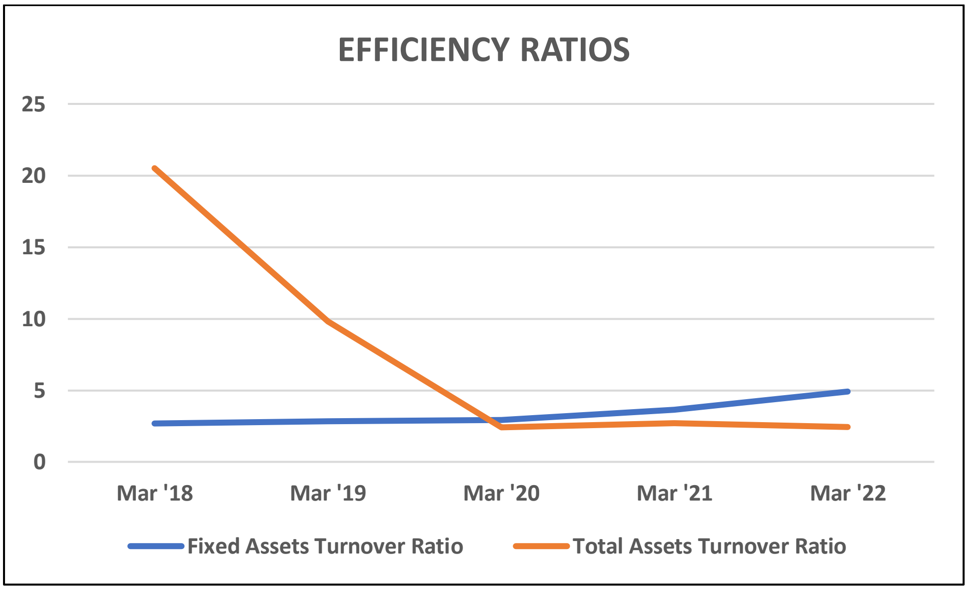
Total	**4,350.00**

Table 5.7

5.6.2 PRE-CIRP AND POST CIRP ACCOUNTING RATIOS ANALYSIS

EFFICIENCY RATIOS					
	Mar '18	**Mar '19**	**Mar '20**	**Mar '21**	**Mar '22**
Fixed Assets Turnover Ratio	2.68	2.84	2.94	3.64	4.91
Total Assets Turnover Ratio	20.51	9.78	2.41	2.7	2.45

Table 5.8

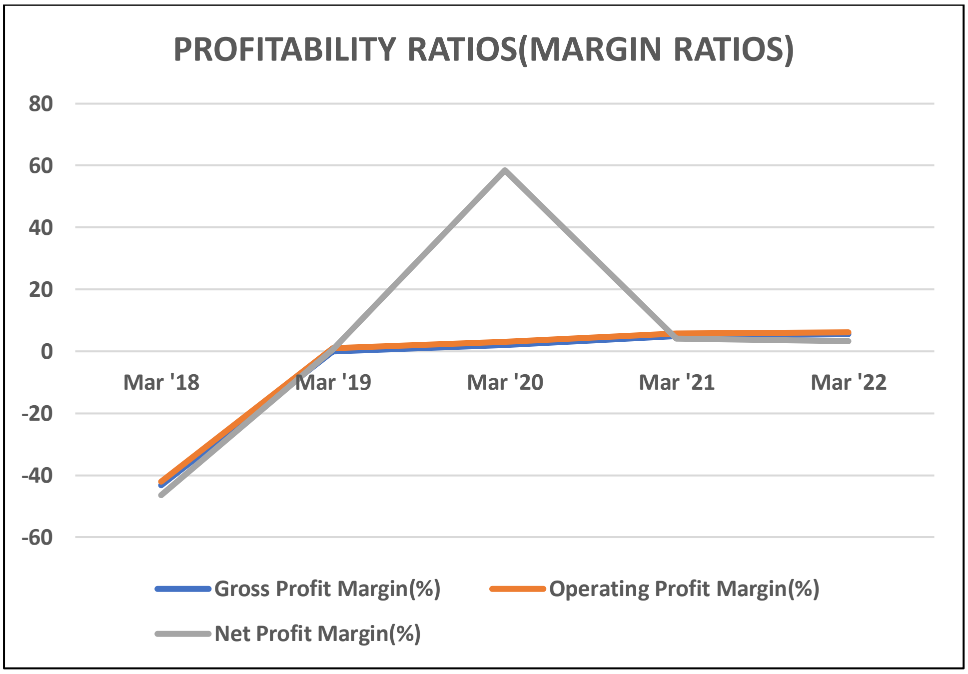


Graph 5.1

Graph 5.1- Efficiency Ratios indicating a slow growth in fixed assets turnover ratio and a decline in fixed assets turnover ratio. It depicts that the assets are not being used efficiently to generate sales.

PROFITABILITY MARGIN					
	Mar '18	**Mar '19**	**Mar '20**	**Mar '21**	**Mar '22**
Gross Profit Margin (%)	-43.26	-0.12	2.02	5.02	5.57
Operating Profit Margin (%)	-42.09	0.95	3.05	5.84	6.14
Net Profit Margin (%)	-46.46	0.6	58.48	4.17	3.33

Table 5.9

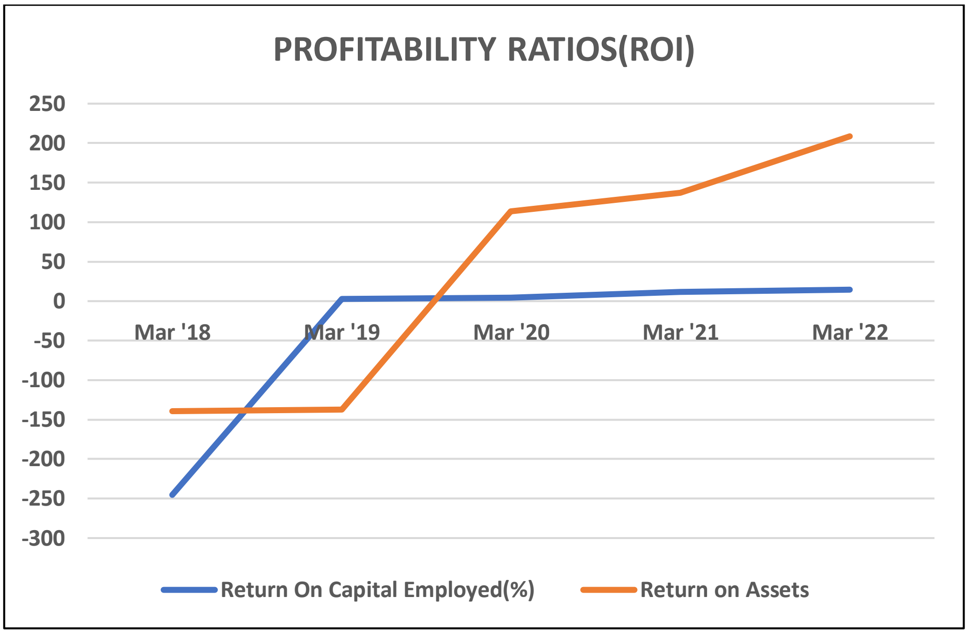


Graph 5.2

Graph 5.2- Profitability Margins indicating an initial steep rise and then a slow growth of gross and operating profit margin, a steep increase and then decrease in net profit margin depicting a slow increase in sales and changing cost structure.

PROFITABILITY (ROI)					
	Mar '18	**Mar '19**	**Mar '20**	**Mar '21**	**Mar '22**
Return On Capital Employed (%)	-245.3	2.97	4.63	11.71	14.48
Return on Assets	-139.33	-137.17	113.97	137.35	208.64

Table 5.10

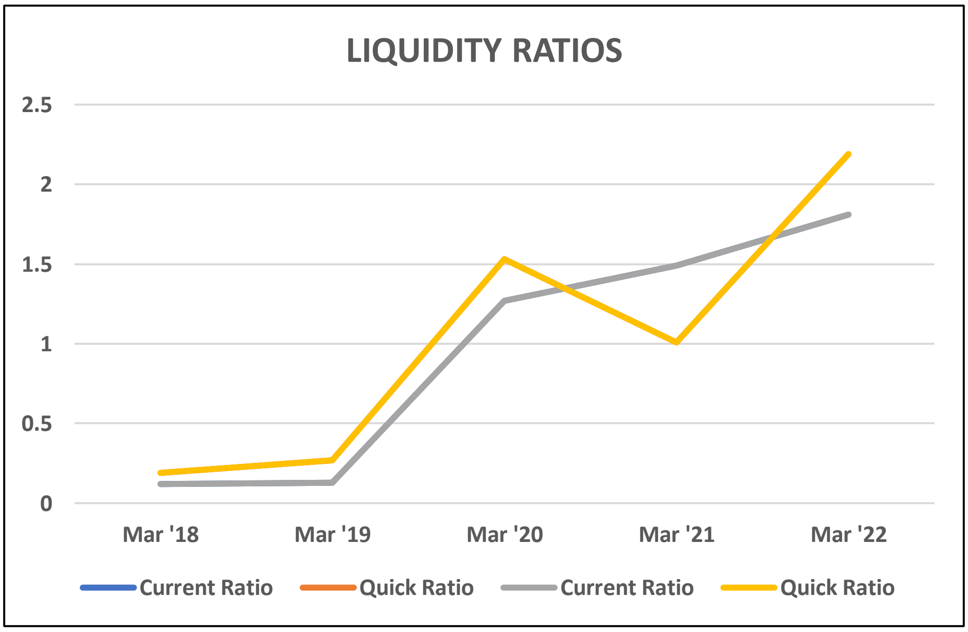


Graph 5.3

Graph 5.3- Profitability Ratios (ROI) indicating an increase in ROI meaning better investment gains from a project.

LIQUIDITY RATIOS					
	Mar '18	**Mar '19**	**Mar '20**	**Mar '21**	**Mar '22**
Current Ratio	0.12	0.13	1.27	1.49	1.81
Quick Ratio	0.19	0.27	1.53	1.01	2.19

Table 5.11

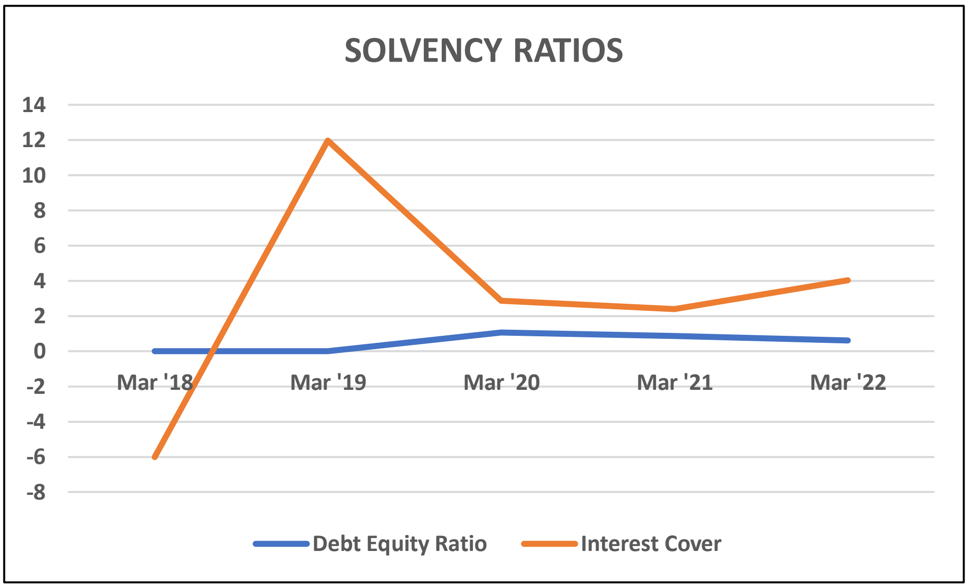


Graph 5.4

Graph 5.4- Liquidity Ratio indicating a rise in the margin of safety regarding ability to pay off debt obligations

SOLVENCY RATIOS					
	Mar '18	Mar '19	Mar '20	Mar '21	Mar '22
Debt Equity Ratio	--	--	1.06	0.86	0.6
Interest Cover	-6.02	11.97	2.87	2.39	4.03

Table 5.12



Graph 5.5

Graph 5.5- Solvency Ratios indicating higher financial strength although showing fluctuations.

5.7 REVIVAL

Patanjali acquired the company for Rs. 4350 crores.

In FY 2019-20, SBI wrote off Rs746 crore of NPA of Ruchi Soya Industries. The plan approved under the I&B Code had indicated that SBI would recover Rs883 crore against its admitted claim of Rs1, 816 crore. Instead, it made a fresh loan to Patanjali Ayurved to help it acquire the company. This was considered as a strange move by SBI indicating a disregard for recovering bad debt.

While all this was on one side, Ruchi Soya's business, on the other was all in for a comeback. It was relisted on stock exchanges and in 2021, was to be traded at a price of Rs.16.5.

It has been reported that Patanjali led Ruchi Soya has repaid its Rs. 2925 crores loans and has become a debt free company after its follow-on-public offering (FPO). In April 2022. The company’s net profit also increased to Rs 806.3 crore in 2021-22 from Rs 680.77 crore a year ago. Total income sharply rose to Rs 24,284.38 crore during the last fiscal from Rs 16,382.97 crore in 2020-21 making it a profitable venture for Patanjali Foods.