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EDITORIAL ANALYSIS

IBC at 10 — Sahoo and Pandey: Credit Discipline Achieved, But Unfinished Business Remains

BUSINESS STANDARD

27 May 2026 · ECONOMY · GS3

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Business Standard 27 May 2026 GS3

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INTERVIEW ANGLE

"High haircuts and liquidations are often used to indict the IBC. But if most firms entering insolvency are already beyond rescue, isn't the more honest metric the system-wide repayment-behaviour improvement that the IBC's credible threat has produced?"

BUSINESS STANDARD

| Column by **M.S. Sahoo and Raghav Pandey** | May 27, 2026

M.S. Sahoo, the founding Chairman of the IBBI, and Raghav Pandey argue that the

IBC'S SIGNATURE ACHIEVEMENT IS NOT THE RECOVERY RATE BUT THE RESTORATION OF CREDIT DISCIPLINE ACROSS THE ECONOMY

. High haircuts and frequent liquidations are misread because most firms entering insolvency are already commercially unviable; the **credible threat** of proceedings has shifted promoter and borrower behaviour system-wide. They flag four pieces of unfinished business: **judicial delays, unresolved avoidance transactions, uneven creditor treatment, and the stalled personal-insolvency rollout**.

THE ARGUMENT IN ONE LINE

The IBC's success metric is system-wide repayment behaviour, not in-court recovery rates; the unfinished agenda is administrative, not legislative — and the next phase requires institutional rather than statutory effort.

THE TWO SCHOOLS OF IBC ASSESSMENT

SCHOOL	FRAME	VERDICT
Recovery-rate school	IBC is a recovery instrument; recoveries ~32% are low; therefore underperforming	Critical
Sahoo-Pandey credit-discipline school	IBC is a behavioural instrument; high recoveries are not the goal — credible enforcement is; therefore succeeding	Affirmative

The columnists argue the first school misreads the IBC's purpose. **Bankruptcy law is most successful when it deters defaults, not when it produces high recoveries** — because deterrence implies fewer defaults in the first place.

EVIDENCE FOR THE CREDIT-DISCIPLINE THESIS

INDICATOR	PRE-IBC	POST-IBC
Bank NPAs (gross)	~11% (March 2018)	~2.4% (March 2025)
Promoter behaviour	Wide-spread "strategic default" / OTS culture	Significantly chastened post-Section 29A
Corporate-bond market depth	Stagnant	Modestly improving
Cost of borrowing for AAA vs BB	Wider spread	Narrower spread
Time to credit-decision (banks)	Long, often political	Faster; risk-based pricing increasing

SELECTION BIAS — THE CORE DEFENCE

A subtle but powerful argument: the firms that **reach** insolvency proceedings are already a **selected sample of the most distressed**. Their low post-resolution recovery is not a verdict on the IBC; it is a verdict on the **state of those firms when they entered**.

Healthy firms whose promoters now repay on time **do not appear in IBC statistics at all** — yet they are precisely where the IBC's behavioural effect is largest. Sahoo and Pandey argue this is the missed half of the IBC ledger.

THE FOUR UNFINISHED PIECES

1. Judicial Delays

- Resolution timelines have stretched to **~621 days** (vs 330-day ceiling).
- NCLT capacity, member vacancies, procedural complexity.
- *Pioneer Urban Land*, *Essar Steel* (2019), *Vidarbha Industries* (2022), *Rainbow Papers* (2022) generated long appeals.
- **Solution**: bench expansion + virtual NCLT + specialised infrastructure benches.

2. Avoidance Transactions

- Sections **43 (preferential), 45 (undervalued), 49 (defrauding creditors), 50 (extortionate credit), 66 (fraudulent)** transactions.
- Look-back periods: 1-2 years (related parties), 1 year (others).
- In practice, **under-litigated** — Resolution Professionals often don't file; CoCs don't prioritise.
- **Solution**: mandatory disclosures, default look-back filings, IBBI guidance.

3. Uneven Creditor Treatment

- Operational creditors historically got short shrift in distributions.
- **Essar Steel (2019)** affirmed CoC's "commercial wisdom"; codified the priority hierarchy.
- *Rainbow Papers* (2022) controversially ranked government dues high; later modulated.
- **Solution**: clearer Section 30(2)(b) "minimum value" guidance; review of waterfall under Section 53.

4. Personal/Individual Insolvency

- Sections 78-187 of the IBC notified only for **personal guarantors of corporate debtors** (Nov 2019); rest unnotified.
- DRT capacity remains weak.
- **Solution**: phased notification (professionals first, then traders, then general individuals).

THE EXAMINER'S FRAME

Q	ANSWER LOGIC
Why is recovery rate a misleading metric?	Selection bias — IBC firms are pre-selected for distress.
What is the credible-threat mechanism?	Promoter loses control under Section 29A; CoC takes over; risk of liquidation is real.
What is the unfinished agenda?	Administrative: judicial capacity, avoidance enforcement, distributive clarity, individual insolvency rollout.

THE BROADER INDIAN REFORM PATTERN

This editorial fits a wider Indian reform story:

- **GST (2017)** — institutional capacity (GSTN, AAR rulings) is the unfinished agenda, not the statute.
- **PFCE Bill / Direct Tax Code** — repeatedly delayed at the design stage.
- **Labour Codes (2019/20)** — passed but largely un-notified by states.
- **NCLT / IBC** — same pattern: design good, capacity weak.

COUNTER-ARGUMENTS

COUNTER	SUBSTANCE
Promoters re-entering via proxies	Section 29A loopholes; Rainbow Papers-style work-arounds
Forum shopping	NCLT vs DRT vs CCI vs civil courts — overlapping jurisdiction
Operational creditor disadvantage	Even post-Essar Steel, OCs often recover far less than FCs
ARC route	IBC vs Asset Reconstruction Companies — sometimes redundant pathways

WAY FORWARD

- **Time-bound NCLT decisions** — *Keisham Meghachandra*-style time limits for admission and approval.
- **Specialised benches** for power, infrastructure, real estate, cross-border.
- **Avoidance enforcement** — IBBI mandate to track Section 43/45/49/66 filings.

- **Section 53 waterfall review** — operational creditor protection floor.
- **Personal insolvency** — phased rollout with capacity-building at DRT.
- **Information Utility expansion** — NeSL is sole player; competition needed.

UPSC RELEVANCE

GS Paper 3 — Indian Economy:

- Indian Economy — issues relating to planning, mobilization of resources, growth, development.
- Effects of liberalisation on the economy.
- Banking — NPAs, financial sector reform.

Analytical hooks for Mains:

- IBC's behavioural vs recovery metrics.
- State capacity in reform implementation.
- Credit discipline and macro-financial stability.

FACTS CORNER

Author of column: M.S. Sahoo (founding IBBI Chairman, 2016-2021) and Raghav Pandey.

IBC enacted: May 28, 2016; IBBI established October 1, 2016.

Statutory ceiling: 330 days; actual average ~621 days (2026).

Bank NPAs decline: ~11% (Mar 2018) → ~2.4% (Mar 2025).

Section 29A: Bars wilful defaulters from bidding for own companies.

Avoidance transactions sections: 43, 45, 49, 50, 66 of the IBC.

Section 53: Waterfall mechanism for distribution.

Essar Steel (2019): Affirmed CoC's commercial wisdom; codified priority hierarchy.

Rainbow Papers (2022): Government dues priority; later modulated.

Personal-guarantor IBC sections notified: November 15, 2019.

UNCITRAL Model Law on Cross-Border Insolvency: 1997 — basis for 2026 framework.

Editorial source: Business Standard, May 27, 2026 | Companion: BS IBC@10 Editorial

Source: IBC at 10 — Sahoo and Pandey: Credit Discipline Achieved, But Unfinished Business Remains — Ujiyari.com | Free UPSC & State PCS Editorial Analysis

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