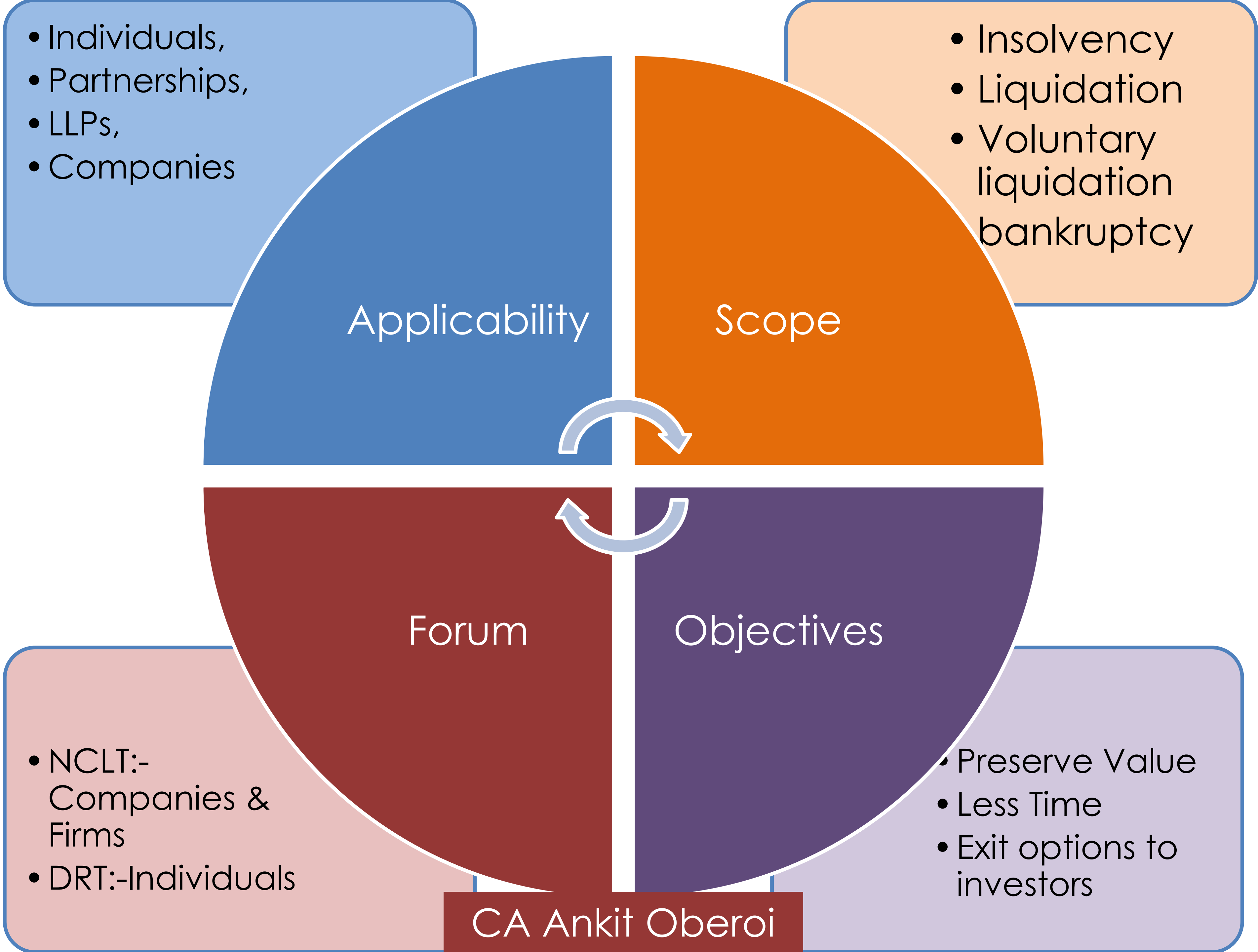
Insolvency and Bankruptcy Code 2016

CA Ankit Oberoi

JOURNEY OF THE CODE

August 22, 2014	• BLRC formed under the Chairmanship of T.K. Vishwanathan
February 05, 2015	• BLRC submitted its interim report to Ministry of Finance
February 10, 2015	• MoF invited public comments on Interim Report of BLRC
November 04, 2015	• Volume I – Final Report of BLRC; Volume II – Draft Code
November 04, 2015	• MoF invited comments on Vol I and Vol II reports by BLRC
December 21, 2015	• Code introduced in the Parliament
December 23, 2015	• Code referred to Joint Parliamentary Committee
January 22, 2016	• Joint Committee invited comments on the Code
May 05, 2016	• Bankruptcy Code passed by Lok Sabha
May 11, 2016	• Bankruptcy Code passed by Rajya Sabha
May 28, 2016	• Received President's Assent


• Individuals,
• Partnerships,
• LLPs,
• Companies
Applicability
• Insolvency
• Liquidation
• Voluntary liquidation bankruptcy
Scope
Forum
• NCLT:- Companies & Firms
• DRT:-Individuals
Objectives
• Preserve Value
• Less Time
• Exit options to investors
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Why Bankruptcy Code is needed?

- Banks have increasingly become vulnerable to poor recovery on loans made to corporates.
- Gross NPAs of the banking Sector have risen from 2.4% in 2008 to 4.8% in 2015.
- Restructured Assets (which can become NPAs) have risen from 1.2% in 2008 to 6.8% in 2015.
- Current laws governing insolvency are fragmented and multi-layered.
- Entire process of winding-up is long-winded with Courts, DRTs and BIFR all having involvement in the process
- Current System does not safeguard the interest of unsecured creditors, foreign creditors and Fin. Institutions other than Banks,
- Creditors' interest will not be affected by red-tapism and Promoters will be directly accountable for financial lapses.

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Insolvency and Bankruptcy Code, 2016

FEATURES

- ❑ Positive Financial Reform
- ❑ Time Bound Settlement of Insolvency
- ❑ Speed-up Business
- ❑ Create Data of serial Defaulters
- ❑ Make Lenders more confident in lending.
- ❑ Time Framework to resolve Insolvency (180+90 days)
- ❑ Specialised mechanisms for bankruptcy of Banks, F/I etc.

EFFECTS

- ❑ Change in old laws
- ❑ Replacement of old Laws
- ❑ Solution to Lending Banks
- ❑ Amendment in Companies Act for Corporate Insolvency
- ❑ Recovery of loans faster
- ❑ Action against wilful defaulters
- ❑ Prevent bankrupt Politicians & Govt. Officials to hold office

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INSOLVENCY PROFESSIONAL

The resolution process will be conducted by licensed I.P.

INFORMATION UTILITIES

to collate all information about lenders and terms of lending in the database

Four Pillars

ADJUDICATION

NCLT will adjudicate matters for Corporates & Firms and DRT for individuals

REGULATOR

The Insolvency and Bankruptcy Board of India will be set-up to regulate functioning of IPs, IPAs

Difference between Insolvency, Bankruptcy and Liquidation

INSOLVENCY

It is the inability of a Person or Corporation to pay their debts as and when they became due and payable

BANKRUPTCY

When a person is declared incapable of paying their dues and capable bills.

LIQUIDATION

It is the process of winding up of the corporation or incorporated entity

ORDER OF PRIORITY IN PAYMENTS

COST
- Towards Cost incurred in insolvency process

CREDITORS
- Towards debts of Secured Creditors

WORKERS
- Towards 24 Months Salary of Workers

CREDITORS
- Towards debts of Unsecured Creditors

GOVT.
- Statutory Dues of the Government

Members
- Surplus is distributed

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For Complete notes & Video

on

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www.facebook.com/CA.Ankit.Oberoi, www.facebook.com/oberoi.07

E-mail:-ankit.oberoi@hotmail.com

Contact:-011-45717223, 9953775506

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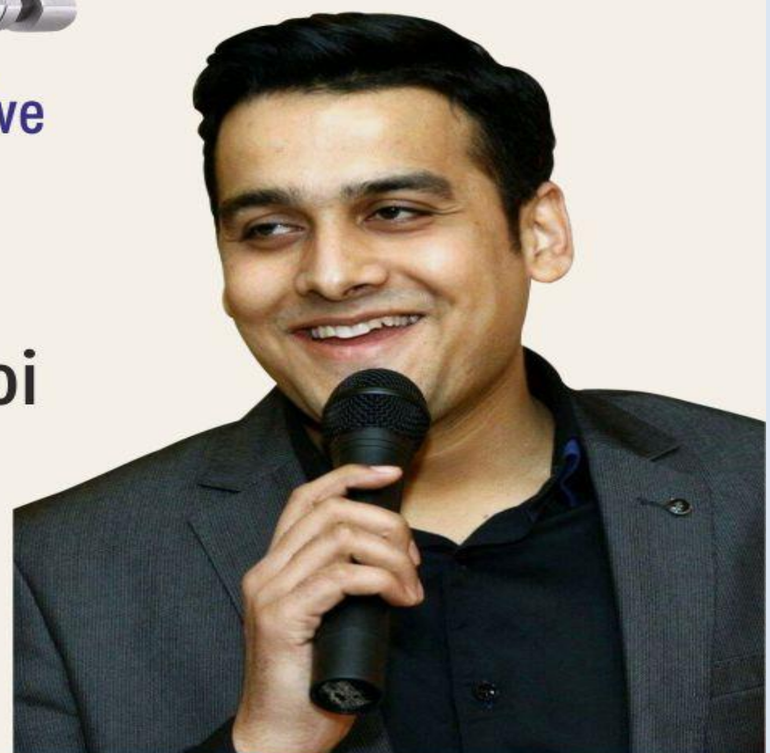

CA. Ankit Oberoi

ACA, MBA (Fin.), B.Com (H)

Nationally Acclaimed
Corporate Law Expert &
Renowned Author

AOCC
ANKIT OBEROI COMMERCE CLASSES

D-223, Ground Floor, Laxmi Chamber, Laxmi Nagar, Delhi-110092
Tel.: 011-45717223, 9205917151