# Overview of Insolvency & Bankruptcy Code 2016.

Corporate Insolvency resolution Process → Provision Covered in Part ii of the Code

Corporate Insolvency resolution.

is a Process

During which financial Creditors assess

Whether the debtors business

is viable to Continue & the option for its rescue & revival

NO

It Should be would up the debtors → Assets are realized & distributed by the liquidation

The Process of Insolvency

Is Triggered by Occurrence

Of Default → Means → Non Payment of debt → When whole or any part thereof

& is not repaid by the debtor or the Corporate debtors

Of Minimum amount of Rs 1 lacs or more

Only Covered or (C.G can specify maximum amount Rs 1 Crore. → Higher Value

Who Can make the Application

Financial Creditors

Any Person to Whom a financial debt is Owned

& Includes a person to whom.

Such debt legally assigned.

Operational Creditors

A Person to whom an Operational debt is owned

Corporate Debtors

A Corporate Person → Who Owns

A Debt → To any Person

**Person not entitled to make applications**:

A Corporate debtor → Includes a corporate applicant → In respect of such Corporate debtors.

Undergoing
↓
A Corporate Insolvency resolution Process

OR

Having Completed
↓
Corporate Insolvency resolution Process.
↓
12 Months Preceding
↓
The date of making of the application .

OR

a Financial Creditor
↓
Who has Violated
↓
Any of the term of resolution plan
↓
Which was approved
↓
Twelve Months
↓
Before the date of making of an application Under this Chapter .

OR

In respect
↓
Of Whom
↓
A Liquidation order has been made .

**Time limit for Completion of Insolvency resolution Process:**

Within a Period of 180 days

From the date of admission of the application

To Initiate Such Process.

This Period Can be Extended

Only if Creditors

Vote atleast 75% of the Voting Shares

Provided application is made to adjudicating authority & is Satisfied

Then Period can be extended but not exceeding 90 days



Extension Can be granted only once .

1) Issuance of Public notice of the Corporate Insolvency.
2) Resolution Process.
3) Collation of claims received .
4) Constitution of the Committee of the creditor.
5) Conduct of the first meeting of the Committee of

Declaration of Moratorium & Public announcement:

The A.A. ,After admission of the application, Shall by an Order

A.A Means adjudicating authority

Key roles of

Declare a (Moratorium)

Means

After the Commencement after the declaration of corporate insolvency resolution

A claim Period for 180 days is declared .

During Which all Suits & legal proceeding are stayed against Corporate debtor.

& give time to the entity to

resolve its status .

It is Called the MORATORIUM PERIOD.

Not allowed for following acts :

1) Institution of suits or Continuation of Pending Suits .
2) Transferring of any property by Corporate debtors.
3) Any action to foreclose ,recovers.

Appoint an Interim resolution Professional.(IRP)

Within 14 days → From the insolvency Commencement date.

Process of Appointment

If the application for Corporate insolvency resolution process is made by

A Financial Creditor

Or Corporate debtor

& recommend appointment there of

Then Such IRP Shall be appointed.

Operational creditor

Proposal for IRP Made

YES

Shall be appointed as IRP

If no disciplinary proceeds are pending against him

NO

The Board within 10 days of receipt of a reference from AA

Recommend the name of an insolvency Professional

TERM

Shall not exceed 30 days from the date of his appointment.

Public announcement (P.A.) IRP Shall make (P.A.) Within three days from the date of application of the IRP Includes:

1) Name /Address of Corporate debtor.

2) Name of the authority under which the Corporate debtor is Incorporated.

3) Details of IRP.

4) Penalties for false Claims

5) Last date for the submission of the claims .

6) The date on which the corporate insolvency process ends.

(COC) COMMITTEE OF Creditors Sec 21 of the Code

The IRP Shall after Collection of all Claims received against the Corporate debtor & determination of the financial position of the corporate debtor

Shall Constitute a Committee of Creditors .

Constitution of Committee of Creditors .

Comprises of all financial Creditors of the Corporate debtors.

1) If Corporate debtor owns financial debt to 2 or more financial Creditors .

Each Such Financial creditors shall be part of the Committee of creditors & voting share shall be in accordance with financial debt owned to them .

2) Where an operational creditors has assigned any operational debt to a financial creditors

Then the assigner shall be Consider as an operation creditors .

All decision of the Committee of Creditors .

Shall be taken by a Vote .

Not less than 75% Voting Share of the financial Creditors .

Ist Meeting of the C.O.C

Shall be held within 7 days of its Constitution.

Can be done by electronic means or in participated also.

The director Partner & one representative of Operational Creditors.

May attend the meeting but no right to vote in such meeting

C.O.C

Shall have the

Right to require the resolution (IRP)

To Furnish any financial Information.

Such IRP Shall furnish within 7 days of such requisition.

Notice given by IRP to

1) Members of C.O.C.

2) Members of suspended BOD or the partners of the Corporate debtors .

3) Operational Creditors or their representatives

If the amount of their aggregate dues is not less than 10 % of the debts.

Replacement of resolution Professional by Committee of Creditors

Process

C.O.C is of the opinion that a IRP as appointed

Is Required to be replaced (YES)

It may replace him with another resolution Professional

In a meeting by a vote of 75% of Voting Shares

C.O.C

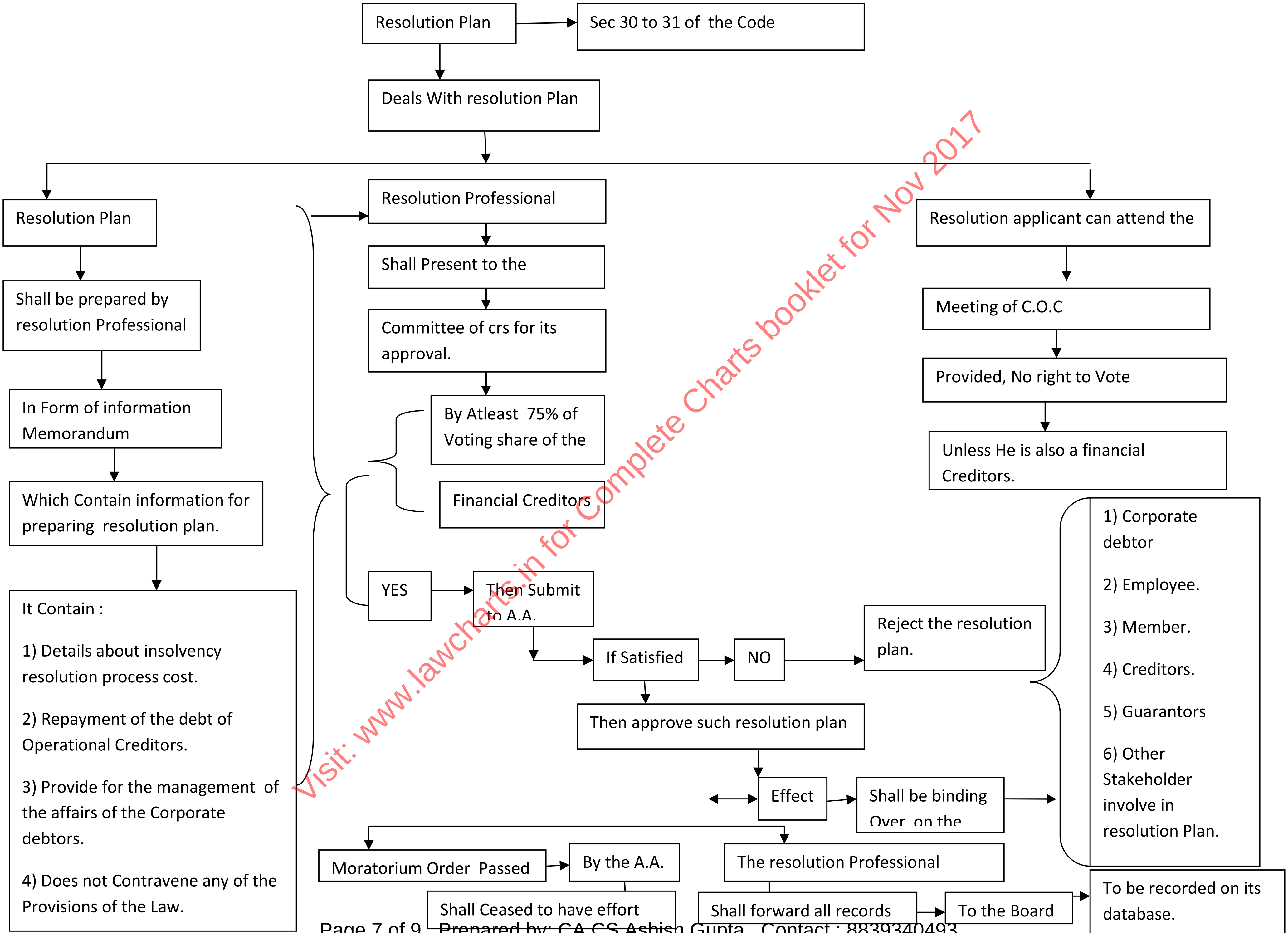
Shall forward the name of the proposed resolution Professional to the AA

Forward to the board for its Confirmation & a resolution Professional shall be appointed

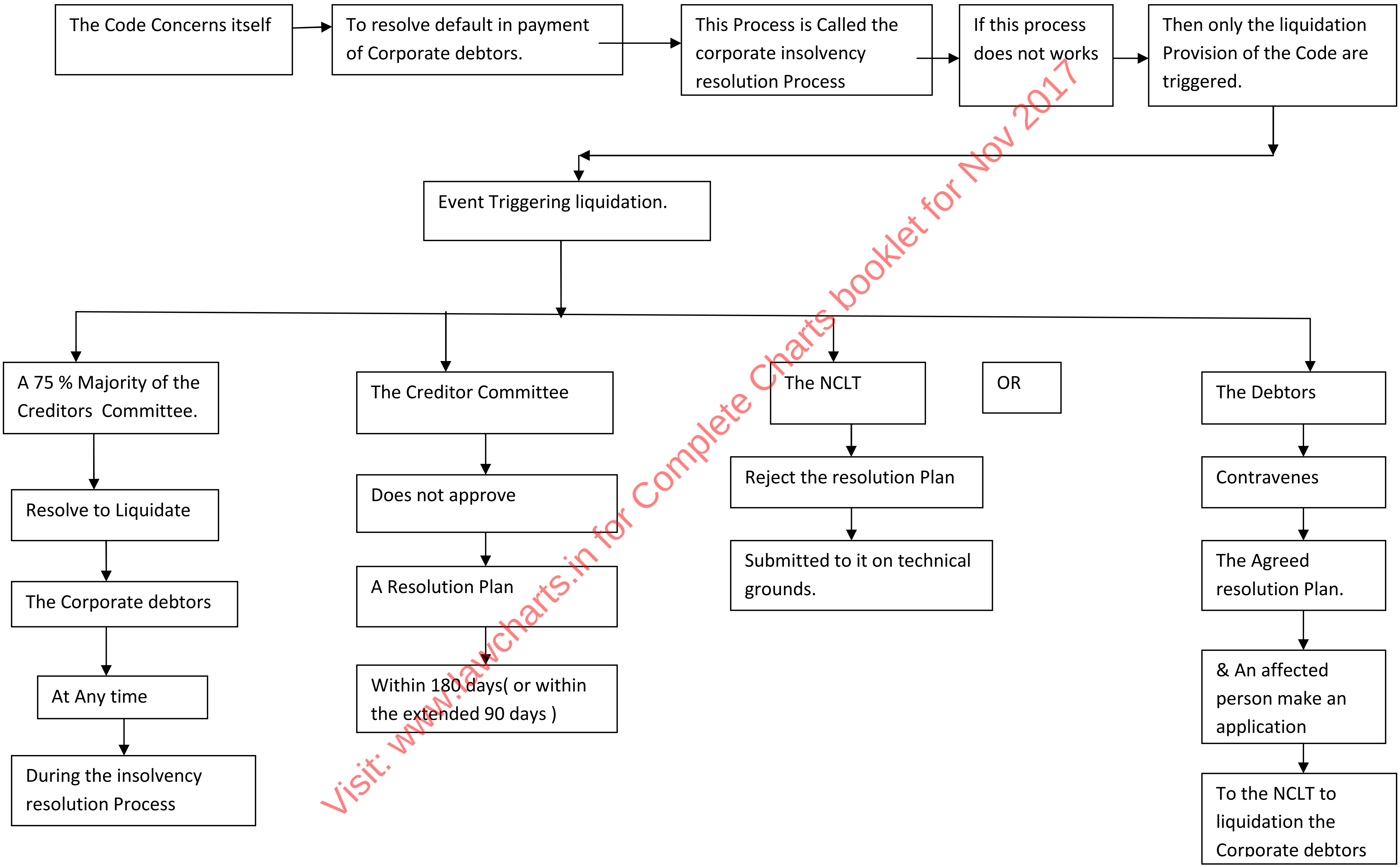
Where any disciplinary Proceeding are Pending against

The Proposed IRP

Shall be Continued


Resolution Plan
Sec 30 to 31 of the Code
Deals With resolution Plan
Resolution Plan
Shall be prepared by resolution Professional
In Form of information Memorandum
Which Contain information for preparing resolution plan.
It Contain :
1) Details about insolvency resolution process cost.
2) Repayment of the debt of Operational Creditors.
3) Provide for the management of the affairs of the Corporate debtors.
4) Does not Contravene any of the Provisions of the Law.
Resolution Professional
Shall Present to the
Committee of crs for its approval.
By Atleast 75% of Voting share of the
Financial Creditors
YES
Then Submit to A.A.
If Satisfied
NO
Reject the resolution plan.
Then approve such resolution plan
Effect
Shall be binding Over on the
Moratorium Order Passed
By the A.A.
Shall Ceased to have effort
The resolution Professional
Shall forward all records
To the Board
To be recorded on its database.
Resolution applicant can attend the
Meeting of C.O.C
Provided, No right to Vote
Unless He is also a financial Creditors.
1) Corporate debtor
2) Employee.
3) Member.
4) Creditors.
5) Guarantors
6) Other Stakeholder involve in resolution Plan.

# Liquidation Process : Sec (33 to 54)



Appointment of Liquidation

Sec 34 of the Code

Where the adjudicating authority passes.

An Order for liquidation of the Corporate debtors

The resolution professional appointed

Shall act as the liquidation unless replaced by A.A.

1) All Powers of BOD ,KMP & the partners of the Corporate debtors

Shall ceased to have affect

Shall be Vested with the liquidator.

Power & duties of liquidator

Sec 35 of the code

1) To Verify Claims of all Creditors .

2) To take into his Custody or Control all the assets.

3) To Evaluate the assets & Property.

4) Measures to Protect & Preserves the assets & Properties .

5) To Carry on the business of the Corporate debtors.

6) To Sell any immovable Property & movable Property.

7) To Obtain any Professional assistance.

8) To Investigate the financial affairs

9) To Perform Such other functions.