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NAVIGATING CONFLICTS BETWEEN IBC AND PMLA: PRIORITIZING INSOLVENCY RESOLUTION OVER ASSET ATTACHMENT

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ABSTRACT

The interplay between the Insolvency and Bankruptcy Code, 2016 (IBC) and the Prevention of Money Laundering Act, 2002 (PMLA) poses significant legal issues, especially with respect to attachment of assets during Corporate Insolvency Resolution Process (CIRP). This research article will examine the conflict between these two laws, focusing on the powers of Directorate of Enforcement (ED) to attach assets identified as 'proceeds of crime' under PMLA even when CIRP is on. The existing law allows ED to attach such assets before approval of Resolution Plan under IBC, hence creating a conflict between non-obstante clauses of both the laws. The research article will examine the nature of PMLA and IBC proceedings, ED's power to attach assets obtained through criminal activities and IBC's emphasis on revival of distressed companies by protecting their assets through moratorium. The consensus is that IBC's moratorium does not bar PMLA's attachment of assets till approval of Resolution Plan, hence creating uncertainty in the resolution process. It also provides for comparative study with other jurisdictions and implications of the conflicts on various key stakeholders. Key issues identified are delay in CIRP due to ED's attachment of assets, adverse public perception affecting the market standing of Corporate Debtor (CD), need for harmonious interpretation of §14 and §32A of IBC to protect assets during CIRP. The research article suggests that IBC should take precedence over PMLA in attachment of assets to avoid hindering corporate rescue

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process. It recommends penalizing previous management for money laundering while safeguarding assets for creditors and CD's revival. By doing so, objectives of both the laws can be balanced, CD can remain a going concern and creditors' interest can be protected, ultimately confidence in insolvency resolution framework can be boosted.

Keywords- *Attachment of assets, moratorium, money laundering, corporate rescue, PMLA, IBC, ED.*

1. INTRODUCTION

Under the Insolvency and Bankruptcy Code, 2016 (IBC), once the Corporate Insolvency Resolution Process (CIRP) formally commences, the Resolution Professional[1] (RP) or, in the initial stages the Interim Resolution Professional (IRP) takes control of the Corporate Debtor's (CD) assets and moratorium is imposed to safeguard these assets.[2] Moratorium is a legal suspension of certain proceedings or enforcement actions against the corporate debtor, aimed at maintaining the status quo during CIRP. It is imposed to preserve the value of assets and helps the CD to remain as 'going concern',[3] hence, preserving the ongoing business operations and commercial viability of the CD. The IBC is concerned with reviving the business of the CD and help the creditors to recover their debts due to the CD. On the contrary, the Prevention of Money Laundering Act, 2002 (PMLA) empowers the Directorate of Enforcement (ED) to attach assets of the CD conveyed from the 'proceeds of crime'.[4] Proceeds of crime referred to any property derived or obtained, directly or indirectly, by any person as a result of criminal activity related to a scheduled offence. The ED has often confiscated and seized the properties of the CD during CIRP on suspicion that these assets are linked to money laundering related activities.

The current legal position allows the ED to attach assets of the CD undergoing CIRP before the approval of the Resolution Plan.[5] However, the ED can release the secured assets even without resolution plan, if the secured creditors can prove that they have prior *bona fide* interest in the assets of the CD.[6] It is pertinent to note that under the settled law, different legal frameworks have been given for secured and unsecured assets. The author,

1 Insolvency and Bankruptcy Code, 2016, §18(f), No. 31, Acts of Parliament, 2016 (India).
2 Swiss Ribbons v. Union of India, (2019) 4 SCC 17.
3 Gujarat Urja Vikas Nigam Ltd. V. Amit Gupta, (2021) 7 SCC 209.
4 The Prevention of Money Laundering Act, 2002, § 5(1), No. 15, Acts of Parliament, 2003 (India).
5 Rajiv Chakraborty Resolution Professional of Eiel v. Directorate of Enforcement, (2022) SCC Del 3703.
6 Directorate of Enforcement Delhi v. Axis Bank, (2019) SCC Del 7854.

in this research paper, will initially describe the evolution of present legal position and then will argue that the current settled law is in conflict with IBC's objectives and should be re-consider by the Courts. The author, in this paper, is attempting to present arguments favoring precedence of IBC over PMLA.

2. NATURE AND PROCEEDING UNDER PMLA AND IBC

A comprehensive understanding of the nature of proceeding under both the legislations (PMLA and IBC) is necessary to understand the conflict and establish the link between PMLA and IBC for resolving potential conflicts, since both the statues follow distinct objectives and processes which can come into conflict when same property is attached for insolvency proceedings under IBC and identified as proceeds of crime under PMLA simultaneously. The author has discussed the nature of proceeding under PMLA and IBC individually.

2.1 Nature of Proceedings Under PMLA

Under PMLA, properties confiscated under the suspicion of 'proceeds of crime'[7] are attached by the ED as per §5 PMLA[8] and subsequently, Adjudicating Authority (AA) have to confirm the said attachment under §8 PMLA to ensure that the property cannot be disposed off by the accused.[9] Under the PMLA, 'proceeds of crime' refers to any asset, property or gains obtained through illegal or criminal activity related to money laundering.[10] The offences prosecuted under the PMLA are non-bailable and cognizable in nature. There are parallel adjudicating mechanisms under PMLA; one mechanism for assessing the attachment of property by the ED, and the other mechanism for trying the accused charged with offences.[11] In the landmark judgement of *Bank of India v. Deputy Director Directorate of Enforcement*,[12] the Appellate Tribunal for Prevention of Money Laundering Act (ATPMLA) held that the nature of attachment proceedings under PMLA is civil. Moreover, the civil nature of proceedings can be inferred from a bare reading of provisions of PMLA. For example, as per §11 PMLA, the AA has the powers that are equivalent to the Civil Court under the Code of Civil Procedure, 1908.[13] Additionally, §41 of PMLA bar

7 J. Sekar v. Union of India, (2018) 145 SCL Del 637.

8 PMLA, *supra* note 4.

9 Directorate of Enforcement v. Manoj Kumar Agarwal, 2021 SCC NCLAT 121, 55.

10 The Prevention of Money Laundering Act, 2002, § 2 (u), No. 15, Acts of Parliament, 2003 (India).

11 J. Sekar, *supra* note 7, at 36.

12 Bank of India v. Deputy Director Directorate of Enforcement, (2019) SCC ATPMLA 23.

13 The Prevention of Money Laundering Act, 2002, §11, No. 15, Acts of Parliament, 2003 (India).

the jurisdiction of the Civil Courts and confers jurisdiction on AAs under PMLA. The scheme of PMLA is very clear in this aspect, it can be inferred that the AA undertakes civil proceedings and the Special Court undertakes criminal proceedings under the PMLA. But the NCLAT and few Indian Courts have a different view on this. In *Varrsana Ispat v. Deputy Director, Enforcement Directorate*,[14] the NCLAT observed that attachment proceedings under PMLA are criminal in nature and hence ED cannot be prohibited from attaching properties if moratorium under § 14 of IBC is imposed because attachment proceedings are criminal and the IBC only takes precedence over civil matter, hence IBC cannot take precedence over PMLA. Conversely, in the *Directorate of Enforcement Delhi v. Axis Bank* case,[15] the Hon'ble High Court of Delhi held that attachment proceedings are civil but which runs parallel to criminal proceedings for the offence of money laundering. Moreover, it was observed by the Court that applicability of moratorium is restricted to proceedings which are related to enforcement and recovery of debt. Hence, §14 IBC will not be applicable for 'proceeds of crime' which are criminal/quasi criminal in nature. The Court further observed that IBC cannot override PMLA becausethe objective of penalizing money laundering cannot be undermined by any other law. Hence, both can run parallel to each other but IBC cannot override PMLA.

2.2 Nature of Proceedings Under IBC

The IBC was enacted with the specific purpose to facilitate revival of the company under stress and protect the rights and interests of the creditors, financial creditors, and operational creditors both. Resolution process under the IBC takes precedence over any civil proceedings, as provided under §14 IBC[16] and §32A IBC[17], once the CIRP has commenced. Under the IBC, the object of moratorium under §14 is to protect the value of assets for creditors and ensure fair proceedings. Moratorium is primarily applicable on civil proceedings. Recently, the Court has extended the applicability of moratorium to quasi-criminal proceedings under §138 of Negotiable Instrument Act.[18]

The IBC follows the Clean slate/ Fresh start theory, a legal concept that allows a corporate debtor, under new management post-resolution, to be absolved from previous liabilities. This allows the company to be absolved of offences committed prior to initiation of the

14 Varrsana Ispat Limited v. Deputy Director of Enforcement, (2019) SCC NCLAT 236.

15 Directorate of Enforcement Delhi v. Axis Bank, (2019 SCC Del 7854.

16 The Insolvency and Bankruptcy Code, 2016, §14, No. 31, Acts of Parliament, 2016 (India).

17 The Insolvency and Bankruptcy Code, 2016, §32A, No. 31, Acts of Parliament, 2016 (India).

18 P. Mohanraj v. Shah Brothers Ispat Pvt. Ltd., (2021)SCC 152.

CIRP.[19] As per IBC once CIRP has commenced then there is a change in management of the company and till the time the resolution plan is not passed the RP or the IRP controls the company, but the erstwhile Board of Directors (BOD) have to permanently relinquish the control over the company. §32A IBC provides a shield to the CD from actions under any law if the resolution plan is approved but it preserves the liability of the company's promoters and directors to ensure that wrongdoers face consequences. In *Manish Kumar v. Union of India (2021)* case,[20] the SC has upheld the constitutional validity of §32A IBC. In the case of *Anil Goel, Liquidator of Varrsana Ispat v. Deputy Director, Director of Enforcement*,[21] the NCLT has expanded the scope of §32A IBC to include liquidation proceedings. Hence, after the sale of assets under liquidation process, the CD is immune from the liability of offences committed prior to the sale of assets. Though §32A IBC has resolved issues related to actions against property of the CD after approval of the resolution plan. But there is still uncertainty related to actions against the assets of the CD before the approval of the resolution plan during CIRP or before the sale of assets during liquidation proceedings. The attachment of properties during liquidation is a matter of concern because the company is being sold as a 'going concern'.[22]

3. CONFLICTS RELATED TO ATTACHMENT OF PROPERTY BY THE ED AND CURRENT POSITION OF LAW

The two major conflicts between PMLA and IBC are primarily related to the presence of a non-obstante clause in both the legislations, and the attachment of property of the CD by the ED.

3.1 Conflict Between two Non-Obstante Clauses

A non-obstante clause is a clause in a statute that overrides the provisions of any other conflicting law. This essentially provides for an overriding effect to a statute over another statute. Both the sections, §238 of IBC[23] and §71 of PMLA[24] contain non-obstante clauses, leading to a potential and significant conflict especially when the ED attaches the assets

19 Sagar Manju, Hitoishi Sarkar & Naman Katyal, *Analysing the Fresh Start Doctrine: A South Asian Perspective throughthe Lens of India*, NLSBLR (2022).

20 Manish Kumar v. Union of India, (2021) 5 SCC 1.

21 Goel, Liquidator of Varrsana Ispat v. Deputy Director, Director of Enforcement, (2020) SCC OnLine NCLT 9981.

22 Misha and Shreya Prakash, *PMLA Actions against Company Property during the CIRP,* 1 J. OF CORP. AFFAIRS 79, 81 (2021).

23 The Insolvency and Bankruptcy Code, 2016, §238, No. 31, Acts of Parliament, 2016 (India).

24 The Prevention of Money Laundering Act, 2002, §71, No. 15, Acts of Parliament, 2003 (India).

of the CD during CIRP or the Liquidation process and during the applicability of the Moratorium. In *Solidaire India Ltd. v. Fairgrowth Financial Services Ltd.* case,[25] the Apex Court observed that in the case of conflict between two statutes with non-obstante clauses, the recent statute prevails because it reflects the intention of the Parliament to give precedence to the newer statute over the old ones, as the Parliament was already aware about the old statutes and the existence of a non-obstante clauses in it. Though, the ruling of the court is very clear in this aspect but the jurisprudence regarding the conflict is far more complex which is discussed later in this paper.

3.2 Conflict Related to Attachment of Assets Under PMLA

The legal framework governing the attachment of assets of the both secured and unsecured creditors of the CD differs significantly under the two statutes.

a. Attachment of Assets of the Unsecured Creditors of the CD

The ED in *Varrsana Ispat Limited v. Deputy Director of Enforcement* case has attached the properties of the CD before the commencement of the moratorium period.[26] The NCLAT observed that §14 of IBC does not apply to proceedings under PMLA, as 'proceeds of crime' are involved in criminal proceeding.[27] Moreover, recourse to the moratorium can be taken only after the approval of the resolution plan and not before that. Consequently, the NCLAT observed that both the statues can be enforced simultaneously but the non-obstante clause of the IBC does not take gives precedence over that of the PMLA. In *Directorate of Enforcement v. Manoj Kumar Agarwal*, the NCLAT took a contrary decision and held that attachment proceedings under the PMLA are civil in nature and hence moratorium under the IBC will protect the assets from any confiscation during the CIRP.[28] However, a larger bench of the NCLAT in the case of *Kiran Shah v. Enforcement Directorate*[29] reaffirmed the *Varrsana Ispat Limited v. Deputy Director of Enforcement* observation and overruled *Directorate of Enforcement v. Manoj Kumar Agarwal*.[30]

The Delhi High Court in the case of *Rajiv Chakraborty Resolution Professional of EIEL v. Directorate of Enforcement* has applied the doctrine of harmonious interpretation and observed that the non-obstante clause under the IBC would bar the attachment of assets

25 Solidaire India Ltd. V. Fairgrowth Financial Services Ltd., (2001) 3 SCC 71.

26 Varrsana Ispat Limited v. Deputy Director of Enforcement, (2019) SCC NCLAT 236.

27 *Id* at 12.

28 Manoj Kumar Agarwal, *supra* note 09, at 56.

29 Kiran Shah v Enforcement Directorate (2022) 2 SCC NCLAT.

30 *Id* at 112 and 98.

under the PMLA only after approval of the resolution plan by the Committeeof Creditors (COC) or after sale of assets during Liquidation proceedings.[31] In this case, the CD was the Era Infra Engineering Limited (EIEL) against whom the CIRP began in 2018. The ED ordered the attachment of properties the EIEL under PMLA. The RP claimed that once the CD is under moratorium period, the ED is barred from exercising jurisdiction under PMLA. The High Court observed that the objective of moratorium is to put temporary embargo on the recovery of that and the objective of attachment of assets is to put a restraint on property during the pendency of the Trial. The attachment of property by the ED cannot be considered as a 'recovery of debt' and the EDis not a 'creditor' either.[32] The ED is merely safeguarding the assets which are 'proceeds of crime'. Therefore, the provisions under the PMLA are necessary to ensure that the tainted assets are not transferred or alienated beyond the reach of the ED. Hence, giving precedence to §14 IBC will run contrary to the objective of PMLA which is to combat money laundering. Therefore, the High Court harmoniously interpreted both the statutes and held that attachment under the PMLA is valid because the resolution plan was not yet adopted.

Thus, as per the settled laws, there are three scenarios for attachment of unsecured assets of the CD during CIRP:

i. Attachment of assets before commencement of the CIRP or before sale of assets in Liquidation proceedings

ii. Attachment of assets after commencement of the CIRP or after sale of assets in Liquidation proceedings

iii. Attachment of assets after approval of resolution plan

As per the precedent set, the attachment of assets, before the approval of the resolution plan, by the ED will be valid but after approval will be invalid. Similarly, attachment before sale of assets is valid but after sale of assets in invalid, in the case of Liquidation proceedings under the IBC.

b. Attachment of Secured Assets of the Corporate Debtor

In the pool of assets, some properties maybe secured as collateral for creditors and creditors can reclaim their debt from these properties by taking ownership. The conflict arises when the secured assets are attached by ED under PMLA. *In Punjab National Bank*

31 Rajiv Chakraborty Resolution Professional of Eiel, *supra* note 05.

32 *Id* at 71.

v. Deputy Director, Directorate of Enforcement,[33] the ATPMLA held that once moratorium is enforced under the IBC by the AA then proceedings under PMLA cannot be continued. The Tribunal further observed that the innocent parties (secured creditors) should not bore the burden of the liabilities of the CD. Therefore, non-obstante clause under IBC should take precedence over PMLA. Similarly, in *Bank of India v. Deputy Director Directorate of Enforcement*,[34] it was held by NCLT that proceedings under §8 of PMLA are civil hence it should stay when moratorium is initiated under IBC.[35]

The Delhi High Court, in 2022, clarified the stance of secured creditors in case of conflict between IBC and PMLA. In the case of *Deputy Director Directorate of Enforcement Delhi v. Axis Bank*,[36] the HC distinguished between the treatment of secured and unsecured properties under the PMLA. It was held that moratorium period does not obstruct the ED from attaching properties of secured creditors under PMLA. However, if a *bona fide* interest in the property of the accused, which is acquired before the commission of proscribed offence, can be proved by the secured creditors then the same interest cannot be defeated by the attachment of said property by the accused. If only part of property concerned is attached then the remaining part can still be held under the PMLA if no *bona fide* interest is proved.[37]

To conclude, if secured properties are attached by the ED then creditors can obstruct the ED and take their properties back by establishing bona fide interest, prior to the commission of offence, in the said property.

4. POSITION IN OTHER JURISDICTIONS - US AND UK

In the United Kingdom, as per the Insolvency Act 1986,[38] all the company's assets irrespective of criminal confiscation are controlled by a court appointed administrator. Provisions also restrict any other legal actions, including criminal confiscation, unless expressly permitted by the court. The position has been very clear and simple in this jurisdiction. In United States, as per the law, any legal actions against the debtor, including enforcement agencies, are stayed automatically once insolvency commences. This is provided under Chapter 11

33 Punjab National Bank v. Deputy Director, Directorate of Enforcement, (2019) SCC ATPMLA.

34 Bank of India, *supra* note 12.

35 *Id* at 44.

36 Axis Bank, *supra* note 6.

37 *Id* at 164.

38 Insolvency Act 1986, c. 45, §§ 11, 130 (U.K.).

of the Bankruptcy Code.[39] Also, as per the practice, the court can allow the US Department of Justice to proceed with criminal asset forfeiture but after balancing the interests of both creditors and goal of reorganization.[40] Hence, unlike India, in several jurisdictions, legal frameworks ensure that concurrent criminal asset attachment by enforcement agencies do not hamper the insolvency proceedings.

5. ISSUES WITH CURRENT POSITION OF LAW AND RECOMMENDATIONS

Following are some identified issues with the attachment of the property of the CD by the ED as per the present position of law.

5.1 Insolvency Resolution as a Time Bound Process

Regulation 37 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 states that the resolution plans can provide for sale or transfer of assets in order to revive the company.[41] But if such assets are attached by the ED, then creditors may hesitate to engage with those assets. And since, the CIRP is a time bound process as per §12 of IBC[42] then such attachment of assets by CD and reluctance of creditors will reduce the pool of assets which in turn will undermine the interest of both the CD and the creditors in revival of the company.

5.2 Public Perception Towards ED Investigation

The aim of the IBC is to maintain the CD as 'going concern' and revive the company through a rehabilitation plan. But the investigation by the ED can hinder this objective because public perception surrounding insolvency and ED investigation can create difficulties for CD to regain momentum in the market because attracting new investors will be difficult for the company. §24 of PMLA provide that unless proven otherwise, attached assets will be presumed to be involved in money laundering. This will be detrimental to the rehabilitation process under IBC. Recently, shares of Manappuram Finance fell by 12% after reports of

39 11 U.S.C. § 362 (2012).

40 In re Colonial Realty Co., 980 F.2d 125, 137 (2d Cir. 1992).

41 Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, Gazette of India, pt. III sec. 4, Reg. 37 (Dec. 1, 2016).

42 The Insolvency and Bankruptcy Code, 2016, §12(1). No. 31, Acts of Parliament, 2016 (India).

ED investigation were released in the media.[43] Similarly, Shares of the Paytm dropped by 6% ED carried out search operations[44] and Hero Moto Corp's shares fell by 4% once reports of ED investigation came out in the public.[45] Hence, ED investigation has the potential to obstruct the process of successful revival of the company.

5.3 § 14 Should be Read With § 32A

As per the precedent laid down, §14 and §32A of the IBC are read in isolation. Allowing attachment of assets of the CD during the CIRP has the potential to undermine the objective of §32A IBC that is to protect the rights of creditors[46] and prevent any further burden on financially distressed companies and can force the company to go into liquidation which in turn will defeat the IBC's objective of corporate rescue. Therefore, instead of reading provisions as piecemeal, both the sections should be read together and once the CIRP has begun, ED should not be allowed to attach properties.[47]

5.4 Balancing the Objectives of the Two Legislations

Once the CIRP is initiated, the conflict between the two statutes should be mitigated. One way of doing this can beto punish the erstwhile management of the CD for the offences and preserving the assets of the insolvent company for creditors and revival of the company. In the case of *JSW Steel Ltd. v. Mahendra Kumar Khandelwal*[48] it was held by the Court, once the resolution plan is approved it is binding on all stakeholders including the government agencies. The Court further observed that new management should not bore the burden of offences committed by the erstwhile management. Therefore, previous management should be punished for offences under the PMLA and not the innocent creditors. Excessive government interference in the resolution process has the potential to undermine the trust of the public in IBC and the legal system. Therefore,to achieve the objective of the PMLA, money laundering perpetrators should be punished and not the innocent creditors

43 Amit Mudgill, *Manappuram Finance shares tank 12% as ED conducts searches at promoter residence,* Business Today (May 03, 2023), https://www.businesstoday.in/markets/companystock/story/manappuram-finance-shares-tank-4-as-ed-.

44 Meghan Sen, *Paytm share fall by 6% due to ED inquiry*, CNBC TV18 (Feb 15, 2024), https://www.cnbctv18.com/market/paytm-share-price-falls-another-5-percent-after-circuit-limit-revision-ed-inquiry- .

45 *Hero MotoCorp shares fall over 4% after searches at chairman Pawan Munjal's residence,* India Today (Aug 01, 2023), https://www.indiatoday.in/business/story/hero-motocorp-shares-fall-4-percented-raids-pawan-munj al-residence-2414670- 2023-08-01.

46 Misha and Shreya Prakash, *supra* note 22, at 85.

47 Union of India v. Elphinstone Spinning and Weaving Co. Ltd., (2001) 4 SCC 139.

48 JSW Steel Ltd. V. Mahendra Kumar Khandelwa, (2019) Company Appeal (AT) (INS) No. 957 of 2019.

5.5 Practical Implications for Stakeholders

The ongoing conflicts affects various stakeholders, like the Corporate Entities (Resolution Applicants) are discouraged from participating in CIRP due to potential ED action, when asset ownership is uncertain. This has the potential to reduce the number and quality of resolution plans submitted; hence affecting the objective of revival of the corporation is hampered. The RPs face operational challenges in preserving asset value and obtaining buyer interest in attached properties. It also leads to legal complexity to the resolution process by risking non-compliance with the strict CIRP timelines; hence the objective of timely resolution is hampered. Investors and Public Markets react negatively to ED actions against companies under insolvency, resulting in stock price volatility and reputational damage, as highlighted in cases like Paytm, Hero MotoCorp, and Manappuram Finance. Continued ambiguity may erode the efficacy of both insolvency and anti-money laundering regimes, hence the Policymakers need to reconcile conflicting legal frameworks to foster investor confidence and systemic coherence. Diminishing asset value because of ED attachment affects the Creditors, especially financial institutions, and creditors. This undermines credit discipline and lending confidence.

6. CONCLUSION

In conclusion, the author strongly believes that the IBC should be given precedence over the PMLA because the present legal framework has proven to be detrimental to the CD and the Creditors. This framework has the potential to significantly obstruct the process of corporate rescue, which would ultimately force the company to go for liquidation, and hence undermining the trust of the public in the IBC and the legal system. The current legal framework as interpreted by courts and tribunals is continues to be disadvantageous for insolvent companies and their creditors and further complicates the process of recovery and rescue. Moreover, the differential treatment of secured and unsecured raises serious concerns as well. This differentiation becomes particularly problematic because it is very unlikely for any creditor to encounter money laundering during the process of conducting due-diligence. Therefore, if the creditors are not aware about the offences committed by the erstwhile management, then there should be no valid reason for any external interfere by the RP with the resolution process.

Comparative analysis of jurisdictions like the UK and USA reveals that India lacks integrated statutory safeguards to ensure that insolvency processes are not undermined by parallel criminal proceedings. This paper also highlights the practical implication of this conflict on

various key stakeholders

Therefore, harmonious interpretation of laws should be encouraged by the Courts and the Tribunals. PMLA was not enacted to punish innocent creditors, therefore, to achieve the objective of the PMLA without effecting the IBC's goal of corporate rescue, the erstwhile management of the company should be solely held liable for the offences by them and leave the assets of the CD for the creditors. Hence, moratorium period should apply to the attachment proceedings under the PMLA. Finally, §14 IBC and §32A IBC should be read together with other provisions and not in isolation. By adopting a comprehensive approach, this will not only safeguard the assets of the CD but also ensure that the value of assets in the pool of assets should not reduce over time. Thereby, enabling the resolution process to proceed smoothly, increasing the chances of successfully reviving the company and achieve all the primary objectives of the IBC. The insolvency framework can be made more predictable and effective by aligning judicial practice with international best practices and stakeholder interests, hence preserving asset value, expedite resolution process, and strengthen investor and creditor confidence in India's insolvency regime.