

# CAs Helped in Successful Implementation of Insolvency Law in India, Says Dr. M. S. Sahoo

*An acclaimed thought leader in the area of securities markets and a distinguished public servant, Dr. M. S. Sahoo currently serves as Chairperson of the Insolvency and Bankruptcy Board of India (IBBI). He has served as a Member of the Competition Commission of India, Secretary of the Institute of Company Secretaries of India, Whole Time Member of the Securities and Exchange Board of India, Economic Adviser with the National Stock Exchange of India and held senior positions in Government of India as a Member of Indian Economic Service. Dr. Sahoo has substantially influenced reforms in India securities markets over the last two decades. Also an acclaimed author, Dr. Sahoo has been a Member / Chairman of several committees set up by Ministry of Finance, SEBI, RBI, IRDAI, and WDRA. In his present capacity he is playing a pivotal role in implementation of insolvency law in India.*

*Dr. Sahoo recently talked to The Chartered Accountant journal and shared his views and vision on the success of implementation of Insolvency Law in India, challenges being faced under the insolvency law, the role of CAs as Insolvency Professionals, role and responsibility of Chartered Accountants in nation building and the role of CAs as registered valuers among other issues. Following is the interview...*

**Q 1. It is really inspiring for CA professionals to know you and your remarkable achievements. Would you please share the mantra of success for them?**

**Ans:** Let us not confuse an official position with success. I have been fortunate to be in the right place at the right time. I do not know the mantra of success. Having said that I believe that profession is a key institution of market economy. It provides a unique opportunity to be of use to the society. The purpose of life of a professional, therefore, is to let oneself be utilised fully for the society. George Bernard Shaw puts it beautifully: *"I am of the opinion that my life belongs to the community, and as long as I live, it is my privilege to do for it whatever I can. I want to be thoroughly used up when I die, for the harder I work, the more I live."*

**Q 2. Please share your experience of the success of implementation of Insolvency Law in India.**

**Ans:** It has been humbling and gratifying to be part of the 'Share the Journey'. India did not have prior experience of an insolvency resolution law that was pro-active, incentive-compliant, market-led, and time-bound. The Insolvency and Bankruptcy Code, 2016 (Code) was, in many ways, a leap into the unknown. Yet, there is probably no parallel of such swift enactment and swift implementation, as if the country was waiting for years for this reform. It witnessed exceptional cooperation from stakeholders and soon it became a reform by the stakeholders, of the



stakeholders and for the stakeholders. The stakeholders became emissaries of the reform and carried the message to every nook and corner of the country. They played a key role in formulation of rules and regulations, through working groups and advisory committees, in roundtables, and otherwise. The professional institutes such as ICAI set up IPAs. The professionals like CAs embraced the challenging role of insolvency professionals.

The IPAs, trade and industry bodies, academics and universities, debtors, creditors and other professionals worked overtime to build institutional capacity to implement the reform. It is because of them that transactions under the Code could commence by 1<sup>st</sup> December, 2016, within six months of its enactment and within 60 days of the establishment of IBBI. On recognising the progress in implementation of the reform, the World Bank improved India's ranking from 136 to 103 in "Resolving Insolvency" parameter in its report "Doing Business 2018".

**Q 3. Please share your view on the role of Chartered Accountants as Insolvency Professional.**

**Ans:** A key supporting institution under the Code is insolvency profession. An insolvency professional exercises the powers of the Board of Directors of the firm under resolution, manages its operations as a going concern, and complies with applicable laws on behalf of the firm. He conducts the entire insolvency resolution process: he is the fulcrum of the process and the link

# Face to Face

between the Adjudicating Authority and stakeholders-debtor, creditors-financial as well as operational, and resolution applicants. Given the responsibilities, an insolvency professional requires the highest level of professional excellence and integrity. We did not have professionals when we started the insolvency journey. But we had other professionals, such as CAs who are well accomplished and regarded in high esteem otherwise. They were called upon to shoulder the responsibility. They did it and did it admirably and brought respectability to the fledging insolvency profession.

Let me narrate an anecdote from 'You can Win' of Mr. Shiv Khera. A man who was selling balloons at a fair. He released balloons of different colours into the air. A child noticed that there was no black balloon in the sky. He asked: 'Would a black balloon not fly? The man replied: 'A balloon goes up, not because of its colour, but what (helium) is inside it'. A qualification such as CA establishes the colour (aptitude), but his success depends on helium (attitude). An insolvency professional being at the helm of affairs of an enterprise requires attitude in ample measure. His attitude combined with aptitude will determine his altitude.

#### Q 4. Please share your views on the challenges being faced under the insolvency law.

**Ans:** I did not come across any insurmountable challenge in implementation of the insolvency law. For example, the challenge was that we did not have insolvency professionals. But we had an equally effective alternative. The challenge was that the stakeholders did not have prior knowledge and experience of dealing with the matters. But we had the attitude to learn and experience very quickly. The challenge was settling several contentious issues that typically arise in a new law. The Courts and tribunals settled them expeditiously. We have the advantage that all stakeholders are on the same page and they are driving the reform in tandem and the authorities are addressing the emerging challenges proactively and swiftly.

#### Q 5. How do you see the role of IBBI and IPA for implementation of Insolvency Law?

**Ans:** The IBBI and IPAs are partners in development and regulation of the profession of insolvency professionals and developing the best practices in the market. In the space of development, IBBI and IPA are competitors and they compete also with other players for building capacity of the insolvency professionals. However, in the space of regulation, they do not have competition as such, but they need to set standards for themselves and thereby the standards of insolvency professionals. They need to demonstrate to the society at large that they are no 'non-sense' regulators.

**"The professional institutes such as ICAI set up IPAs. The professionals like CAs welcomed the challenging role of insolvency professionals. The IPAs, trade and industry bodies, academics and universities, debtors, creditors and professionals worked overtime to build institutional capacity to implement the reform. It is because of them that transactions under the Code could commence by 1<sup>st</sup> December, 2016, within six months of its enactment and within 60 days of the establishment of IBBI."**

#### Q 6. How do you see the role of IBBI for regulating the registered Valuer?

**Ans:** The processes under the Code use services of valuers. The quality of valuation has an impact on the outcome of the processes and hence IBBI is a major stakeholder of valuation profession. The Central Government has delegated its powers and functions under section 247 of the Companies Act, 2013 to the IBBI and specified it as the Authority under the Rules. It will be the endeavour of the IBBI to pursue the objectives of the Act and the Code while providing a conducive developmental and regulatory framework that yields a cadre of competent and accountable registered valuers in the country.

#### Q 7. Please share your views on the role of Chartered Accountants as registered valuers.

**Ans:** I understand that the ICAI has promoted a Section 8 company to act as RVO in the discipline of securities and financial assets. Given that the CAs are well accomplished in this area, they must excel. Nevertheless, it is competition at market place. Valuation is not an exclusive preserve of any profession. IBBI provides a level playing field and lets the best win.

#### Q 8. How do you visualise the role and responsibility of Chartered Accountants in the nation building? How can they contribute more?

**Ans:** Indian economy is witnessing a proliferation of professions. The need for professional services has been increasing over the years, so also their influence in the making of the economy. Given the growing complexity and importance of services, professionalisation to a large extent determines the competitive edge of nations and sustainability of prosperity. I would urge our CAs to improve the competitive edge of India in the comity of nations.

#### Q 9. What is your message to The Institute of Chartered Accountants of India?

**Ans:** The ICAI may focus more on building trust of the society for the CA profession and do all that is required for this. The CAs should be the first line of defence against any economic malfeasance. ■