

A Critical Study on Winding of the Companies Under Company Law and IBC Act

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Abstract: *The process of winding up a company refers to the legal procedure by which a company ceases operations, its assets are liquidated, liabilities are settled, and the company is formally dissolved. Winding up can be initiated voluntarily by shareholders or mandatorily through legal proceedings. In India, company winding-up provisions are primarily governed by the Companies Act, 2013 and the Insolvency and Bankruptcy Code (IBC), 2016. The Companies Act, 2013, under Sections 270 to 365, governs the traditional process of winding up, detailing both voluntary and compulsory winding-up procedures. Voluntary winding-up occurs when the members or creditors decide to close the company, either because the purpose of the company has been fulfilled or because it is no longer viable. Compulsory winding-up, on the other hand, is ordered by the tribunal, often initiated by creditors, shareholders, or the government when the company is insolvent or has acted against public interest. The IBC, enacted in 2016, introduced a more streamlined mechanism for dealing with insolvency and winding-up. It aims to consolidate and amend laws relating to reorganization and insolvency resolution in a time-bound manner. Under the IBC, a company can be wound up through a Corporate Insolvency Resolution Process (CIRP) if it is unable to pay its debts. If the resolution process fails, liquidation proceedings begin under Section 33 of the IBC, leading to the company's dissolution. The IBC prioritizes creditors' rights and ensures a systematic and time-bound recovery of debts. The integration of the IBC with existing company law has significantly improved the efficiency and speed of insolvency processes in India. While the Companies Act provides for both voluntary and tribunal-ordered winding up, the IBC emphasizes revival over dissolution, making liquidation the last resort after all efforts for revival through resolution fail. This abstract highlights the critical aspects of winding up companies under the legal framework of India, focusing on the roles and provisions of both the Companies Act, 2013, and the IBC, 2016. The synergy between these laws has significantly transformed the corporate insolvency landscape, fostering more efficient, creditor-centric resolution mechanisms.*

Keywords: The Companies Act,,2013,Insolvency and bankruptcy code(IBC),Voluntary, Winding up

