

## ICSI IIP - IBC KNOWLEDGE CAPSULE 6

### Role of Liquidator as per the Code and its Regulations, Orders of Adjudicating Authorities

The following table shows a list of the roles to be performed by Liquidator under Insolvency and Bankruptcy Code. The list is divided into four types of categories with respect to the source that their role is defined by.

Provisions under the Code	
Regulations under the Code	
NCLAT	
NCLT	

S. No.	ROLE DEFINED	SOURCE
1.	<ul style="list-style-type: none"> <li>• To verify claims of all the creditors.</li> <li>• To take into his custody or control all the assets, property, effects and actionable claims of the corporate debtor.</li> <li>• To evaluate the assets and property of the corporate debtor in the manner as may be specified by the Board (IBBI) and prepare a report.</li> <li>• To take such measures to protect and preserve the assets and properties of the corporate debtor as he considers necessary.</li> <li>• To carry on the business of the corporate debtor for its beneficial liquidation as he considers necessary.</li> <li>• Subject to section 52, to sell the immovable and movable property and actionable claims of the corporate debtor in liquidation by public auction or private contract, with power to transfer such property to any person or body corporate, or to sell the same in parcels in such manner as may be specified.</li> <li>• The liquidator shall not sell the immovable and movable property or actionable claims of the</li> </ul>	Section 35(1)

	<p>corporate debtor in liquidation to any person who is not eligible to be a resolution applicant.</p> <ul style="list-style-type: none"> <li>• To draw, accept, make and endorse any negotiable instruments including bill of exchange, hundi, promissory notes in the name and on behalf of the corporate debtor, with the same effect with respect to the liability as if such instruments were drawn, accepted, made or endorsed by or on behalf of the corporate debtor in the ordinary course of its business.</li> <li>• To take out, in his official name, letter of administration to any deceased contributory or his estate which cannot be ordinarily done in the name of the corporate debtor, and in all such cases, the money due and payable shall, for the administration or recover the money, be deemed to be due to the liquidator himself.</li> <li>• To obtain any professional assistance from any person or appoint any professional, in discharge of his duties, obligations and responsibilities.</li> <li>• To invite and settle claims of creditors and claimants and distribute proceeds in accordance with the provisions of this Code.</li> <li>• To institute or defend any suit, prosecution or other legal proceedings, civil or criminal, in the name of on behalf of the corporate debtor.</li> <li>• To investigate the financial affairs of the corporate debtor to determine undervalued or preferential transactions.</li> <li>• To take all such actions, steps, or to sign, exercise and verify any paper, deed, receipt document, application, petition, affidavit, bond or instrument and for such purpose to use the common seal, if any, as may be necessary for liquidation, distribution of assets and in discharge of his duties and obligations and functions as liquidator.</li> <li>• To apply to the Adjudicating Authority for such orders or directions as may be necessary for the liquidation of the corporate debtor and to report the progress of the liquidation process in a manner as may be specified by the Board (IBBI).</li> <li>• To perform such other functions as may be specified by the Board (IBBI)</li> </ul>	
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2.	The liquidator shall form and hold the Liquidation Estate as a fiduciary for the benefit of all the creditors	Section 36
3.	The liquidator shall provide financial information relating to the corporate debtor to the creditors who have requested such information	Section 37
4.	The liquidator shall receive or collect the claims of creditors within a period of thirty days from the date of the commencement of the liquidation process.	Section 38
5.	The liquidator shall verify the claims submitted under section 38 within such time as specified by the Board.	Section 39
6.	The liquidator may, after verification of claims under section 39, either admit or reject the claim, in whole or in part	Section 40(1)
7.	The liquidator shall communicate his decision of admission or rejection of claims to the creditor and corporate debtor within seven days of such admission or rejection of claims.	Section 40(2)
8.	Where the liquidator is of the opinion that the corporate debtor has at a relevant time given a preference in such transactions, he shall apply to the Adjudicating Authority for avoidance of preferential transactions.	Section 43
9.	If the liquidator or the resolution professional, as the case may be, on an examination of the transactions of the corporate debtor determines that certain transactions were made during the relevant period, which was undervalued, he shall make an application to the AA to declare such transactions as void and reverse the effect of such transaction.	Section 45
10.	The liquidator can make an application to the AA for dissolution of the Corporate Debtor.	Section 54
11.	The liquidator shall prepare and submit a preliminary report, an asset memorandum, progress reports, sales reports, minutes of consultation of stakeholders and final report	Regulation 5(1) of IBBI (Liquidation Process) Regulations, 2016
12.	The liquidator shall preserve a physical as well as an electronic copy of the reports and minutes for eight years after the dissolution of the corporate debtor.	Regulation 5(2) of IBBI (Liquidation Process) Regulations, 2016
13.	The liquidator shall maintain registers and books, as may be applicable, in relation to the liquidation of the corporate debtor, and shall preserve them for a period of eight years after the dissolution of the corporate debtor	Regulation 6(2) of IBBI (Liquidation Process) Regulations, 2016
14.	The liquidator shall keep receipts for all payments made or expenses incurred by him	Regulation 6(4) of IBBI (Liquidation Process)

		Regulations, 2016
15.	A liquidator may appoint professionals to assist him in the discharge of his duties, obligations and functions for a reasonable remuneration and such remuneration shall form part of the liquidation cost.	Regulation 7(1) of IBBI (Liquidation Process) Regulations, 2016
16.	The liquidator shall maintain the particulars of any consultation with the stakeholders made under this Regulation.	Regulation 8(2) of IBBI (Liquidation Process) Regulations, 2016
17.	The liquidator may make an application to the Adjudicating Authority for a direction to cooperate with him in the collection of information necessary for the conduct of the liquidation.	Regulation 9(1) of IBBI (Liquidation Process) Regulations, 2016
18.	The liquidator shall serve a notice to persons interested in the onerous property or contract at least seven days before making an application for disclaimer to the Adjudicating Authority	Regulation 10(3) of IBBI (Liquidation Process) Regulations, 2016
19.	The liquidator shall make a public announcement within five days from his appointment.	Regulation 12(1) of IBBI (Liquidation Process) Regulations, 2016
20.	The liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy five days from the liquidation commencement date	Regulation 13 of IBBI (Liquidation Process) Regulations, 2016
21.	The liquidator shall submit Progress Reports	Regulation 15 of IBBI (Liquidation Process) Regulations, 2016
22.	The liquidator may call for such other evidence or clarification as he deems fit from a claimant for substantiating the whole or part of its claim.	Regulation 23 of IBBI (Liquidation Process) Regulations, 2016
23.	The liquidator shall verify the claims submitted within thirty days from the last date for receipt of claims and may either admit or reject the claim.	Regulation 30 of IBBI (Liquidation Process) Regulations, 2016
24.	The liquidator shall prepare a list of stakeholders, category-wise, on the basis of proofs of claims submitted and accepted under these Regulations	Regulation 31(1) of IBBI (Liquidation Process) Regulations, 2016
25.	The liquidator shall file the list of stakeholders with the Adjudicating Authority within forty-five days from the last date for receipt of claims	Regulation 31(2) of IBBI (Liquidation Process) Regulations, 2016
26.	The liquidator shall constitute a consultation committee within sixty days from the liquidation commencement date, based on the list of stakeholders prepared to advise him on the matters relating to sale	Regulation 31A of IBBI (Liquidation Process) Regulations, 2016
27.	The liquidator shall convene a meeting of the consultation committee when he considers it necessary and shall convene a meeting of the consultation committee when a request is received from at least	Regulation 31A of IBBI (Liquidation Process) Regulations, 2016

	fifty-one percent of representatives in the consultation committee. The liquidator shall chair the meetings of consultation committee and record deliberations of the meeting. The liquidator shall place the recommendation of committee of creditors made before the consultation committee for its information.	
28.	The liquidator shall ordinarily sell the assets of the corporate debtor through an auction and in some instances in a private sale.	Regulation 33 of IBBI (Liquidation Process) Regulations, 2016
29.	The liquidator shall not proceed with the sale of an asset if he has reason to believe that there is any collusion between the buyers, or the corporate debtor's related parties and buyers, or the creditors and the buyer, and shall submit a report to the Adjudicating Authority in this regard	Regulation 33(3) of IBBI (Liquidation Process) Regulations, 2016
30.	The liquidator shall prepare and submit an asset memorandum in accordance with this Regulation within seventy-five days from the liquidation commencement date.	Regulation 34 of IBBI (Liquidation Process) Regulations, 2016
31.	The liquidator shall prepare an asset sale report in respect of said asset, to be enclosed with the Progress Reports	Regulation 36 of IBBI (Liquidation Process) Regulations, 2016
32.	The liquidator shall endeavor to recover and realize all assets of and dues to the corporate debtor in a time-bound manner for maximization of value for the stakeholders.	Regulation 39 of IBBI (Liquidation Process) Regulations, 2016
33.	The liquidator shall realize any amount due from any contributory to the corporate debtor	Regulation 40 of IBBI (Liquidation Process) Regulations, 2016
34.	The liquidator shall open a bank account in the name of the corporate debtor followed by the words 'in liquidation', in a scheduled bank, for the receipt of all moneys due to the corporate debtor.	Regulation 41(1) of IBBI (Liquidation Process) Regulations, 2016
35.	The liquidator shall not commence distribution before the list of stakeholders and the asset memorandum has been filed with the Adjudicating Authority.	Regulation 42(1) of IBBI (Liquidation Process) Regulations, 2016
36.	The liquidator shall distribute the proceeds from realization within ninety days from the receipt of the amount to the stakeholders.	Regulation 42(2) of IBBI (Liquidation Process) Regulations, 2016
37.	The liquidator shall liquidate the corporate debtor within a period of one year from the liquidation commencement date	Regulation 44 of IBBI (Liquidation Process) Regulations, 2016
38.	Liquidator can accept the resolution plans which were not accepted in CIRP as schemes or arrangements in liquidation process	Kautilya Industries Pvt. Ltd. v. Parasrampuriya Synthetic Ltd. & Anr.

39.	Liquidator should try to pass off the Corporate Debtor as a going concern while the process of sale is going on	In the matter of Gujarat NRE Coke Limited
40.	The liquidator should not declare the dues in respect to Provident Fund/Pension Fund/Gratuity Fund as part of the liquidation estate	Precision Fasteners Ltd. v. Employees Provident Fund Organisation

**Notes:**

**Abbreviations used:**

IBBI: Insolvency and Bankruptcy Board of India  
 IPA: Insolvency Professional Agency  
 ICSI IIP: ICSI Institute of Insolvency Professionals  
 IP: Insolvency Professional  
 CIRP: Corporate insolvency resolution process  
 IRP: Interim Resolution Professional  
 AR: Authorised Representative  
 COC: Committee of Creditors  
 CD: Corporate Debtor  
 FC: Financial Creditor  
 OC: Operational Creditor  
 Code: Insolvency and Bankruptcy Code, 2016

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