

# INSTITUTE OF INSOLVENCY PROFESSIONALS

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(Formerly known as ICSI Insolvency Professionals Agency)

## Second Webinar on Applications u/s 66 of IBC (July 27, 2019)



[L-R: CS Alka Kapoor, Dr. M.S. Sahoo, CS Siddhartha Murarka and CS Ramanathan Bhuvneshwari (Top Right Corner)]

ICSI Institute of Insolvency Professionals, recently, on July 27, 2019, organised its Second Webinar on Section 66, IBC, dealing with "Fraudulent Trading or Wrongful Trading". The discussion was webcast from two different locations, viz., **Delhi and Bangalore**.

During the Session, Dr. (CS) M.S. Sahoo (Chairperson - IBBI), Ms. (CS) Alka Kapoor (CEO - ICSI IIP), Mr. (CS) Siddhartha Murarka (Council Member - ICSI) and Ms. Ramanathan Bhuvneshwari (Insolvency Professional) shared their respectively thoughts and views on the subject "Addressing Fraudulent and Wrongful Trading under IBC".

**Dr. Sahoo** emphasised the spirit of the legislation and underlined the fact that Directors of a company must take extra care to ensure that interests of creditors are protected, and that the value left for them is not depleted further. The concept of "twilight zone", i.e., the time when it is inevitable for a company to get into insolvency process till the time when it actually goes through the process, was explained by Dr. Sahoo. Dr. Sahoo discouraged the Director's tendency to resist and oppose any insolvency petition, explaining that, since the company then survives on creditors' money, the longer the delay in admission of insolvency petition, more shall be loss to the creditors, and thus, liability of Directors also increases. While, **Mr. (CS) Siddhartha Murarka** emphasised on fiduciary responsibility of Board of Directors to not unduly

hide the true financial health of the company in order to avoid commencement of a CIRP; **Ms. (CS) Bhuvaneshwari** explained in some detail, the “*shell companies*” that she encountered in her assignments which persuaded her to approach Hon’ble NCLTs with applications u/s 66. In such cases, she suggested that the RP does not have the choice to liquidate the company, but rather to look at avoidable transactions, fraudulent transactions and see how to maximise the value of the Corporate Debtor. Deliberations were held for about one and a half hour, whereafter, the queries received online from viewers were addressed and answered by the Panel members. **Ms. (CS) Alka Kapoor** summed-up the discussion, reiterating and reemphasising the need for Resolution Professionals to be diligent in carrying out their assignments.



[L-R: CS Deepak Kumar Khaitan (Council Member - ICSI), CS Ashok Kumar Dixit (Officiating Secretary - ICSI), CS Alka Kapoor (CEO - ICSI IIP), CS Ashish Garg (Vice-President - ICSI), Dr. M.S. Sahoo (Chairperson - IBBI), CS Ranjeet Pandey (President - ICSI), CS Siddhartha Murarka (Council Member - ICSI), CS B Narasimhan (Council Member - ICSI) and CS Praveen Soni (Council Member - ICSI)]

Dr. Sahoo encouraged ICSI IIP’s efforts in organising such webinars on a regular basis to bridge the gap between the “*Expectations from*” and the “*Activities of*” Insolvency Professionals, in order to realise the *True Spirit of the Law*.

Ms. Alka Kapoor thanked Dr. M.S. Sahoo, Mr. Siddhartha Murarka and Ms. Ramanathan Bhuvneshwari for sharing their valuable thoughts and views on the subject.

**Regards**

**Team ICSI IIP**