



Monthly Newsletter

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Secretary's Desk

Insolvency and Bankruptcy code (IBC) will play a significant role in India realizing its dream of evolving into a \$10 trillion economy in foreseeable future. This law has come to stay and will enable Indian economy to scale greater heights by promoting entrepreneurship and ensuring effective use of capital. IBC has proved to be far superior to the tools used earlier for the

resolution of bad assets. In January, 2019 Hon'ble Union Minister Shri Arun Jaitley stated that creditors apparently recovered approximately Rs 2 lakh crore by just filing insolvency applications with NCLT. Fearing that they would lose control over their firms if IBC was invoked, defaulters cleared dues before the adjudicating authority admitted the creditor's plea. Ministry of Corporate Affairs (MCA) and Insolvency and Bankruptcy Board of India (IBBI) have been swift in responding to the changing requirements of the nascent ecosystem. The increasing application of the IBC marks a clear shift in the balance of power in favor of creditors, instead of defaulters vis-à-vis the earlier channels for insolvency resolution.

In another step towards increasing the efficacy of the insolvency resolution process in India, the Reserve Bank of India (RBI) has relaxed the regime on external commercial borrowings (ECBs) in India by way of a circular dated February 7, 2019 (ECB facility for Resolution Applicants under Corporate Insolvency Resolution Process). This Circular was released shortly after the RBI revamped the regime for ECBs (New ECB Framework) under which it had substantially relaxed the provisions for eligible borrowers and recognized lenders. Under the February 7, 2019 Circular, RBI has relaxed the end-use for ECBs for potential bidders under IBC, pursuant to which, resolution applicants can now explore the ECB route (with prior RBI approval) for availing cheaper loans from the overseas market in order to participate in the IBC process. However, the resolution applicants are not permitted to avail ECBs from overseas branches or subsidiaries of Indian banks for repayment of rupee loans. It is relevant to note that the relaxations provided pursuant to the above ECB Circular extends only to companies under IBC.

MCA released the Companies (Significant Beneficial Owners) Amendment Rules, 2019 (New SBO Rules) to revise and amend the Companies (Significant Beneficial Owners), 2018 (Old SBO Rules) on February 8, 2019. The New SBO Rules put in place a clear

regulatory framework that would also help identify entities that might be controlled from outside the country. Apart from providing more clear definitions for determining whether an individual or an entity has significant beneficial ownership, "all forms of control" that could be exercised in the affairs of a company are being captured. The whole principle of proportional calculation has been done away with and substituted with a clear picture on how significant beneficial owners would be identified in various circumstances. These changes to the rules will supplement the government's continuing efforts to clamp down on corporate entities suspected to be used as conduits for illicit fund flows.

MCA has notified the Companies (Incorporation) Amendment Rules, 2019, under which all companies registered before December 31, 2017, are required to file eForm ACTIVE (Active Company Tagging Identities and Verification)-INC22A on or before April 25, 2019. Failure to file e-Form ACTIVE will lead to a penalty of Rs 10,000 with companies in default being declared ACTIVE non-compliant. Once a company is marked as ACTIVE non-compliant, it would not be able to make changes to its capital structure or go ahead with merger or amalgamation deals. Such non-compliant companies would also not be able to rotate their directors or make changes in their registered office. The details required to be provided in e-form ACTIVE are comprehensive and companies have to e-file all their details so that a proper check is maintained on their operations and creation of shell companies is prevented. For companies that are up to date in their filings, the ACTIVE form could get prefilled just on incorporating the company identification number. The company KYC derive is expected to enhance the standards of corporate governance in general.

MCA has notified Specified Companies (Furnishing of information about payment to micro and small enterprise suppliers) Order, 2019 to address the concerns of small businesses over delayed payments that not only makes it mandatory for all companies to file a half yearly returns detailing outstanding dues to MSME suppliers but also assign reasons if such delays are for more than 45 days. Directors of companies delaying payment for supplies made by MSME may have to face imprisonment up to 6 months or pay fines between Rs 25,000 and Rs 3,00,000.

“The increasing application of the IBC marks a clear shift in the balance of power in favor of creditors, instead of defaulters”

Policy Developments

1. The proposal for re-promulgation of the Companies (Amendment) Ordinance, 2019 as Companies (Amendment) Second Ordinance, 2019 was approved by Union Cabinet on 19th February, 2019 and the Ordinance was re-promulgated on 21st February, 2019. The re-promulgation was necessary to give continuity to urgent amendments made in the Companies Act, 2013 for implementing the recommendations of the Committee set-up by MCA to review offences and provisions on compliance management under the Companies Act, 2013.

Review of Corporate Sector:

As on 31.01.2019, the number of companies registered under the Companies Act was 18,50,860. Of these, 6,70,138 companies were closed, 6,328 companies were under liquidation, 38,616 companies are in the process of being struck-off from the register, 100 companies were in the process of being re-activated and 1,619 companies have so far obtained the "dormant" status according to Section 455 of the Companies Act, 2013. There are 11,34,059 active companies, including 1,72,511 companies, which were incorporated within the preceding eighteen months (not due for Annual Statutory Filings).

A total of 12,464 companies, including 665 One Person Companies (OPCs), were registered under the Companies Act, 2013 during January, 2019. During January 2019, 12,427 (out of 12,464) companies were registered as companies

limited by shares. The breakup of the newly incorporated companies by type is as follows:

Type of Company	No. of Companies registered in January, 2019
-1	-2
Company limited by shares	12,427
Of which,	
(a) Private	12,127
Of which,	
One Person Companies	665
(b) Public	300
Company limited by Guarantee	37
Of which,	
(a) Private	33
(b) Public	4
Unlimited Company	-
Grand Total	12,464

During the Month of January 2019, Maharashtra had maximum number of company registrations (2,310) followed by Delhi (1,630) and Uttar Pradesh (1,293). "Business Services" topped the economic activity-wise classification (5,118) of newly registered companies.

For more statistical details about the growth of the corporate sector, the reader is invited to the 'Monthly Information Bulletin on Corporate Sector', at URL: mca.gov.in/MinistryV2/InformationBulletin.html.

MONTHLY MIS REPORT FROM COMPETITION COMMISSION OF INDIA

(As on February-2019)

S. No.	Sections	Cases pending as on last day of previous month (A)	Cases received during the month (B)	Total Cases (A+B)	Net Cases pending with CCI for final disposal	Remarks
1.	19(1)	87	1	88	88	#
2.	19(1)(a)	79	05	84	84	
3.	19(1)(b)	13	-	13	13	
4.	5 & 6	12	07	19	14	*
Total		191	13	204	199	

Cases remanded by COMPAT

5.	Remanded	10	-	10	10
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Cases regarding contravention of orders of Commission

6.	Causing fresh	01	-	01	01
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1. [#] Split cases:

(a) Suo-Moto Case No. 07/2014 is segregated in to 02 sub cases w.e.f. August 2016 to facilitate exploration of investigation by DG.

(b) Suo-Moto Case No. 02/2015 is segregated in to 66 sub cases w.e.f. July 2016 to facilitate exploration of investigation by DG.

2. [*] Combination Cases filed u/s 5 & 6.

Events:-

1. Fourth meeting of IEPF Authority was held on 28th January, 2019 under the Chairmanship of Secretary, CA. A report on Shares and amount transferred to IEPF, settlement of claims by the Authority, Business Process Reengineering and reforms in Rules of e-forms being carried out, Status for development of system for maintenance of Demat Account of Authority, Enforcement Action by Authority regarding call for notice to the company w.r.t. companies of section 124 and 125 of Companies Act and HR requirements to handle the work load of the Authority was part the main agenda of the meeting.
2. IICA on 5th February, 2019 successfully conducted 32nd meeting of its Board of Governors under the Chairmanship of Shri. Injeti Srinivas, Secretary, MCA. In

this meeting, progress made by IICA during last 3 months was discussed and Board was apprised of various developments in terms of trainings/ programmes conducted. The main agenda items were: (i) Proposal for Insolvency Research Foundation to be created as Special Purpose Vehicle for IICA, (ii) A brief on the financial performance of IICA etc.

3. The Insolvency and Bankruptcy Board of India (IBBI) on 15th February, 2019 launched Graduate Insolvency Program. This is among the first such courses in the world for professionals dealing with insolvent companies and helping them achieve debt resolution. Approved by the Insolvency and Bankruptcy Board of India (IBBI) and curated by a group comprising economists, insolvency, financial and legal experts, the GIP aims to create trained professional in the insolvency resolution practice for the near future.



32nd BOG Meeting IICA

Notifications:-

- (i) Vide notification no. G.S.R. 100(E) dated 08.02.2019 Companies (Significant Beneficial Owners) Rules, 2018 were amended on 8th February, 2019 to provide more clarity on the definition of 'significant beneficial owner' and manner of filing of relevant declaration to the company and the Registry. The amendments are aimed at addressing the issues raised by various stakeholders on the Rules.
- (ii) Vide notification no. G.S.R. 131(E) dated 19.02.2019 Companies (Adjudication of Penalties) Rules, 2014 have been amended on 19th February, 2019, inter alia, to enforce the amendment in section 454 of the Companies Act, 2013 made through Companies (Amendment) Second Ordinance, 2019 [w.e.f. 2/11/2018]. The changes made in the Rules are proposed to ensure speedy adjudication of monetary penalties by Adjudicating Officers (ROCs).
- (iii) Vide notification no. G.S.R. 130(E) dated 19.02.2019 Companies (Prospectus and Allotment of Securities) Rules, 2014 have been amended on 19th February, 2019 to remove reference to a redundant provision appearing in the Form PAS-3 annexed to such Rules. The amendment has resulted in alignment of provisions of the Act/Rules and the Forms.

- (iv) Vide notification no. G.S.R. 143(E) dated 21.02.2019 the Companies (Registration Offices and Fees) Rules, 2014 has been amended to insert rule relating to fee for filing e-form ACTIVE under rule 25A of the Companies (Incorporation) Rules, 2014.

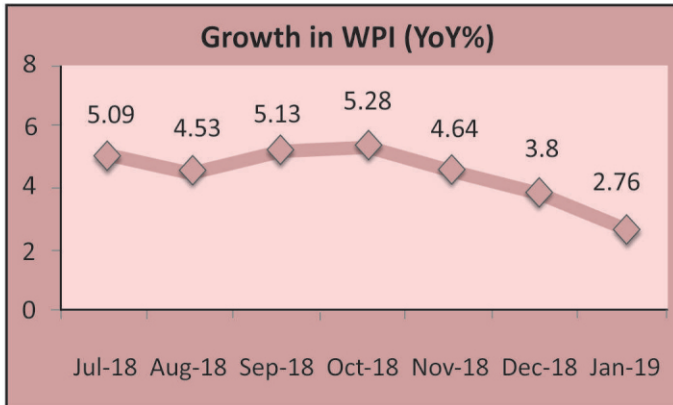
Circulars:-

- (i) This Ministry has issued General Circular no. 01/2019 dated 21.02.2019 regarding extension for last date of filing initial return in MSME Form I and stated that the period of thirty days for filing initial return in MSME Form I as specified in Specified Companies (Furnishing of information about payment to micro and small enterprise suppliers) Order, 2019 dated 22.01.2019 shall be reckoned from the date the said e-form is deployed on MCA21 portal.
- (ii) Ministry of Corporate Affairs published 'Annual Report on Cost & Prices 2016-17' based on Cost Audit Reports (CARs) filed in MCA21 system by concerned companies which are under the ambit of Cost Audit as per the provisions of the Companies Act, 2013 and rules made thereunder. The report will be of great help in providing benchmarks in cost of products covered in this report. The report is also available on the MCA website viz. www.mca.gov.in for wider dissemination.

Some Macro Indicators

Wholesale Price Index (WPI)

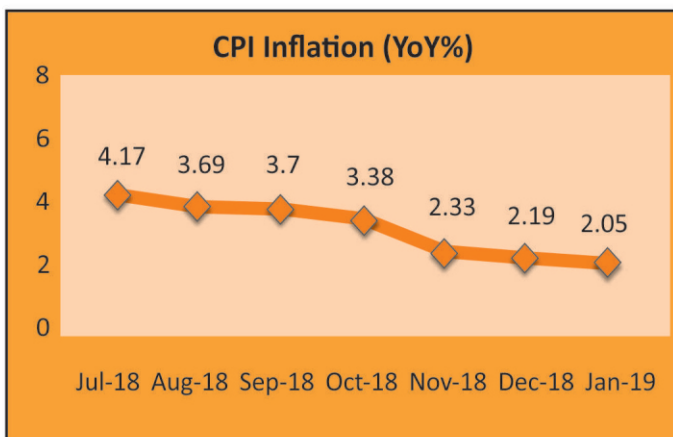
The annual rate of inflation, based on monthly WPI, stood at 2.76% (provisional) for the month of January, 2019 (over January, 2018) as compared to 3.80% (provisional) for the previous month and 3.02% during the corresponding month of the previous year.



Source: DIPP

Consumer Price Index (CPI)

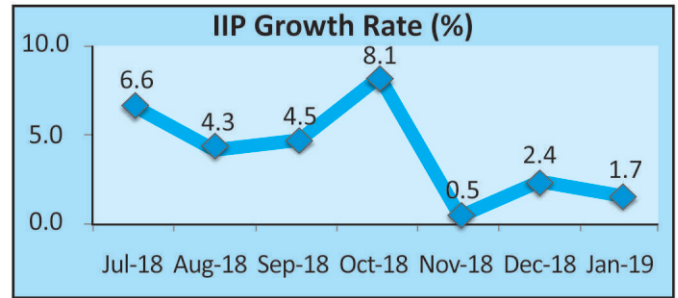
The CPI (Combined) on Base 2012=100 is being released for the month of January 2019. All India Inflation rates (on point to point basis i.e. current month over same month of last year, i.e., January 2019 over January 2018) given below



Source: MOSPI

Index of Industrial Production

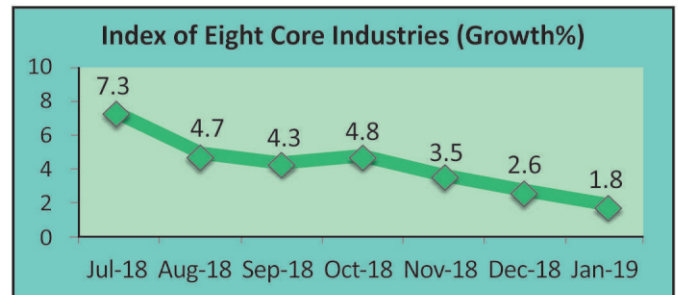
The Quick Estimates of Index of Industrial Production (IIP) with base 2011-12 for the month of January 2019 stands at 134.5, which is 1.7 percent higher as compared to the level in the month of January 2018.



Source: MOSPI

Index of Eight Core Industries

The combined Index of Eight Core Industries stood at 134.8 in January, 2019, which was 1.8 per cent higher as compared to the index of January, 2018.



Source: DIPP

Selected Ratios of few indicators of listed Non-Government Non-financial Companies (in Percent)

Trends in the selected corporate performance indicators published by RBI of a sample of non-government non-financial listed companies as below:

Indicators		Q3:2017-18	Q3:2018-19
No. of Companies		2,705	2,703
Components of Exp. To sales	Cost of Raw Materials to Sales	51	52.4
	Staff Cost to Sales	10.4	10.2
Profit Allocation Ratios	Interest Burden	28.1	22.3
	Tax Provisions to EBT	22.9	23.8
	Other Income to Net Profit	41.8	42.5
Interest linked Ratios	Cash Coverage Ratio(times)	4.6	5.6
	Interest Coverage(times)	3.6	4.5
	Interest to Sales	4	3.2
Profitability Ratios	Operating Profits to Sales	15.4	14.5
	EBITDA to Sales	18.2	17.8
	EBIT to Sales	14.1	14.2
	Net Profit to Sales	6.7	7.9

Source: RBI