

Chapter 7

Organizational Resilience: A Case Study of Startups From India on COVID–19–Triggered Risks, Challenges, Economic, and Regulatory Hindrances

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ABSTRACT

The COVID-19 pandemic uprooted many businesses globally and in India. The impending rise of business failures that would have liquidated many companies in India was prevented by some of the temporary regulatory and economic measures taken by the union government. This chapter aims to highlight the different issues faced by the startups in India during the pandemic and the strategies adopted by them to protect their companies from bankruptcy. The research followed a case study method. A few startups from the start-up hub of India-Bangalore were identified, and a survey of the CEOs, promoters, and other senior officers of these firms was carried out. More than half of the respondents participated in the survey confirmed that there have been direct impacts such as higher cost of operations, supply chain interruption, and overhead costs due to the pandemic. The respondents suggested the need for an improved response from government, deferred payment of government taxes, more funding options with smoother processing, low interest loan, and quick fund availability for start-ups.

INTRODUCTION

This book chapter aims to highlight the different issues faced by the startups in India during the Covid-19 pandemic and the strategies adopted by them to protect their companies from bankruptcy. It will analyze

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the current resolution and liquidation processes available for startups in India to evaluate whether there is an efficient regulatory framework in India for resolution and easy exit for startups. It will also analyze whether the economic and regulatory policies initiated by the Union government were helpful to the startups during the Covid-19 crisis.

The Insolvency and Bankruptcy of individuals and companies were dealt with multiple legislations in India. Provisions relating to identification of industrial sickness and their revival were first brought in the (Sick Industrial Companies Special Provisions Act,1985). Corporate insolvency and winding up provisions were present in (The Companies Act,1956) and thereafter, in (The Companies Act, 2013). However, these legislations caused procedural delays, gave overlapping powers to different adjudicating bodies and were not in conformity with market developments. Based on the recommendations of various committees (Insolvency Law Committee, 2018) and recognizing the need for a strong insolvency regime, the Insolvency and Bankruptcy Code was implemented in 2016 to facilitate timely resolution of insolvency and bankruptcy cases, maximization of value of assets of debtors, reorganization of business, facilitate credit market, encourage entrepreneurship in India and to balance the interest of all stake holders (The Insolvency and Bankruptcy Code, 2016, para.1).

The Insolvency and Bankruptcy Code -herein after referred as IBC, proposes two stages of effective debt recovery-The first stage involves insolvency resolution negotiation; whereby the viability of running the enterprise and protecting the rights of creditors is assessed- the corporate insolvency resolution process and in the second stage when negotiations to run the entity fails, liquidation of the corporate entity is proposed. The code proposes to conclude both processes in a time bound manner. Prior to this there were no separate provisions available for winding up of startups under the earlier Companies Act. Under the IBC, there are three different processes available for the resolution and winding up of insolvent companies: the corporate insolvency resolution process (CIRP), the fast track winding up process and the prepack insolvency resolution process, herein after referred as PPIRP or 'pre-packs'.

The Code has also for the first time brought a clear distinction to the term creditor by categorizing it into financial and operational creditor. Generally, financial creditors¹ include the banks and financial institutions to whom a financial debt is owed by the debtor and operational creditors include the employees, government dues, taxes and goods and service providers, to whom an operational debt is owed. Though the code promises maximization of value of assets and revival of viable firms through corporate insolvency resolution process, in practice- the time delay in arriving at a resolution, liquidation of the company instead of resolution, abuse of power by the committee of creditors (CoC) and infrastructural inefficiency, have led to failure in protecting the interests of the corporate debtor. Further, it can be argued that the code has failed to protect the interest of startups and their promoters as none of the current procedures, facilitate an easy resolution or an easy exit for the startups.

This book chapter is divided into four parts. Part 1 is further divided into three sub parts- The first part will analyze in detail the issues in the CIRP under the IBC and the second part will analyze the effectiveness of the existing fast-track insolvency resolution process under the IBC. The third part will analyze the pre pack insolvency resolution process which was brought as an amendment to IBC for micro, small and medium enterprises. Part II of the book chapter will analyze the economic and welfare policies adopted by the government and the regulators in dealing with the challenges posed by the pandemic. Part III will analyze the responses of the survey that was conducted among start-ups to understand their views on the effectiveness of welfare measures and the strategies adopted by them to cope with business disruptions. Part IV will provide suggestions and recommendations for the study.

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