INDIALAW



INSOLVENCY & BANKRUPTCY

When Financial Rectitude Trumps Judicial Discipline: The IBC’s Uncompromising Supremacy Over Defunct Corporate Schemes

AUTHOR Shrishail Kittad

PUBLISHED 6 March 2026

Supremacy Over Defunct Corporate Schemes

Omkara Assets Reconstruction Private Limited v Amit Chaturvedi & Ors | 2026 INSC 189 | Supreme Court of India | 24 February 2026

How the Supreme Court chose economic rehabilitation over procedural politeness, and why delayed corporate schemes cannot hold creditors and the economy hostage

The Central Question

Can a debt-ridden company hide behind a 17-year-old Scheme of Arrangement under the Companies Act to block creditors from invoking the Insolvency and Bankruptcy Code, even when the scheme was never properly implemented, the statutory timelines were grossly violated, and the creditors have withdrawn their consent?

The Supreme Court answered with an emphatic **no**.

In **Omkara Assets Reconstruction v Amit Chaturvedi** (2026 INSC 189), Justice K. Vinod Chandran delivered a judgment that reaffirms a fundamental principle: when financial rectitude collides with judicial discipline, the IBC's mission to revive distressed companies and protect public funds takes precedence over procedural technicalities and defunct corporate arrangements.

The Facts: A Debt That Grew From Rs 10.6 Crore to Rs 154 Crore

The story begins in 1999 and 2000, when a bank (later succeeded by IDBI Bank's Stressed Assets Stabilization Fund, and ultimately by the appellant Omkara Assets Reconstruction) disbursed two term loans totaling **Rs 10.6 crore** to the respondent company. The corporate debtor defaulted from 1 January 2003, more than two decades ago.

By the time the creditor approached the National Company Law Tribunal (NCLT) under Section 7 of the IBC in 2024, the total outstanding debt had ballooned to **Rs 154.33 crore** with future interest continuing to accumulate.

In between, the corporate debtor had attempted a Scheme of Arrangement (SOA) under Sections 391-394 of the Companies Act, 1956 before the Punjab and Haryana High Court. Here is the timeline of that scheme and the red flags embedded in it:

Date	Event
2008	Creditors' meeting held; SOA approved by majority; reported to Company Court on 25 July 2008
2009	Second motion filed (already beyond 7-day statutory timeline under Rule 78)
12 March 2009	Creditors write to company demanding immediate filing of second motion or will withdraw consent
3 July 2009	Creditors formally withdraw consent to SOA due to continued inaction
2009-2019	Company takes no action for 10 years
23 July 2019	High Court finally sanctions the SOA (based on 2008 debt figures)
30-day deadline	Order required to be filed with Registrar of Companies within 30 days, not done
2019	Creditors file application to recall the sanction order
2 August 2022	Company Judge recalls the sanction order, finding it inoperable and beyond jurisdiction
10 October 2022	Division Bench stays the recall order
6 July 2023	Company finally files Form INC-28 with Registrar (almost 4 years after sanction, grossly beyond deadline)
2024	Creditor approaches NCLT under Section 7 of IBC

Table 1: Timeline of the Scheme of Arrangement proceedings

Key takeaway from the timeline: The SOA was based on debt figures from 2008 (approximately Rs 63 crore). By 2019, when sanction was finally granted, the debt had almost doubled to Rs 150 crore. By 2024, it had grown further to Rs 154 crore. The scheme had become economically redundant long before it was formally sanctioned.

The Procedural Requirements Under the Companies Act: What Went Wrong?

To understand why the Supreme Court found the SOA defunct, we must understand what the Companies Act, 1956 and Rules actually require for a valid Scheme of Arrangement.

The Two-Motion Mechanism

First Motion (Section 391(1)): The company or creditor applies to the Company Court asking it to convene a meeting of creditors. If the Court is satisfied, it orders the meeting to be held.

Meeting: Creditors meet and vote. A scheme can be approved only if a majority of creditors representing three-fourths of the value of debt agree.

Second Motion (Section 391(2)): After the meeting, the result must be reported to the Court, and the company must move a second motion seeking sanction of the scheme. Only after the Court sanctions it does the scheme have any legal effect.

Filing with Registrar: Even after sanction, the scheme comes into effect only when a certified copy of the Court's order is filed with the Registrar of Companies within the prescribed time (14 days under Rule 81 of the Companies (Court) Rules, 1959).

What the Corporate Debtor Failed to Do

1. **Rule 78 violation:** The chairman must report the meeting result within 7 days. While this was done (25 July 2008), what follows is critical.
2. **Rule 79 violation:** The second motion must be filed within 7 days of the meeting report. The corporate debtor filed it in 2009, months later, far beyond the statutory timeline.
3. **10-year inaction:** Between 2009 and 2019, nothing happened. The second motion sat idle.
4. **Rule 81 violation:** After the High Court granted sanction on 23 July 2019, the order had to be filed with the Registrar within 14 days (by around 6 August 2019 at the latest). It was not filed until 6 July 2023, almost four years later.
5. **Creditor withdrawal:** By 3 July 2009, creditors had formally withdrawn their consent. The company proceeded anyway.

The Supreme Court observed that there was **"not even a pretense of the timelines statutorily prescribed having been complied with."** The SOA, based on 2008 figures, had become "redundant and inoperative" by the time it was purportedly brought into effect in 2023.

The Legal Battle: NCLT, NCLAT and Supreme Court

NCLT's Decision

The NCLT (Adjudicating Authority under the IBC) admitted the Section 7 application filed by the creditor. It found that:

1. The corporate debtor failed to establish compliance with Section 391 of the Companies Act.
2. The SOA had become defunct due to non-compliance with statutory timelines and creditor withdrawal.
3. The IBC, with its overriding effect under Section 238, must prevail.
4. A moratorium under Section 14 of the IBC was imposed, and an Interim Resolution Professional (IRP) was appointed.

NCLAT's Stay Order

The corporate debtor's erstwhile director (Respondent No. 1) appealed to the NCLAT (Company Law Appellate Tribunal). The NCLAT **stayed the NCLT's order**, keeping the Section 7 application "in abeyance" until the disposal of the proceedings before the Punjab and Haryana High Court regarding the SOA.

This stay order effectively:

1. Suspended the moratorium under Section 14.
2. Allowed the old management (which had driven the company into insolvency) to continue running the company.
3. Prevented the IRP from taking charge.
4. Put the IBC process on hold indefinitely.

The NCLAT justified its decision on grounds of "judicial discipline", the High Court had proceedings pending, so the NCLT should not have interfered.

Supreme Court's Interim Order

When the matter reached the Supreme Court, the Court immediately issued an interim order **reviving the moratorium** and permitting the IRP to resume charge of the corporate debtor. This interim order itself signaled the Court's view on the merits.

The Supreme Court's Analysis: Financial Rectitude Over Procedural Politeness

Justice K. Vinod Chandran began the judgment by framing the issue starkly: **"Judicial impropriety vis-à-vis financial rectitude is the moot question."**

The Court's analysis can be broken into several key holdings:

1. The SOA Was Procedurally Defective and Economically Defunct

The Court carefully examined the statutory scheme under Sections 391-394 of the Companies Act and the Companies (Court) Rules, 1959. It found multiple fatal defects:

Non-compliance with timelines: The second motion was not filed within 7 days as required under Rule 79. The sanction order was not filed with the Registrar within 14 days as required under Rule 81. The actual filing happened in 2023, nearly four years after the 30-day deadline stipulated in the sanction order itself.

Withdrawal of consent: By 3 July 2009, the creditors had formally withdrawn their consent to the SOA due to the company's continued inaction. The scheme proceeded despite this withdrawal, a critical procedural flaw ignored by the High Court.

Economic redundancy: The SOA was designed to settle debts of approximately Rs. 63 crore as of 2008. By the time sanction was granted in 2019, the debt had grown to Rs 150 crore. By 2024, it was Rs 154 crore. The Court held: *"the SOA of 2008 never came into operation and the sanction in the year 2019 was without jurisdiction and after it had become redundant and inoperable for sheer passage of time."*

2. The High Court Lacked Jurisdiction After 2016

A critical turning point came on 15 December 2016, when the Companies (Transfer of Pending Proceedings) Rules, 2016 came into force. Rule 3, read with Section 434(1)(c) of the Companies Act, 2013, required all pending proceedings (other than winding-up cases) to be transferred to the NCLT, **except** proceedings that had been "reserved for orders."

The Supreme Court held that the second motion filed in 2009 had not been reserved for orders as of 15 December 2016. It was simply pending. Therefore, it should have been transferred to the Tribunal. The High Court's continuation of the proceeding and grant of sanction in 2019 was **beyond its jurisdiction**.

The Court distinguished the Punjab and Haryana High Court's own precedent in **Alpha Corp Development v Euthoria Developers (2017)**, where a composite petition had been reserved for orders before the 2016 Rules came into force. In that case, the exception applied. Here, it did not.

3. Section 238 of the IBC: The Overriding Provision

The Court reaffirmed the well-established principle that **Section 238 of the IBC grants it overriding effect** over all other laws, including the Companies Act.

Section 238 reads:

"The provisions of this Code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force."

The Court cited its earlier decisions, notably **A. Navinchandra Steels (P) Ltd v Srei Equipment Finance Ltd (2021) 4 SCC 435** and **Sunil Kumar Sharma v ICICI Bank Ltd (2025 SCC OnLine SC 145)**, to emphasize that:

1. The IBC is a **special statute** enacted with the specific purpose of time-bound revival and resolution of distressed companies.
2. The Companies Act is a **general statute** governing all aspects of corporate existence.
3. In case of conflict, the special statute (IBC) prevails over the general statute (Companies Act).

4. A Section 7 or Section 9 petition under the IBC is an **independent proceeding** that stands on its own merits and cannot be subordinated to pending proceedings under the Companies Act.

4. Judicial Discipline Cannot Be Weaponized by Tardy Litigants

The NCLAT had stayed the NCLT's order on grounds of "judicial discipline", the principle that when multiple courts or tribunals are seized of related matters, they should coordinate and defer to each other to avoid conflicting orders.

The Supreme Court **rejected this reasoning outright** in the context of economic legislation like the IBC:

"Judicial discipline, though a corner stone of justice, equity and fairness; ensuring continued public trust in judicial institutions, cannot be urged by tardy litigators engaged in fractious and opulent litigations aimed at jeopardizing public funds and putting the economy in a hostage situation."

The Court distinguished between genuine concerns about conflicting judicial orders and the strategic invocation of "judicial discipline" by a corporate debtor that had:

1. Defaulted for over 20 years.
2. Allowed a debt to grow from Rs 10.6 crore to Rs 154 crore.
3. Failed to comply with any statutory timeline under the Companies Act.
4. Obtained creditor consent in 2008, then sat idle for a decade while creditors withdrew that consent.
5. Filed critical documents with the Registrar four years beyond the deadline.

In such circumstances, invoking "judicial discipline" to stall IBC proceedings is an abuse of process. The Court made clear: **financial probity and national economic interest must take precedence**.

5. Revival Over Winding Up: The IBC's Core Philosophy

The Court emphasized that the IBC is fundamentally a **revival and resolution statute**, not merely a liquidation law. Liquidation is the last resort, to be used only when all attempts at revival fail.

Quoting from **A. Navinchandra Steels**, the Court noted:

"Short of an irresistible conclusion that corporate death is inevitable, every effort should be made to resuscitate the corporate debtor in the larger public interest, which includes not only the workmen of the corporate debtor, but also its creditors and the goods it produces in the larger interest of the economy of the country."

In this case:

1. The corporate debtor was still a going concern (not near "corporate death").
2. The IBC process, with its 180/270-day timeline, offered a realistic path to resolution.
3. The old management had demonstrated its inability to run the company (20+ years of default).
4. Keeping the old management in place while a 17-year-old scheme languished in courts would only destroy more value.

6. Compromise and Arrangement Can Happen Within the IBC

Importantly, the Court clarified that the corporate debtor's ability to propose a compromise or arrangement is not lost just because IBC proceedings have been initiated.

Section 230(1) of the Companies Act, 2013 specifically allows for compromise or arrangement proposals even during IBC proceedings. The Court noted:

"A compromise or arrangement under Section 230 of the Companies Act, 2013 can also be entered into in an IBC proceeding at the appropriate stage."

This means that if the corporate debtor genuinely wants to propose a settlement based on current debt figures (not 2008 figures), it can do so **within the IBC framework** before the Committee of Creditors or through a resolution plan. There is no need to cling to a long-defunct scheme under the old Companies Act.

The Judgment: NCLT Order Restored, IRP Resumes Charge

The Supreme Court **set aside the NCLAT's stay order** and **restored the NCLT's order** admitting the Section 7 application and initiating the Corporate Insolvency Resolution Process.

The practical consequences:

1. The moratorium under Section 14 of the IBC is back in force, protecting the corporate debtor from individual creditor actions during the resolution process.
2. The Interim Resolution Professional (IRP) resumes charge of the company, replacing the old management.
3. The IRP will verify claims, constitute the Committee of Creditors, and oversee the process of inviting and evaluating resolution plans.
4. The CIRP will proceed within the 180/270-day timeline prescribed by the IBC.
5. The old management, which had run the company into the ground, is out.

The Court vacated its earlier interim direction that had allowed the management to remain "in the loop" of day-to-day affairs. The IRP now has full control.

Key Legal Principles Established

Principle	What It Means
IBC overrides Companies Act proceedings	Section 238 gives the IBC overriding effect over all inconsistent provisions in other laws, including the Companies Act
Defunct schemes cannot block IBC	A Scheme of Arrangement that has not been properly implemented, violates statutory timelines, and has become economically redundant cannot prevent creditors from initiating IBC proceedings
Judicial discipline has limits	The principle of judicial discipline cannot be invoked by tardy litigants to hold public funds and economic recovery hostage; financial rectitude takes precedence
Section 7 is independent	A Section 7 petition under the IBC stands on its own merits and is not subordinate to pending proceedings under the Companies Act
Timelines matter	Gross non-compliance with statutory timelines (7 days, 14 days, 30 days) renders a scheme inoperative; courts will not condone delays measured in years when the statute prescribes days
Creditor consent withdrawal is decisive	When creditors formally withdraw consent to a scheme and the company ignores that withdrawal, the scheme cannot be forced upon them
Economic redundancy is fatal	A scheme based on 2008 debt figures cannot be applied to a 2024 debt situation where the amount has more than doubled; the scheme is economically inoperative
High Court jurisdiction ended in 2016	After the 2016 Rules came into force, pending second motions under Section 391 that had not been reserved for orders had to be transferred to NCLT
Revival is the goal	The IBC's primary purpose is revival and resolution, not liquidation; every effort must be made to resuscitate the corporate debtor unless corporate death is inevitable
Compromise possible within IBC	Corporate debtors can propose compromises or arrangements under Section 230 of the Companies Act even within IBC proceedings

Table 2: Key legal principles from Omkara Assets Reconstruction judgment

Why This Judgment Matters

For Corporate Debtors

You cannot use stale, improperly implemented schemes under the Companies Act as a shield against legitimate creditor claims under the IBC. If you have defaulted, allowed debt to accumulate for decades, violated every statutory timeline, and lost creditor consent, you cannot hide behind "judicial discipline" or "pending proceedings" to avoid accountability.

The days of "litigation as a business strategy" to delay creditor recovery are over. The IBC will cut through procedural smokescreens where financial rectitude demands it.

For Creditors

Creditors now have greater confidence that their Section 7 applications will not be derailed by the corporate debtor pointing to ancient, moribund schemes pending before Company Courts. The IBC's overriding effect is real and will be enforced even when High Court proceedings are technically pending.

The judgment also clarifies that formal withdrawal of consent to a scheme is legally significant and will be recognized by courts.

For the IBC Ecosystem

The judgment reinforces the IBC's status as India's primary insolvency resolution framework. The NCLT's jurisdiction is affirmed. The Appellate Tribunal (NCLAT) is reminded that "judicial discipline" cannot trump the statutory scheme and economic imperatives of the IBC.

Resolution Professionals now have greater assurance that once they are appointed and a moratorium is imposed, that protection will not be casually lifted on vague procedural grounds.

For the Economy

Every month that a distressed company remains in the hands of a management that has already demonstrated its inability to run it successfully is a month of value destruction, for creditors, employees, suppliers, and the broader economy.

The Supreme Court's decision prioritizes speed, resolution, and rehabilitation over endless procedural wrangling. This aligns perfectly with the IBC's core objective: maximize value, minimize time, revive where possible.

Practical Takeaways

1. **If you are a corporate debtor contemplating a scheme under the Companies Act while facing potential IBC proceedings:** Ensure you comply with every statutory timeline. Days matter, not months or years. Obtain and maintain creditor consent. Update your scheme to reflect current economic realities. If your scheme is based on figures from years ago, it will be deemed economically redundant.
2. **If you are a creditor considering Section 7 proceedings:** Do not be deterred by the corporate debtor's claim that a scheme is "pending approval" before a High Court. Investigate whether statutory timelines were met, whether the scheme is economically viable based on current debt, and whether creditor consent still exists. If the scheme is defunct, the IBC will prevail.
3. **If you are a resolution professional:** Once appointed, assert your authority promptly. The moratorium is your shield. This judgment confirms that courts will protect the integrity of the CIRP process even when the corporate debtor points to other pending proceedings.
4. **If you are a lawyer advising on insolvency matters:** Section 238 is not a mere drafting flourish, it has real teeth. The IBC's overriding effect will be enforced. "Judicial discipline" is not a magic wand that can indefinitely delay IBC proceedings. Advise clients realistically about the strength (or weakness) of procedural objections to CIRP initiation.

The Larger Doctrinal Point: When Does Procedure Serve Justice, and When Does It Obstruct It?

This judgment engages with a deeper jurisprudential question that every law student and practitioner should reflect upon: **What is the purpose of procedural rules?**

Procedure exists to serve justice, not obstruct it. Rules about timelines, jurisdiction, and coordination between courts are designed to ensure fairness, predictability, and efficiency. But when those same rules are weaponized by parties who have already violated every substantive obligation, financial, contractual, and statutory, courts must ask whether enforcing procedural niceties in that context serves justice or defeats it.

Justice Chandran's answer is that in cases with significant economic implications, where public funds are at stake, where an industry's survival hangs in the balance, and where the corporate debtor has demonstrated sustained bad faith through decades of default and procedural non-compliance, **financial rectitude must prevail over procedural politeness**.

This is not an abandonment of procedure. It is a recognition that procedure is a means, not an end. The end is justice, and in the economic sphere, justice includes protecting creditors, reviving viable enterprises, preserving employment, and safeguarding the financial system.

Conclusion: The IBC Means Business

The Supreme Court's decision in **Omkara Assets Reconstruction v Amit Chaturvedi** is a powerful reaffirmation of the IBC's primacy in India's corporate insolvency landscape. It tells corporate debtors, creditors, tribunals, and High Courts alike: the IBC is not a suggestion, it is the law. Its overriding effect under Section 238 is not theoretical, it is operational. Its timelines are not advisory, they are mandatory.

And when a corporate debtor attempts to use procedural objections, stale schemes, and "judicial discipline" as tools to delay, obstruct, and avoid accountability, the courts will look past the rhetoric to the financial reality. If the scheme is defunct, the timelines violated, the creditors opposed, and the debt ballooning, the IBC will proceed.

As the Court put it, tardy litigators engaged in fractious litigation aimed at jeopardizing public funds will not be permitted to put the economy in a hostage situation.

The message is clear. The IBC means business, and business means revival, resolution, and rehabilitation, not endless litigation.

For more details, write to us at: contact@indialaw.in

Related Practice Areas

Insolvency & Bankruptcy