

NANWANI
SOLICITORS LLP



AGAMA®
LAW ASSOCIATES

# A Comparative Guide for Cross-Border Creditors on Debt Recovery and Enforcement in Hong Kong and India

September 2026



**ASHIMA SOOD**
Partner
Nanwani Solicitors LLP
M: +852 9555 1551
E: ashimasood@nanwanis.com

# HONG KONG

## 1. What are the main legal procedures available to a creditor seeking to recover an unpaid debt in Hong Kong?

Hong Kong offers creditors a sophisticated and creditor-friendly legal framework, supported by an independent judiciary and well-established enforcement mechanisms.

Claims for debt recovery commonly arise from unpaid invoices, loan agreements, guarantees, supply contracts and settlement agreements, with the appropriate recovery procedure depending on the nature of the debt, the contractual arrangements and whether the debt is disputed.

**Civil proceedings.** The principal method of recovery is through ordinary civil proceedings commenced in the appropriate court seeking judgment for the outstanding debt.

In ordinary civil proceedings, foreign plaintiffs ordinarily resident outside Hong Kong may be ordered to provide security for the defendant's costs. The court has discretion whether to make such an order, having regard to all the circumstances.

**Summary judgment.** Depending on the nature of the debt and the available evidence, creditors may seek summary judgment where the debtor has no bona fide defence to the claim.

**Insolvency-based remedies.** Where the debt is undisputed and amounts to or exceeds the statutory threshold of HK$10,000, creditors may also consider insolvency-based remedies. In case of corporate debtors, this may involve the presentation of a winding-up petition, while creditors of individual debtors may commence bankruptcy proceedings subject to the applicable statutory requirements.

Although insolvency procedures are not intended to serve as debt collection tools in disputed cases, they often provide significant commercial leverage where the debt is clearly established.

**Alternative dispute resolution mechanisms.** Alternative dispute resolution mechanisms such as arbitration and mediation also play an important role. Many commercial contracts contain arbitration clauses, particularly in cross-border transactions involving Mainland China and other Asian jurisdictions. Creditors must therefore carefully review the applicable dispute resolution provisions before commencing proceedings.

In practice, an effective recovery strategy requires consideration not only of how judgment may be obtained but, more importantly, how it will ultimately be enforced against the debtor's available assets.

## 2. What pre-action steps should creditors consider before commencing proceedings? What are the requirements for statutory demands?

Hong Kong does not generally impose mandatory pre-action protocols equivalent to those found in some other jurisdictions.

**Letter of demand.** Creditors commonly issue a formal letter of demand before commencing proceedings. The letter will typically set out the legal basis for the claim supported by documentation and make a demand for payment within a period of time.

In many cases, a formal demand prompts engagement from the debtor and may facilitate an early settlement without incurring litigation costs.

**Pre-action assessment.** Before commencing formal proceedings, it is advisable for creditors to assess the debtor's financial position, their available assets and potential defences. The relevant contractual documentation should also be reviewed to identify any preconditions to proceedings or applicable dispute resolution provisions.

**Statutory demands.** Where a debt is due and undisputed, a statutory demand may provide an effective route towards insolvency proceedings. The minimum debt threshold is HK$10,000 for both winding-up and creditor-initiated bankruptcy proceedings.

*Corporate debtors.* Under the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32), where a company owing HK$10,000 or more fails to pay, secure or compound the debt to the creditor's reasonable satisfaction for three weeks after service of a statutory demand, it may be deemed unable to pay its debts. This may provide the basis for a winding-up petition.

The statutory demand should identify the debt and amount due and must comply with the prescribed form and service requirements. The debt relied upon should be presently due and not subject to a genuine and substantial dispute.

*Individual debtors.* Under the Bankruptcy Ordinance (Cap. 6), a creditor owed at least HK$10,000 may, subject to the statutory requirements, present a bankruptcy petition against an individual debtor. The form, content, service and setting aside of bankruptcy statutory demands are specifically governed by the Bankruptcy Rules (Cap. 6A).

*Commercial considerations.* The significance of a statutory demand often lies in the consequences of the insolvency proceedings which may follow. The prospect of winding-up or bankruptcy proceedings may encourage a debtor to engage promptly with the creditor and explore repayment or settlement.

*Disputed debts and creditor risk.* Creditors should proceed cautiously where liability is disputed. Insolvency proceedings should not be used as a substitute for ordinary civil proceedings to determine a genuinely disputed debt. Before using this route, creditors should assess whether there is a genuine and substantial dispute, set-off or counterclaim which may make insolvency proceedings inappropriate.

**Alternative dispute resolution.** In appropriate commercial disputes, parties should also consider whether negotiation or mediation may achieve an earlier commercial resolution before proceedings are commenced.

## 3. Which courts or tribunals have jurisdiction over debt recovery claims, and what are the relevant monetary thresholds?

The appropriate forum depends primarily on the value and nature of the claim, as well as any applicable dispute resolution agreement.

**Small Claims Tribunal.** Claims not exceeding HK$75,000 are generally heard in the Small Claims Tribunal, where legal representation is not permitted in the proceedings.

**District Court.** The District Court has jurisdiction over ordinary contractual debt claims exceeding HK$75,000 and up to HK$3 million.

**Court of First Instance of the High Court.** Claims exceeding HK$3 million are generally commenced in the Court of First Instance of the High Court, which has unlimited civil jurisdiction. It also deals with insolvency proceedings.

**Insolvency proceedings.** Separate procedures apply where a creditor seeks the winding-up of a corporate debtor or the bankruptcy of an individual debtor. For both winding-up and bankruptcy proceedings, the relevant minimum debt threshold is HK$10,000.

**Arbitration.** Where the parties have agreed to refer disputes to arbitration, a creditor may be required to pursue the debt through arbitration rather than court proceedings. The relevant arbitration agreement should therefore be considered before proceedings are commenced.

## 4. What summary procedures are available for the recovery of undisputed debts?

Applying for summary judgment under Order 14 of the Rules of the High Court (Cap. 4A) or Rules of the District Court (Cap. 336H) is one of the most effective debt recovery mechanisms in Hong Kong.

**Procedure.** Where the defendant has no defence to the claim, the plaintiff may apply for summary judgment without proceeding to a full trial.

Summary judgment is commonly used in claims involving unpaid loans, guarantees, invoices and other straightforward contractual obligations.

Once the defendant has indicated an intention to defend, the creditor may apply for summary judgment by way of summons supported by affidavit evidence substantiating the claim and exhibiting the relevant documentary evidence.

To resist summary judgment, a defendant must demonstrate that it has a bona fide defence or a triable issue or some other reason why the matter should proceed to trial. Mere assertions or unsubstantiated allegations are generally considered insufficient.

The application is then determined at a hearing. The court may grant judgment, give the defendant leave to defend, whether conditionally or unconditionally, or direct that the claim proceed to trial.

**Timing.** A summary judgment application can generally be determined within a few months of the application being made, although the actual timeframe depends on the complexity of the matter and the court's diary.

The risk of judgment being entered at an early stage can create significant commercial pressure on debtors to engage in settlement discussions.

For creditors with strong documentary evidence, summary judgment can significantly reduce both the duration and cost of recovery proceedings.

From a practical perspective, creditors should ensure that contractual documentation, correspondence and payment records are properly preserved, as the quality of contemporaneous evidence often determines whether summary judgment can be successfully obtained.

## 5. What interim remedies are available to protect assets before judgment is obtained?

Preserving assets is equally important as securing a favourable judgment. Hong Kong courts possess extensive powers to grant interim relief to prevent debtors from frustrating enforcement through asset dissipation or concealment.

**Mareva injunction.** The most significant remedy is a Mareva injunction (freezing injunction), which restrains a defendant from disposing of or dealing with assets pending the determination of proceedings, and may, where appropriate, extend to assets outside Hong Kong.

To obtain a freezing injunction, the applicant must generally establish a good arguable case and a real risk of dissipation, supported by solid evidence rather than mere suspicion. For example, evidence that a debtor is taking steps to transfer substantial assets out of the jurisdiction after becoming aware of the claim may support such a risk.

**Proprietary injunction.** Where the creditor asserts a proprietary interest in specific property, it may seek a proprietary injunction to preserve that property pending determination of the claim. Unlike a Mareva injunction, a real risk of dissipation is not ordinarily required as the injunction protects the specific property claimed rather than assets generally available to satisfy a future judgment.

**Anton Piller Order.** In exceptional cases, an Anton Piller (search) order may be obtained where there is a serious risk that relevant documents or other evidence will be destroyed or concealed. This is primarily an evidence-preservation remedy rather than an asset-freezing measure.

**Appointment of a Receiver.** In appropriate cases, the court may appoint a receiver to take control of and preserve particular property pending determination of the dispute. This may be used where an injunction alone would not provide adequate protection.

**Appointment of a Provisional Liquidator.** Following the presentation of a winding-up petition, the court may in appropriate circumstances appoint a provisional liquidator to protect and preserve the company's assets pending determination of the petition. This is an insolvency remedy and is distinct from a freezing injunction or receivership.

**Interim relief in support of foreign proceedings.** Section 21M of the High Court Ordinance (Cap. 4) also enables the Court of First Instance to grant interim relief, including the appointment of a receiver or a freezing injunction, in support of proceedings commenced or to be commenced outside Hong Kong, provided those proceedings are capable of resulting in a judgment enforceable in Hong Kong.

This allows a creditor pursuing proceedings overseas to seek protection of assets in Hong Kong without having to commence parallel substantive proceedings here.

In appropriate cases, urgent relief may be sought without notice to the debtor on an ex-parte basis, thereby reducing the risk of asset dissipation before relief is granted. An applicant proceeding without notice is required to make full and frank disclosure of all material matters to the court.

These remedies make Hong Kong a particularly attractive jurisdiction for international asset recovery and fraud-related claims.

## 6. Can creditors obtain information about a debtor's assets and financial position, and if so, how?

Hong Kong provides several mechanisms through which creditors may identify and investigate a debtor's assets both before and after judgment.

**Pre-judgment.** Prior to obtaining judgment, creditors frequently undertake searches through the Companies Registry, Land Registry, Business Registration Office, intellectual property registers, litigation search and other databases. These searches may reveal corporate structures, directorships, property details and other information relevant to assessing the debtor's financial position.

In complex or cross-border matters, creditors may supplement these searches with forensic investigations, asset tracing exercises and intelligence gathering conducted by specialist investigators.

**Post-judgment.** Following judgment, creditors have additional court procedures available to obtain information about assets.

*Examination under Order 48 of the Rules of the High Court (Cap. 4A) or Rules of the District Court (Cap. 336H).* A judgment creditor may apply for an order requiring the judgment debtor to attend court for examination as to debts owed to it, its property and other means of satisfying the judgment, and to produce relevant documents. Similar examination procedures are available in relation to corporate debtors through appropriate officers of the company. Failure to attend or comply may ultimately result in imprisonment.

*Examination under Order 49B of the Rules of the High Court (Cap. 4A) or Rules of the District Court (Cap. 336H).* For individual judgment debtors, Order 49B provides wider powers to require disclosure of assets, liabilities, income, expenditure and disposals. The court may, where appropriate, order the debtor's arrest to secure attendance and prohibit the debtor from leaving Hong Kong. Failure to attend or make the required disclosure may also lead to imprisonment.

A successful enforcement strategy is frequently built upon early asset identification rather than relying solely on post-judgment recovery efforts.

## 7. What limitation periods apply to debt recovery claims?

Limitation periods are governed principally by the Limitation Ordinance (Cap. 347).

For most claims arising from a simple contract, proceedings must be commenced within 6 years from the date on which the cause of action accrued. This limitation period applies to the majority of commercial debts and contractual payment obligations.

Longer limitation periods of 12 years may apply in respect of contracts under seal, i.e., a deed.

Creditors should also be aware that an acknowledgment of the debt or part-payment can cause the right of action to accrue afresh for limitation purposes. An acknowledgment must be in writing and signed by the person making it.

Limitation issues can be highly fact-specific, and as such, creditors should seek legal advice promptly where there is any risk of a claim becoming time-barred.

## 8. How are domestic and foreign judgments enforced, and what enforcement methods are commonly used against debtors?

A judgment is valuable only to the extent that it can be enforced.

**Domestic judgments.** In Hong Kong, creditors may utilise a range of enforcement mechanisms, with the appropriate method depending largely on the nature and location of the debtor's assets.

*Garnishee proceedings.* A creditor may seek to attach monies owed by a third party to the judgment debtor, most commonly funds standing to the debtor's credit in a bank account.

*Charging orders.* A creditor may obtain a charge over certain assets of the judgment debtor, including property and securities, as security for the unpaid judgment debt.

*Appointment of a receiver.* In appropriate cases, the court may appoint a receiver to take control of, manage or realise assets or income of the judgment debtor for the purpose of satisfying the judgment.

*Committal orders.* Where the relevant requirements are satisfied, the court may order committal for failure to comply with certain judgments or court orders.

*Writs of execution.* A creditor may obtain a writ of execution enabling enforcement officers to seize and sell the judgment debtor's goods and other assets to satisfy the judgment.

*Insolvency proceedings.* Where a judgment debt remains unpaid and the applicable requirements are met, a creditor may consider winding-up proceedings against a corporate debtor or bankruptcy proceedings against an individual debtor.

**Foreign judgments.** Foreign judgments may be recognised and enforced in Hong Kong through statutory registration or at common law, depending on the jurisdiction in which the judgment was obtained and whether the relevant requirements for recognition and enforcement are satisfied. Once recognised or registered, a foreign judgment may generally be enforced using the same enforcement mechanisms available for a domestic Hong Kong judgment.

*Statutory registration.* Qualifying judgments from jurisdictions designated under the Foreign Judgments (Reciprocal Enforcement) Ordinance (Cap. 319), including India, may be registered in the Court of First Instance and thereafter enforced in Hong Kong. Registration is subject to the statutory requirements being satisfied.

*Common law recognition.* Where no applicable statutory registration regime exists, a creditor may commence fresh proceedings in Hong Kong based on the foreign judgment debt. Once judgment is obtained in those proceedings, the creditor may pursue the usual Hong Kong enforcement methods.

*Mainland China judgments.* A separate statutory regime governs the reciprocal recognition and enforcement of civil and commercial judgments between Hong Kong and Mainland China. For judgments falling within the current regime which came into operation on 29 January 2024, the framework significantly broadens the categories of civil and commercial judgments capable of reciprocal recognition and enforcement.

## 9. What recent developments, reforms, or market trends are affecting debt recovery and enforcement?

Several developments continue to shape the debt recovery and enforcement landscape in Hong Kong.

**Cross-border enforcement.** Cross-border enforcement has assumed increasing importance as commercial activity between Hong Kong and Mainland China continues to deepen. The expanded reciprocal enforcement framework has strengthened the ability of creditors to pursue qualifying judgments across the two jurisdictions and reduced the need for re-litigation of the underlying dispute.

**Insolvency and restructuring.** Economic pressures and challenging conditions in certain sectors have increased the importance of insolvency-related remedies, restructuring options and early enforcement planning.

**Asset tracing and preservation.** Sophisticated asset-tracing and preservation strategies are playing an increasingly prominent role in debt recovery, particularly in complex fraud and cross-border cases. Creditors are placing greater emphasis on early asset investigations, freezing and disclosure orders, and coordinated multi-jurisdictional recovery strategies.

**Technology and AI-assisted investigations.** Developments in artificial intelligence and data analytics are also influencing how asset investigations are conducted, particularly where large volumes of corporate, transactional and publicly available information need to be reviewed. Where appropriate, creditors are utilising these tools to map out complex, multi-jurisdictional shell structures and gather the forensic data required to secure high-threshold Mareva (freezing) injunctions.

**Third-party funding.** Third-party funding may also form part of the recovery strategy in certain cases, particularly arbitration and insolvency-related proceedings. However, funding of ordinary court

litigation in Hong Kong remains subject to restrictions under the doctrines of maintenance and champerty, save for recognised exceptions.

**Digital assets.** The growth of disputes involving cryptocurrencies and other digital assets is also affecting recovery strategies. Hong Kong courts have recognised cryptocurrency as property capable of being held on trust, enabling established proprietary and asset-preservation remedies to be applied to this developing asset class.

## 10. Practical tips for creditors seeking to recover debts in Hong Kong.

The below practical steps can materially improve recovery prospects for creditors seeking to recover debts in Hong Kong.

**Engage lawyers early**. Early legal advice can help preserve rights, assess the strength of the claim, identify assets and determine the most effective recovery and enforcement strategy before valuable options are lost.

**Review guarantees and security documents immediately.** Check jurisdiction and arbitration clauses, personal and corporate guarantees, registered charges, and other enforceable security interests.

**Preserve payment and communication records**. Retain contracts, purchase orders, invoices, delivery records, correspondence, acknowledgments of debt and payment records. Contemporaneous evidence can be critical to establishing the debt and obtaining expedited relief.

**Investigate assets before commencing proceedings**. Creditors should investigate the debtor's asset position before commencing proceedings, including but not limited to conducting (i) Land Registry searches; (ii) Companies Registry searches; (iii) vehicle, vessel or aircraft ownership searches where relevant; (iv) litigation searches; (v) obtaining group company structure information or other publicly available financial information.

**Consider summary judgment**. Where the debtor has no genuine defence and the documentary evidence is strong, summary judgment may offer a quicker and more cost-effective route than a full trial, particularly for straightforward claims arising from loans, invoices, guarantees or settlement agreements.

**Move quickly if asset dissipation is suspected**. Where there is evidence of a real risk that assets may be dissipated or placed beyond the reach of enforcement, consider whether urgent interim relief, including a freezing injunction, is appropriate.

**Consider insolvency proceedings where appropriate**. Winding-up or bankruptcy proceedings may be effective where the debt is due and undisputed. Creditors should first consider whether there may be any genuine and substantial dispute concerning the debt.

**Consider cross-border enforcement**. Identify where the debtor's assets are located, which courts have jurisdiction, and whether the eventual judgment or award can be enforced where the assets are situated.

**Consider settlement.** Consider without prejudice negotiations, payment plans, consent judgments, security-backed settlements and additional guarantees or security. An early commercial settlement may sometimes provide a better net recovery than prolonged litigation and enforcement.

In debt recovery, obtaining judgment is only half the battle. The most successful creditors are those who approach litigation, asset tracing and enforcement as part of a single, integrated recovery strategy.

*If you are seeking to recover a debt in Hong Kong, early advice can significantly improve recovery prospects. Our team at Nanwani Solicitors LLP can assist in assessing the available recovery options, identifying and preserving assets, and developing an effective enforcement strategy tailored to your circumstances.*

Contact:
**ASHIMA SOOD**
Partner
Nanwani Solicitors LLP
M: +852 9555 1551
E: ashimasood@nanwanis.com
W: www.nanwanis.com



**ARCHANA BALASUBRAMANIAN**
Partner
Agama Law Associates
M: +91 98203 02703
E: archana@agamalaw.com



**AMRITA HARDIKAR**
Of Counsel
Agama Law Associates
M: +852 5635 4549
E: amrita.hardikar@agamalaw.com

# INDIA

**Scope and Approach.** India's debt-recovery and enforcement framework offers creditors several routes to pursue unpaid debts, choosing the right one depends on multiple factors such as nature of debt, the security, identity of parties, etc. This article distils the key questions a cross-border or a domestic creditor is likely to ask from the recognition of foreign judgments to the enforcement of security and the procedural traps that can derail a claim into a single practical guide. It is intended as a high-level overview only; the right strategy in any given case must be tested against the specific facts, the governing law, the location of assets, and the latest statutory and judicial developments.

## 1. What are the main legal procedures available to a creditor seeking to recover an unpaid debt in India?

A creditor's decision to advance a debt is fundamentally premised on the expectation that the debtor will fulfil its repayment obligations. This expectation is reinforced by effective recovery mechanisms that safeguard creditors' rights, provide remedies in the event of default, and thereby encourage repayment discipline.

The most prominent insolvency law in India is the **Insolvency and Bankruptcy Code, 2016 (hereinafter referred as 'Bankruptcy Code).** It came into effect in May 2016 and replaced or amended multiple recovery laws, such as the Recovery of Debts and Bankruptcy Act [RDB Act] (1993), the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act [SARFAESI] (2002), among others. To ensure that there is no conflict between Bankruptcy Code and other laws, S.238 of Bankruptcy Code gives the statute an overriding effect over the other laws, making it the primary code on insolvency matters.

Unlike its predecessors, which focused mainly on recovery, the Bankruptcy Code prioritises restructuring and value maximisation. It distinguishes between a business that has genuinely failed and one that is merely unable to pay; in the latter case, the **Corporate Insolvency Resolution Process (CIRP)** lets creditors restructure and revive the company while still recovering their dues. If resolution fails, the corporate debtor proceeds to liquidation.

The CIRP is triggered by a default, which under Section 3(12), means any unpaid debt or instalment. The procedure can be initiated by three routes:

Firstly, Financial Creditors, who can initiate CIRP under S.7, upon the default of financial debt, as defined under S.5(8). Financial debt, is disbursed against time value of money and has a commercial effect of borrowing, thus, financial institutions fall under this category.

Secondly, Operational Creditors may initiate CIRP under S.9, for claims arising from the provision of goods/services, employment or statutory dues. However, the creditors must serve a demand notice, which the debtor shall respond to, by highlighting that there is a pre-existing dispute regarding the demand or with proof of payment. If there is no response, then CIRP may be initiated.

Lastly, the Corporate Debtor may initiate the CIRP themselves under Section 10, with a special resolution passed by the shareholders.

The NCLT must admit or reject the application within 14 days. Once admitted, CIRP is run by a Committee of Creditors (CoC) comprising all unrelated Financial

Creditors and a Resolution Professional (RP). The RP administers the process, prepares the information memorandum, and screens resolution plans for compliance, but the commercial decision on a plan's viability rests entirely with the CoC, which must approve key decisions by a 66% majority.

The outer limit to conclude CIRP is 330 days, however, the Supreme Court[1], struck down the timeline as 'mandatory', if the delay is attributable to the tribunals themselves.

## 2. What pre-action steps should creditors consider before commencing proceedings? What are the requirements for statutory demands?

An application to initiate CIRP, requires a default on the debt owed. Before filing, applicants must clear the eligibility bar under Section 11, which excludes debtors already undergoing CIRP or a pre-packaged process, those who completed CIRP or had a resolution plan approved within the preceding 12 months, and more.

Financial Creditors may apply alone or jointly, with no distinction between secured and unsecured status for initiating CIRP. The application (Form 1) is filed with supporting records under the 2016 Adjudicating Authority Rules[2], and served on the debtor's registered office and board, along with a record of default, a proposed Interim Resolution Professional, and that professional's written consent (Form 2) with an eligibility certificate.

Operational Creditors must first issue a demand notice (Form 3, with invoice in Form 4). The debtor has 10 days to either prove a pre-existing dispute, a suit already pending before the notice or show payment. Failing either, the creditor may file a Section 9 application (Form 5) with the invoice, demand notice, an affidavit confirming no dispute exists, and, where available, a bank certificate or information-utility record of non-payment, along with a proposed Resolution Professional's consent and eligibility certificate.

## 3. Which courts or tribunals have jurisdiction over debt recovery claims, and what are the relevant monetary thresholds?

Insolvency and recovery matters are primarily split between the National Company Law Tribunal (NCLT) and the Debt Recovery Tribunal (DRT). Section 63 of the Bankruptcy Code bars civil courts from exercising jurisdiction over matters reserved for the NCLT and from granting injunctions against NCLT-sanctioned actions. The NCLT, the National Company Law Appellate Tribunal (NCLAT), and the Supreme Court form the core appellate architecture of the Bankruptcy Code.

The NCLT, constituted under Section 408 of the Companies Act and designated as the Adjudicating Authority under Section 5 of the Bankruptcy Code, handles insolvency and liquidation of corporate persons and, under Section 60(1), also acts as the forum for personal guarantors of corporate debtors, through benches with state-wise territorial jurisdiction. The minimum default amount is INR 1 Cr. An appeal against the NCLT order, lies to the NCLAT and from there to the Supreme Court, on substantial question of law.

The DRT is designated under Section 79(1) as the Adjudicating Authority for insolvency of individuals and partnership firms, though barring personal guarantors, who fall under the NCLT, these provisions are not yet in force, so DRTs currently do not function as Adjudicating Authorities under the Bankruptcy Code. Independently, the DRT hears recovery applications by banks under the RDB Act (minimum claim of ₹20 lakh) and matters under SARFAESI, which has no fixed minimum monetary threshold but requires the debt to exceed ₹1 lakh and the unpaid amount to exceed 20% of principal plus interest. Appeals against an order of DRT lie to Debt Recovery Appellate Tribunal (DRAT).

The machinery of the NCLT is fully operational for corporate insolvency, but the DRT's insolvency role for individuals and partnerships remains dormant; therefore, personal guarantors are routed to a corporate-focused forum instead. There have been persistent infrastructural gaps, which led the Parliamentary Standing Committee on Finance's 2024 report to recommend better IT and physical infrastructure and stronger monitoring of pendency and disposal rates. This underscores the need for procedural rules tailored to the authority's actual operations.

[1] CoC of Essar Steel India Limited Vs. Satish Kumar Gupta (2019)

[2] Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

## 4. What summary procedures are available for the recovery of undisputed debts?

India's jurisprudence on debt enforcement and corporate restructuring has progressively shifted from traditional civil litigation toward creditor-led, expedited resolution frameworks. The following procedures ensure a quick recovery for creditors:

Order XXXVII of the Civil Procedure Code (CPC) provides a fast-track mechanism for recovery of liquidated monetary claims in written contracts, primarily before High Courts, City Civil Courts and Courts of Small Causes. The plaint must specifically invoke Order XXXVII and be confined to liquidated sums. The defendant must enter its appearance within 10 days of the summons and, if appearing, seek leave to defend by disclosing a substantial defence. The court may impose conditions on such leave, while frivolous or vexatious defences may be rejected. Order XXXVII CPC is a summary suit procedure designed to deliver quick, decree-level relief on clear, liquidated monetary claims where the defendant cannot show a genuine dispute on merits.

Summary judgment under Order 13-A, CPC is available for "commercial disputes" under the Commercial Courts Act, for suits filed which arise out of bank and financial transactions where the debtor has no real prospect of success and no oral evidence is genuinely needed. It can be sought any time after summons but before issues are framed, and the respondent gets 30 days to reply. The Supreme Court[3] held that summary judgment under Order XIII-A, CPC is exceptional and requires strict adherence to the prescribed procedure. It may be granted where a party has no real prospect of succeeding or defending the claim, and a full trial or oral evidence is unnecessary. Thus, a creditor may seek summary judgment where the debtor has no real prospect of defending the claim.

Lastly, The Pre-Packaged Insolvency Resolution Process (PPIRP), under the Bankruptcy Code, is a fast-track, MSME-only route in which promoters and Financial Creditors negotiate a resolution plan before seeking NCLT approval, with incumbent management staying in place under RP supervision, a debtor-in-possession model, unlike ordinary CIRP. Eligibility requires MSME status, no recent insolvency history, Section 29A compliance, and creditor consent, with a statutory 120-day timeline. In practice, however, fast resolution is not guaranteed, as in the case of GCCL Infrastructure and Projects Limited[4], the first company to complete PPIRP, the plan reached the CoC in December 2021 but received final NCLT approval only in September 2023 nearly two years later due to tribunal backlog, showing that the mechanism's success still depends on how efficiently it is administered.

## 5. What interim remedies are available to protect assets before judgment is obtained?

Bankruptcy Code imposes a mandatory moratorium under Section 14 once the CIRP is admitted. It acts as a statutory asset-protection shield for corporate debtors during resolution. It bars all pending suits, bars the debtor from transferring assets, prevents recovery of property by owners or lessors, and others. It runs from the admission to the completion. Violation of the same would result in a penalty under S.235A.

Thus, post-admission, multiple proceedings are barred. The moratorium also extends to income-tax proceedings, Indirect tax proceedings and to the arbitration against the debtor, though the debtor may still pursue and enforce awards in its own favour. In Shree Bhawani Paper Mills[5], the NCLAT confirmed Section 14 overrides even SEBI Act powers, so regulators cannot take coercive steps against a debtor under moratorium. Hence, imposition of penalties is also barred.

Before admission, there is no automatic moratorium, but the NCLT can grant limited interim relief under Rule 11 of its own Rules where there is a strong prima facie case and a credible risk of asset dissipation as it did in NUI Pulp v. Roxcel Trading[6], an approach the Supreme Court later effectively endorsed.

## 6. Can creditors obtain information about a debtor's assets and financial position, and if so, how?

For obtaining information two channels exist. First, through the RP, under Section 18, the RP must collect information on the debtor's business operations, financial and operational payments, and assets and

[3] Reliance Eminent Trading and Commercial Private Limited v. Delhi Development Authority (2026)-MANU/SC/0426/2026
[4] Parag Sheth, Resolution Professional of GCCL Infrastructure and Projects Limited, [2024]252CompCas194
[5] Ms. Anju Agarwal, RP (Shree Bhawani Paper Mills Ltd.) Vs. Bombay Stock Exchange and Others [Company Appeal (AT) (Ins) No. 734/2018]
[6] NUI Pulp v. Roxcel Trading (2019)

liabilities over the preceding two years, and take control of the debtor's assets including foreign assets, intangible property such as intellectual property, and securities. Further, Under Section 21(9)–(10), the CoC, i.e. the creditors can require the RP to furnish any relevant financial information, which the RP must supply within seven days.

Second, through Information Utilities (IUs) which are IBBI-registered repositories created to reduce information asymmetry by authenticating and storing data on debts, defaults, and security interests. IUs help establish default quickly when a financial creditor files under Section 7, assist in identifying creditors for the CoC, and support liquidators in verifying secured claims. Their records are admissible as evidence, and the Adjudicating Authority must use IU data to establish default within 14 days. IUs must verify information with concerned parties, notify creditors of defaults, provide statutory access, and act as data custodians, not owners, while ensuring interoperability, unique identification, and flagging not overwriting errors.

## 7. What limitation periods apply to debt recovery claims?

Limitation operates as a threshold issue in debt recovery proceedings, capable of defeating a claim irrespective of its merits. Under Section 238A of Bankruptcy Code, the Limitation Act, 1963 applies, as far as may be, to proceedings before the Adjudicating Authorities. Introduced in 2018, Section 238A clarified the application of limitation to insolvency proceedings and prevented the Bankruptcy Code from being used as an alternative mechanism to revive otherwise time-barred debts.

The position was authoritatively settled by the Supreme Court in B.K. Educational Services Pvt. Ltd. v. Parag Gupta and Associates[7]. The Court held that Article 137 of the Limitation Act applies to applications under Sections 7 and 9 of the Bankruptcy Code from the Code's inception, making Section 238A clarificatory rather than prospective. The Court further rejected the contention that the Bankruptcy Code, as a complete code, was beyond the operation of the Limitation Act, observing that insolvency proceedings cannot be used to revive stale claims.

Under Article 137, a three-year limitation period applies where no specific period is prescribed, commencing from the date on which the right to apply accrues. In the context of Sections 7 and 9, the Supreme Court held that the right to sue accrues upon default. Accordingly, where the default occurred more than three years before the filing of the insolvency application, the application is ordinarily barred by limitation, subject to condonation under Section 5 of the Limitation Act upon sufficient cause.

The recent decision of the Supreme Court in Srinivasa Reddy Velagala v. Sravanthi Infratech[8] further elucidates the application of Section 238A of the Bankruptcy Code to claims by operational creditors. The Court held that a "default" within the meaning of Section 3(12) occurs when the whole or any part or instalment of a debt becomes due and payable and remains unpaid by the debtor. Accordingly, a default occurs at a specific point in time, and the mere subsistence of the underlying contract does not create a continuing cause of action in respect of an amount that has already fallen due and remained unpaid.

Similar three-year periods (via Article 137 of the Limitation Act) apply to RDB Act and SARFAESI Act proceedings, and to residual civil suits under Article 113 or Article 55 (for breach of a written contract). One notable exception: claims secured by mortgage or charge on immovable property carry a 12-year limitation period under SARFAESI. Across all these regimes, the consistent principle is that none of these summary or insolvency mechanisms can be used to revive a claim that is already time-barred.

## 8. How are domestic and foreign judgments enforced, and what enforcement methods are commonly used against debtors?

Foreign judgments can be enforced under Sections 13 and 44A of the CPC, depending on whether the originating country is a notified "reciprocating territory." For reciprocating territories, a certified copy of the decree and a satisfaction certificate can be filed directly in the appropriate District Court, which then executes it as a domestic decree under Order XXI CPC, no fresh suit is needed. For non-reciprocating territories, the creditor must file a fresh civil suit in India, treating the foreign judgment as conclusive evidence under Section 13, subject to exceptions such as lack of jurisdiction, fraud, or

[7] B.K. Educational Services Pvt. Ltd. v. Parag Gupta and Associates (2018)

[8] Srinivasa Reddy Velagala v. Sravanthi Infratech further (2026)

breach of natural justice; if the Indian court decrees the suit, that decree is then executed the same way.

Domestic judgments are enforced through an execution petition under Order XXI CPC. Common methods include attachment of immovable property (Rule 54), attachment of debts, shares, or other property (Rule 46), attachment by seizure of movable property (Rule 43), and court-ordered sale of attached immovable property (Rules 82–96). Section 51 CPC also allows enforcement through delivery of decreed property, appointment of a receiver, or, in limited circumstances, arrest and detention, only after the debtor is given a chance to show cause and the court records specific findings, such as intent to evade execution.

Thus, foreign and domestic judgments can be enforced by the creditors under the above provisions.

Crucially, the Bankruptcy Code is not a substitute for execution. It is a collective process aimed at reviving distressed businesses, not a recovery mechanism for individual decree-holders. In Anjani Technoplast Ltd. v. Shubh Gautam[9], the Supreme Court held that the Bankruptcy Code cannot be invoked merely because a decree or arbitral award remains unsatisfied. A decree establishes debt and liability but does not automatically justify insolvency proceedings, and allowing decree-holders to bypass execution mechanisms would distort the Code's purpose into a tool for individual recovery. In practice, this means creditors should generally pursue enforcement through the CPC or the Arbitration Act; the Bankruptcy Code becomes appropriate only where the debtor's viability is genuinely in question and the goal is revival, restructuring, or, failing that, orderly liquidation.

## 9. What recent developments, reforms, or market trends are affecting debt recovery and enforcement?

Developments & Reforms

The Bankruptcy Code has undergone significant changes in 2026, aimed at making insolvency proceedings more time-bound, efficient and responsive to the evolving needs of creditors and distressed businesses.

One of the key amendments concerns the timeline for admission of applications under Section 7. The Adjudicating Authority is now required to ascertain the existence of default within fourteen days of receiving an application for initiation of CIRP. This marks a departure from the earlier judicial position, under which the fourteen-day period was regarded as directory rather than mandatory. In M/s Surendra Trading Company v. M/s Juggilal Kamlapat Jute Mills Company Ltd[10]., the NCLAT, whose view was subsequently upheld by the Supreme Court, had held that the timeline for admission or rejection was directory. The 2026 amendment effectively legislates against this interpretation by making the timeline mandatory and requiring reasons to be recorded where an order is not passed within fourteen days.

The amendment also places greater limits on withdrawal of insolvency proceedings. While Section 12A continues to permit withdrawal with the approval of 90% of the Committee of Creditors (CoC), withdrawal is now barred before constitution of the CoC and after the first invitation for resolution plans has been issued. The Adjudicating Authority must decide a withdrawal application within thirty days, recording reasons for any delay.

Another significant development is the introduction of frameworks for cross-border and group insolvency. Section 240C empowers the Central Government to frame rules governing cross-border insolvency, including recognition of foreign proceedings, relief and judicial cooperation. Similarly, the newly introduced Chapter VA provides a framework for group insolvency proceedings involving interconnected entities within the same corporate group. Such coordination can reduce costs, ease the burden on adjudicating authorities and enable creditors to assess the viability of a business group as a whole.

The amendment further introduces the Creditor-Initiated Insolvency Resolution Process (CIIRP), an out-of-court, fast-track mechanism under which specified Financial Creditors holding at least 51% of the aggregate debt may initiate resolution without prior NCLT approval. Operating on a debtor-in-possession model under the supervision of a Resolution Professional, CIIRP is subject to a 150-day timeline and cannot be invoked in specified circumstances involving recent insolvency proceedings.

[9] Anjani Technoplast Ltd. v. Shubh Gautam (2026)

[10] AIR 2018 SC 186

The Act also proposes temporary reinstatement of CIRP for a maximum period of 120 days, subject to 66% CoC approval, before liquidation follows if no resolution is achieved.

Market trends

These reforms come against the backdrop of the Bankruptcy Code's growing impact on debt recovery. As per the Ministry of Finance report of January 2026, as of September 2025, 8,659 CIRPs had been admitted, with 3,865 corporate debtors rescued and approximately ₹3.99 lakh crore realised through approved resolution plans. The Bankruptcy Code has consequently strengthened creditor recoveries, credit discipline and the broader health of the banking sector.[11]

At the same time, debt recovery is increasingly being shaped by RBI directions governing responsible conduct by banks and recovery agents. Requirements concerning training, call recording, borrower interaction and restrictions on coercive recovery practices impose greater compliance obligations on lenders. The overall trend is therefore towards a recovery framework that balances effective debt enforcement with procedural discipline and borrower protection.[12]

Lets look at the interplay of the arbitration contracts with the Financial Creditors. Corporate insolvency proceedings involving Financial Creditors are governed by the strict hierarchy where the Bankruptcy Code supersedes contractual arbitration. The legal framework operates differently depending on the stage of the insolvency proceedings. Therefore, if a financial creditor files a petition to initiate the CIRP against a debtor, the corporate debtor cannot automatically block the petition by invoking an existing arbitration agreement. Section 238 of the Bankruptcy Code contains an overriding clause stating that the Bankruptcy Code takes precedence over any other conflicting laws, including the Arbitration & Conciliation Act, 1996.

## 10. Practical tips for creditors seeking to recover debts in India.

The starting point is choosing the right framework for the objective. Where the goal is straightforward recovery, the RDB Act route may be more suitable; where the debtor's business is viable and the goal is revival and long-term value, the Bankruptcy Code is the better fit.

Under the Bankruptcy Code, although registration with an Information Utility is not compulsory, creditors should still maintain consistent records of debt and default, since these serve as strong primary evidence and speed up admission. Operational Creditors in particular should confirm their claim is genuinely undisputed before filing, and should ensure the demand notice is validly signed and issued by an authorised agent to the debtor's registered office. When proposing an Interim Resolution Professional, creditors should verify the professional is not disqualified under the Code and should separately confirm that any proposed resolution applicant is not barred under Section 29A by requesting proof against each disqualifying ground listed there.

Under the RDB Act, the claim must exceed the ₹20 lakh threshold, and secured creditors under Section 31B can prioritise their claim and recover through sale of secured assets ahead of unsecured creditors. Under Section 19, creditors improve outcomes through careful procedural choices from the outset: filing in the right jurisdiction (where the account-maintaining branch operates, where the cause of action arose, or where the borrower resides), and supporting the application with certified banker's book entries, verified affidavits, and a full schedule of secured assets with valuations. To guard against asset dissipation, creditors should seek early restraint orders against transfer of assets and, where third-party claims could arise, consider attachment before judgment or appointment of a receiver. Finally, any admission of debt by the borrower should be swiftly converted into a payment order or recovery certificate since a final certificate is treated as a court decree, it can directly trigger insolvency or winding-up proceedings if the debt remains unpaid.

**Conclusion.** To sum it up, India's debt-recovery framework affords creditors a considered choice among distinct instruments. The appropriate route turns not on procedural speed but on the debtor's underlying viability, the security attached to the debt, and the genuineness of any dispute. The judiciary has consistently policed the boundaries between these regimes, affirming that the Bankruptcy Code is

[11] https://www.pib.gov.in/PressReleasePage.aspx?PRID=2213154&reg=48&lang=2

[12] https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=13665&Mode=0

designed to resolve genuine corporate distress rather than to circumvent ordinary execution. Creditors, particularly those operating across jurisdictions, would therefore be well served by establishing a robust evidentiary record at the outset, selecting a forum consistent with their true objective, and remaining attentive to the evolving legislative reforms that continue to redefine timelines, thresholds, and procedure within this framework.

Contacts:

**ARCHANA BALASUBRAMANIAN**
Partner
Agama Law Associates
M: +91 98203 02703
E: archana@agamalaw.com
W: www.agamalaw.com

**AMRITA HARDIKAR**
Of Counsel
Agama Law Associates
M: +852 5635 4549
E: amrita.hardikar@agamalaw.com
W: www.agamalaw.com