

From Economic Reform to Insolvency Reform: A Legal Analysis of Airline Distress and the Evolving Framework of Insolvency Resolution in India

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Abstract—Industries capture the spirit of globalization in a country. In India, the aviation industry opened the wide skies after the economic reform of 1991, Liberalisation, which encouraged the private sector to enter the airline market, Privatisation, which enabled operational competition, and Globalisation, which expanded the demand for international connectivity. Over the next three decades, India's aviation sector emerged as one of the fastest-growing in the world, symbolising the aspirations of a liberalised economy which transformed air travel from a state-controlled service into a competitive, fast-growing industry. Another historic change that India implemented is the Insolvency and Bankruptcy Code (*herein further referred to as IBC*), 2016, which addresses the broader issue of corporate distress and transformed India's economy. The IBC's real assessment, anyway, lies in the globalised sector like aviation, where it will have to deal with issues like leased aircraft, cross-border claims, and regulatory barriers that ultimately decide whether distressed airlines may be revived or forced to fail. This was an eye-opener scenario for a country like India, where IBC is in the evolving stage, and every new scenario gives a new vision and interpretation of the law. This raises a serious question about whether the insolvency framework in India is equipped to secure revival in this sector. Therefore, the present paper seeks to critically examine the evolving insolvency framework in India under the IBC, with a focus on the aviation sector. It will further evaluate the effectiveness of the resolution framework through recent developments, notably highlighting the insolvency filing of *SpiceJet* and the case *Go First Airlines (2023)*, which underscores the sector's transition from insolvency proceedings to liquidation.

Index Terms—Aviation industry, Distressed Airlines, Globalisation, Insolvency Resolution Process, Liberalisation, Go-First Airlines

I. INTRODUCTION

Industries capture the spirit of globalization in a country. In India, the aviation industry opened the wide skies after the economic reform of 1991, Liberalisation, which encouraged the private sector to enter the airline market, Privatisation, which enabled operational competition, and Globalisation, which expanded the demand for international connectivity. Over the next three decades, India's aviation sector emerged as one of the fastest-growing in the world, symbolising the aspirations of a liberalised economy which transformed air travel from a state-controlled service into a competitive, fast-growing industry.

Another historic change that India implemented is the Insolvency and Bankruptcy Code (*herein further referred to as IBC*), 2016, which addresses the broader issue of corporate distress and transformed India's economy.¹ The IBC, 2016, was designed to transform India's financial and legal landscapes by providing a time-bound, creditor-driven framework for resolution. It aimed to restore investor trust, increase transparency. The IBC's real assessment, anyway, lies in the globalised sector like aviation, where it will have to deal with issues like leased aircraft, cross-border claims, and regulatory barriers that ultimately decide whether insolvent airlines may be revived or forced to fail. Yet, this rapid growth came with deep vulnerabilities. The same dynamics that fuel

¹ Srinivasa Rao, How IBC can improve the lending ecosystem, Nangia Andresen India Pvt. Ltd., (last visited: Jan, 10, 2025 10:30 PM) <https://nangia->

andersen.com/thought_leadership/how-ibc-can-improve-the-lending-ecosystem/

expansion also expose Indian airlines to financial unreliability, unstable fuel prices, and regulatory constraints. As evidenced by Jet Airways and, most recently, Go First, such stress has frequently driven airlines to the verge of bankruptcy. This raises serious questions about whether the insolvency framework in India is equipped to secure revival in this sector.

India's aviation sector experienced growth and challenges after the LPG Policy of 1991. Liberalisation opened up previously unheard-of opportunities, and IBC 2016 will be put to the ultimate test in this globalized industry where regulatory barriers, leased aircraft, and cross-border disputes are the norm.² The effectiveness of the IBC in addressing the challenges of airline insolvency becomes essential for shaping a more sustainable and globally competitive aviation industry. In mid-1990s aviation de-regulation ushered in an era of unprecedented growth. Go First, Kingfisher Airlines, and Jet Airways revolutionised aviation. Jet Airways became a global full-service carrier, unlike Kingfisher Airlines, which initially attracted consumers with its luxury idea. Budget airlines like SpiceJet and IndiGo exploited thrifty travellers. Unfortunately, regulatory control, financial prudence, and infrastructure development did not increase with capacity and competition. A vicious cycle of unsustainable debt, operational inefficiency, and financial trouble.

Due to significant carriers' frequent problems, the aviation industry needs a strong insolvency resolution structure. Airline bankruptcy affects passengers, workers, regulators, airports, and foreign lessors as well as shareholders. The IBC, 2016 provides a comprehensive framework for distressed asset settlement.³ It has serious flaws when applied to airlines, especially when balancing consumer protection, operational continuity, and creditor interests. The IBC provides a framework for corporate insolvency, but the Jet Airways and Go First cases illustrate that it does not address aviation industry

issues. According to this research, airline bankruptcy is part of India's economic transformation. Liberalisation increased growth potential but revealed financial regulation shortcomings and business resilience. This study fills a knowledge gap by researching Indian airline distress legal discourse and comparing it to worldwide best practices. This study examines the relationship between economic and insolvency reform to evaluate India's aviation industry insolvency framework and suggest global-standard changes.

1.1. Literature Review

“Airline Insolvency in India: Balancing interest between Insolvency and bankruptcy code and the Cape Town Convention”⁴ written by Thejas Velaga highlighted the existential crisis faced by aircraft lessors in the course of airline insolvency by examining the legal conflict between India's obligations under the Cape Town Convention (CTC) and the Insolvency Bankruptcy Code (IBC), especially the moratorium under Section 14. The paper also analysed the recent legal modifications pertaining to the aviation sector and assessed the various policy alternatives to resolve the conundrum. The research concluded that structural reform is necessary to restore transactional certainty and safeguard lessor rights.

Vedant Singh in his article “Analysing Insolvencies within the Aviation Sector: Evaluating the Relevance and Effectiveness of the Insolvency and Bankruptcy Code, 2016”⁵ examines how COVID-19 has made Insolvency and Bankruptcy Code of India inadequate in the aviation industry. It highlights the distinctive requirements of the industry because of aircraft leasing and cross-border activities and suggests aviation-specific modifications.

² Daizy Chawala, Unlocking India's economic promise: Can it be a catalyst for expansion, *The Economic Times*, (Jan, 11, 2025 10:12 AM) <https://economictimes.indiatimes.com/small-biz/legal/unlocking-indias-economic-promise-can-ibc-act-as-a-catalyst-for-expansion/articleshow/102029772.cms?from=mdr>

³ Rajesh Sharma, Insolvency in India during Ancient Times, *IIPICAI*, 34, 35-38, (2024)

⁴ Thejas Velaga, Airline Insolvency in India: Balancing Interests Between the Insolvency and Bankruptcy Code and the Cape Town Convention, 1, *NUJS*, 62, 77-88 (2024)

⁵ Vedant Singh, Analysing Insolvencies within the Aviation Sector: Evaluating the Relevance and Effectiveness of the Insolvency and Bankruptcy Code of 2016, *SSRN*, 1, 6-8 (2025)

Charvee Kantiwal in her research on “Turbulence: IBC and Insolvency proceedings in the Aviation Sector”⁶ argues that the lack of a specialized aviation insolvency framework continues to prolong conflict and discourages foreign leasing. In order to guarantee clarity and effectiveness in aviation industry, author suggests that efforts should be made in harmonizing domestic insolvency laws with international standards. Dr. Deepankar Sharma prepared a report on “An analysis of Go-First airlines: A case study on voluntary insolvency resolution in the aviation industry”⁷ wherein he analysed the case of Go First Airlines’ voluntary insolvency resolution by situating it within the wider vulnerability of aviation industry in India post-COVID-19. The report emphasized on how airlines’ collapse was made worse by financial mismanagement, growing fuel prices, and strict regulations, while the IBC framework simply offered a procedural settlement without looking into sector-specific complexities.

Ashwaj Ramaiah, in his research on “Tweaking IBC to resolve airline insolvencies”⁸ critically analysed the inadequacy of IBC, 2016 in dealing with the intricacies of airline insolvency. The author emphasized on how obligations of India under the Cape Town Convention and moratorium provisions under IBC underscores to conflict, which undermines lessor rights and investor trust. He further states that the 2023 MCA notification of exempting aircraft leases from the moratorium is acknowledged, but it risks privileging lessors over other stakeholders. The author through comparative legal analysis provides practical ways to balance international treaty responsibilities in accordance with the domestic insolvency framework.

1.3. Relevance of the study

This study aims to provide a historical continuity by understanding how economic reforms (1991), and insolvency reforms have progressively evolved the aviation sector of India. It will analyse the insolvency resolution framework in India, with a specific focus on its application to the aviation industry. Further, through empirical insight research will focus on

examining the substantial case studies that highlights recurring gaps in the insolvency practice area of aviation. The findings will contribute to strengthening insolvency resolution in India by highlighting the limitations of the existing framework when applied to sector-specific crises such as aviation.

1.4. Research Objectives

1. To examine the evolution of aviation sector post-1991 and assess how liberalisation and globalisation have influenced its growth.
2. To evaluate the effectiveness of insolvency mechanism in facilitating timely resolution while safeguarding the interest of shareholders.
3. To assess the adequacy of the Insolvency and Bankruptcy Code, 2016 in addressing the operational and financial complexities of airline insolvency.
4. To identify and analyse the factors contributing to the unsustainability of the rapid development of aviation in India.
5. To demonstrate legal and policy gaps in the existing framework and propose effective recommendations for more effective and equitable insolvency resolution mechanism for airline in India.

1.5. Research question

1. Whether the IBC, 2016 effectively encourage the post-LPG growth of aviation sector in India in resolving airline financial distress?
2. How have liberalization and globalization contributed both to its expansion and to its financial vulnerabilities?
3. What are the key factors that determines the effectiveness of India’s insolvency mechanisms in ensuring timely resolution of distressed airlines?
4. Whether the existing insolvency framework in India facilitate revival rather than liquidation of distressed airlines?
5. What legal and policy reform should be made in India to compress the gap in the existing framework and to provide a more effective and equitable insolvency process for distressed airlines?

⁶ Charvee Kantiwal, Turbulence: IBC and Insolvency Proceedings in the Aviation Sector, IBCLAWS,1, 2-6 (2025)

⁷ Dr. Deepankar Sharma, An Analysis of Go First Airlines: A case study on Voluntary Insolvency

Resolution in the Aviation Industry, 4, JIER, 692, 695-697 (2024)

⁸ Ashwaj Ramaiah, Tweaking IBC to resolve airline insolvencies, IBBI, 140, 152-161, (2024)

I.6. Research Methodology

This research paper adopts a doctrinal and analytical approach, focusing on the evolution of India's aviation industry post-liberalization and its confluence with IBC, 2016. It relies on primary sources such as statutes, case laws, government notifications, regulatory guidelines, government notifications, IBBI reports and Directorate General of Civil Aviation (DGCA) along with secondary sources like books, journals, and electronic databases.

II. ECONOMIC REFORM AND AVIATION LIBERALIZATION

2.1. Economic Reforms To Insolvency Reforms

The 1991, known to be the reformative year for India and for all the industrial sector of the nation, in which the Indian Aviation industry got its wings, because before the reformative year of the Nation, the Indian Aviation Industry was almost entirely state-controlled. The Air Corporations Act, 1953, had nationalised air transport services, granting a monopoly to Air India for international operations and Indian Airlines for domestic services. This framework was truly designed to ensure safety, growth, reliability, and State Supervision. But it also created the inability to compete, poor service standards, and financial stagnation. By the late 1980s, the Aviation Industry was unable to keep pace with the rising demand due to urbanisation and the early stages of economic liberalisation.

The landmark moment arrived with the Liberalisation, Privatisation, and Globalisation (LPG) reforms of 1991. The reforms expanded beyond trade and industry to different sectors (Primary, Secondary, and Tertiary), which also include the Aviation Industry. The Government gradually opened the gates for the private players and gave them the allowance to enter the domestic market, and foreign investment was also permitted to airline ventures, and bilateral agreements with other countries expanded international routes. The Open Skies Policy of the 1990s further facilitated competition by encouraging private and foreign carriers to operate in Indian airspace.

The transition of the aviation industry was the first service industry to capture the spirit of India's Globalisation, transforming air travel from a state-controlled privilege to an accessible, competitive service. From just 36 lakh passengers carried by air-

taxi operators in 1994 to 396 lakh in 2016. The industry has boomed in recent years.

2.2. Distress under Aviation industry

The reform brought a massive change and marked a historic turning point for India's aviation industry. For the very first time, private airlines were given permission to operate state-owned carriers, and global connectivity was given a chance for economic integration. Over the three decades, the sector witnessed remarkable expansion, as India became one of the fastest-growing aviation markets globally. Still, this expansion was built on an unreliable foundation. Below the surface, the rapid growth lies deep to structural exposure that definitely continues to define the financial weakness of Indian airlines.

A. Economic and Regulatory Challenges

- High fuel costs: ATF accounts for 35–40% of airline operating costs, and it is taxed higher than global averages, eroding margins.
- Fragmented regulation: Multiple regulators (DGCA, AAI, MoCA) with overlapping roles create inefficiency and delay.
- Infrastructure constraints: Slow airport expansion and high user charges increase operating costs.
- Outcome: Liberalisation expanded market access but failed to ensure financial resilience.

B. External Shocks and Market Pressures

- Global volatility: Oil price fluctuations and rupee depreciation directly undermine airline profitability.
- Pandemic impact: COVID-19 exposed the absence of cash buffers and bailout mechanisms.
- Hyper competition: Fare wars and overcapacity post-LPG, 1991 reforms pushed carriers into debt cycles.
- Outcome: Growth trajectory vulnerable to uncontrollable external factors.

Case Reflection: Kingfisher Airlines

- Debt-driven expansion: Aggressive growth without a sustainable revenue base.
- Operational stress: High ATF costs, regulatory bottlenecks, and weak governance.
- Collapse (2012): No insolvency framework, then creditors, employees, and passengers bear losses.
- Lesson: Liberalisation enabled growth, but without systemic safeguards, insolvency risk escalates.

The 1991 reform unlocked growth but established fragilities. Cases like Kingfisher's failure, followed by Jet Airways and Go First, give a vision of the crucial need for the sector's sensitive insolvency mechanisms.

2.3. Causes of Airline Distress in India

Many internal and external factors affect Indian airlines' financial troubles. Most essential is aviation turbine fuel (ATF), which accounts for 30–40% of an airline's operational costs. Unlike many jurisdictions that tax petrol little, Indian ATF is subject to high national excise duties and state-level sales taxes of 25–30%. This makes their prices far higher than global competitors, hurting their capacity to compete. Petrol is among several tariffs. Terminal fees, navigation fees, and other charges already strain airline operations. International hubs like Singapore and Dubai offer infrastructure and tax perks that large carriers prefer. This puts Indian airlines at a disadvantage globally and domestically. Intense market competition is a major issue. The fragmented market after liberalisation and new entries led to frequent airline rate battles. India is a price-sensitive market, thus airlines often prioritise passengers over profits. Due to their limited margins, carriers are vulnerable to even small demand shifts. IndiGo's success shows the importance of operational efficiency, even though few airlines could replicate its disciplined low-cost operation. Because its luxury approach failed in India, Kingfisher Airlines went bankrupt.

The situation has deteriorated due to weak management and leadership. Kingfisher collapsed due to overexpansion, faulty loans, and market insensitivity. Jet Airways has huge debt, inefficient cost structures, and lagging behind the market like other low-cost airlines. Internal issues and external pressures made airlines weak. The COVID-19 pandemic devastated many struggling carriers. Flight stoppages caused severe revenue losses in 2020, yet fixed expenditures like salaries and aircraft leasing charges piled up. Despite government relief, the sector's inherent vulnerabilities persisted. Go First declared bankruptcy in 2023, alleging supply chain

issues, particularly the Pratt & Whitney engine failure that grounded much of their fleet. Pandemic issues were mentioned⁹. Overall, India's aviation industry is suffering from systemic challenges rather than individual failures. High prices, overcompetitive markets, regulatory inefficiencies, and exogenous shocks make economic suffering common in this ecosystem.

2.4. Barriers in Insolvency Resolution for Airlines

Airline companies have exposed severe flaws in the Insolvency and Bankruptcy Code, 2016 (IBC), which was designed to offer struggling enterprises a time-bound, creditor-friendly solution. First significant test case Jet Airways highlighted substantive and procedural hurdles to adopting a standard insolvency framework to the complicated aviation company. The largest issue is the IBC's absence of industry-specific regulations. The airline industry relies on international aircraft leasing contracts, unlike other industries. Lessors want to repossess their planes as soon as possible when an airline goes bankrupt to protect their investment. If IBC moratorium restrictions prevent lessors from complying with international leasing requirements, conflicts may emerge. Due to ambiguity, creditors lose faith; in Jet Airways' bankruptcy, numerous lessors withdrawn their planes, damaging operations and decreasing its chances of recovery. A complex creditor matrix is another hurdle for airline bankruptcy. Creditors include banks, airport operators, fuel providers, aircraft lessors, and even workers and prepaid ticket holders. The IBC's waterfall system makes it difficult to reconcile these claims. Staff and passengers sometimes have little recourse because their claims are lower priority than secured creditors. Airports and energy companies seek instant payment for essential services¹⁰. Many stakeholders complicate resolution plans and lengthen timescales, hindering the IBC's goal of speedy resolution. International treaties and Indian insolvency law conflict, adding to the complexity. This applies notably to the Aircraft Protocol and Cape Town Convention on International Interests in Mobile Equipment, which India has

⁹ Olujobi OJ. Combating insolvency and business recovery problems in the oil industry: proposal for improvement in Nigeria's insolvency and bankruptcy legal framework. *Heliyon*. 2021 Feb 1;7(2).

¹⁰ Arora D. Cross Border Insolvency in India and the Adoption of UNCITRAL Model Law: A Comprehensive Analysis. *Indian JL & Legal Rsch.* 2021;2:1.

ratified. When a plane goes bankrupt, the Convention allows lenders and lessors a lot of power to take their assets back, but the IBC stops that¹¹. Due to the unpredictability and length of the lawsuit resulting from this friction, India is no longer a viable aircraft leasing location. In the Go First case, the lessors claimed the NCLT violated international treaties by admitting insolvency. Since the IBC's conformity with India's treaty duties is unclear, creditors and regulators are in danger. Finally, institutional knowledge gaps in insolvency tribunals produce backlogs. Generalist tribunals may struggle to address complex technical and regulatory issues including aircraft certification, slot distribution, and foreign leasing in airline insolvencies. Prolonged litigation, limited resuscitation, and asset value decline have resulted. The IBC is a positive adjustment to India's bankruptcy rules, but these problems demonstrate it's not ready for aviation. Without sector-specific rules, clarity on international treaty duties, and procedures to balance stakeholder interests, airline bankruptcy resolution may fail, weakening investor and creditor faith in the business.

III. INSOLVENCY IN AVIATION INDUSTRY

The enactment of IBC, 2016 has marked a paradigm shift in insolvency law in India. Prior to implementation, the insolvency law in India was fragmented, ineffective and afflicted by prolonged litigation under various statutes such as Sick Industrial Companies (Special Provisions) Act, 1985, and the Recovery of Debts Due to Banks and Financial Institutions Act, 1993. The IBC, 2016 sought to consolidate these into a comprehensive, time-bound, and creditor-driven framework.¹² It was introduced to strengthen the bond between creditors and debtors. It is an umbrella law that governs the settlement of insolvency for all companies in India, including individuals and corporations. The goal of codifying insolvency law is to provide legal coherence and make

¹¹ Misra P, Feibelman A. The Institutional Challenges of a Cross-Border Insolvency Regime. *Corp. & Bus. LJ.* 2021;2:329.

¹² Robert Kiyosaki, *New Beginnings: Policies and Processes*, 12, ICSHIP, 1, 3 (2024)

¹³ Jaimini Bhagwati, *Insolvency and Bankruptcy Code (IBC) and Long Term-Bulk Lending in India*, CSEP,

it easier to apply concise and uniform regulations to various parties impacted by debt inability or business failure.

According to Robert Kiyosaki, Chairman of ICSI Institute of Insolvency Professionals, the IBC, 2016 which provides a strong framework for handling insolvency, has completely changed the corporate environment in India. The IBC has been a significant development for India's economy, which has resulted in a sharp rise in corporate insolvencies. The Code has streamlined "the insolvency and bankruptcy process, introduced a time-bound resolution process", improved the recovery rates of creditors, improved business environment and financial system in India. It serves as a lifeline for faltering business by protecting jobs and helping them conquer financial obstacles.

The insolvency resolution proceedings for airlines is similar to which other entities follow under IBC, 2016, starting from Corporate Insolvency Resolution Process (CIRP), a moratorium and appointment of interim resolution professional (IRP), the formation of committee of creditors (CoC) and transfer of control to CoC and IRP, and approval of the resolution plan that CoC reaches by the adjudicating authority.¹³ However, the implementation of the IBC to aviator sector reveals the structural inadequacies, even if it has strengthened creditor confidence and expedited insolvency proceedings.¹⁴ Unlike other businesses, airlines have high perishable value linked to intangible assets (like passenger trust, landing slots, brand goodwill and routes).

3.1. Airline Distress: Beyond Corporate Insolvency

The airlines' financial difficulties pose issues that go beyond the typical problems of corporate insolvency. Their financial distress is a systemic disturbance that affects markets, consumers and foreign commitments, rather than just being a balance-sheet issue. Unlike many other sectors, aviation sector is embedded in a complex web of international legal requirements, public interest concerns, and consumer rights. These dimensions are not adequately captured within the

(Jan 11, 2025, 12: 30 PM) <https://csep.org/working-paper/insolvency-and-bankruptcy-code-ibc-and-long-term-bulk-lending-in-india/>

¹⁴ Roopam Dadhich & Rutwik Rao, *Analysing the law on Airline Insolvency in India*, THE CONTEMPORARY LAW FORUM, (Aug 21, 2025, 1:30 PM) <https://tclf.in/2021/03/13/analysing-the-law-on-airline-insolvency-in-india/>,

general framework of the IBC, 2016, which was created largely as a standardized process for resolving financial distress across various economic sectors.¹⁵

3.1.1 Consumer Protection and Passenger Rights
The airline sector operates on a pre-payment model, wherein passengers often purchase tickets months in advance and during insolvency proceedings, it disrupts this fundamental structure. In April 2019, when Jet Airways suspended operations, over 23,000 passengers were stranded across domestic and international sectors, leaving pre-paid ticket holders worthless overnight. The Directorate general of Civil Aviation (DGCA) attempted to mediate by directing the airline to refund fares, however, once the moratorium under Section 14 of IBC is imposed, consumer claims became unsecured operational debts, placed on lowest rung in the priority waterfall under Section 53.¹⁶ Therefore, in the case of *Jet Airways (India) Ltd. v. State Bank of India*¹⁷, it was noted that passengers were effectively deprived in remedies, where tribunal observed that ticket-holders could not receive preferential treatment over financial creditors. Similarly, due to Go First's moratorium in May 2023 left thousands of consumers stranded and uncertain about their claims.¹⁸ The Ministry of Civil Aviation issued advisories urging airlines to refund passengers, yet the IBC framework provides no statutory protection to consumer creditors in aviation, reducing them to residual claimants.

This treatment raises a serious concern under the Consumer Protection Act, 2019 which otherwise gives passengers enforceable rights against inadequate services. However, despite their vulnerability and lack of bargaining power, consumers are systematically under-protected as a result of the IBC's lack of a sector-specific framework.

3.1.2. Public Interest and National Connectivity

Airlines are not only a private enterprise, but are also an essential part of country's infrastructure, facilitating mobility, economic growth, and regional integration. Hence, their collapse would create ripple effects across the society and economy. The Supreme Court in *Swiss Ribbons case* emphasised that the IBC aims to balance between maximizing asset value and maintaining company activities. But the loss of connectivity resulting from insolvency in aviation sector undermines public interest far more significantly in comparison to most of the other sectors. Like, Jet Airways grounding resulted in an instantaneous reduction in market capacity, which raised fares and decreased connectivity, especially to Tier-II and Tier-III cities. Similar market distortions were brought up by Go-First¹⁹ grounding in 2023, which prompted the Ministry of Civil Aviation to intervene in order to stabilise fares. These changes demonstrate how airline failures affect regional development, national mobility and employment, concerns that the IBC's creditor-centric approach not address.²⁰ Airlines are still vulnerable to insolvency procedures that disregard the general welfare, in contrast to vital utility providers like water or electricity, which are frequently ring-fenced from abrupt disruption.

3.2. Stakeholder Interests in Airline Insolvency

Insolvency under aviation sector presents a unique challenge in insolvency jurisprudence because of its multi-layered and fragmented nature of stakeholders. Airlines have a wider range of interests, from multinational lessors to employees and customers in comparison with the traditional sectors, where creditors and equity holders control the restructuring landscape. However, the general creditor-centric approach used in the formulation of the Insolvency and

¹⁵ Abhinav Dixit, *Analysing the Law on Airline Insolvency in India*, Contemporary L. Forum (Mar. 13, 2021), <https://tclf.in/2021/03/13/analysing-the-law-on-airline-insolvency-in-india/>

¹⁶ Sanskar Singh, *Empirical Study of Kingfisher Airlines Bankruptcy: Implications of Pre-2016 vs. Post-2016 Insolvency and Bankruptcy Code in India*, 11 J. Emerging Tech. & Innov. Rsch. (JETIR) 1 (Nov. 2024)

¹⁷ *CIT v. Jet Airways (India) Ltd.*, 2021 SCC OnLine SC 3676

¹⁸ Aaditya Bhatt, *Indian Aviation Law Reforms 2024-2025: Airline Insolvency, Regulatory Overhaul, and*

Global Integration, Bhatt & Joshi Assocs, <https://bhattandjoshiassociates.com/indian-aviation-law-reforms-2024-2025-airline-insolvency-regulatory-overhaul-and-global-integration/>

¹⁹ *Go Airlines India Ltd. v. SMBC Aviation Capital Ltd.*, 2023 SCC OnLine SC 1804

²⁰ Gaurav Mitra & Lavanya Pathak, *The Impact of Cape Town Convention on Aviation Insolvency*, 5 Int'l J. Legal Sci. & Innovation 88 (2023), <https://ijlsi.com/wp-content/uploads/The-Impact-of-Cape-Town-Convention-on-Aviation-Insolvency.pdf>

Bankruptcy Code, 2016 (IBC) fails to appropriately reconcile these conflicting rights.

3.2.1. Shareholders

During insolvencies under aviation sector, in accordance with the general rule under Section 53 of the IBC which talks about shareholder interests to creditors, in which equity investors and promoters frequently experience complete value erosion. However, the feature which make airline insolvency different is the unwillingness of promoters to relinquish their control, which can obstruct resolution. In 2019, the promoter Naresh Goyal initially opposed the transfer of control, which delayed the Corporate Insolvency Resolution Process (CIRP) and deterred the new investors to invest in this sector.

3.2.2. Creditors

The creditors in airline insolvency form a significantly more varied and complex than in most other businesses. The secured financial creditors offer high-value aircraft acquisition financing and infra support, which are mainly banks and non-banking finance companies (NBFCs). In the case of Jet Airways, the lead lender consortium headed by the State Bank of India exposed to almost Rs. 8,000 crores, highlighting the extent of financial risk borne by institutional creditors. Operational creditors like airports, oil companies, and maintenance organizations providing services essential to the functioning of an airline, such as aviation turbine fuel (ATF) to ground handling and parking services. These creditors, who rank below secured financial creditors in the Section 53 priority waterfall due to their crucial role in maintaining operations, are categorized as operational claimants under IBC and have little chance of recovery during settlement or liquidation.

Aircraft lessors make up a third and extremely sensitive creditors category in the aviation industry. The majority of the aircraft flown by Indian carriers are obtained through intricate international leasing contracts that are subject to international framework. However, a moratorium imposed under Section 14 of the IBC hinders lessors from reclaiming their aircraft, which makes it difficult to execute contracts. Although India has ratified the Cape Town Convention and the Aircraft Protocol (2001), lessors are unable to use the IDERA (Irrevocable Deregistration and Export

Request Authorization) system since the country has not passed domestic implementing legislation. The *Go First* insolvency proceeding held in 2023 addressed this gap and stated that it was clearly apparent as the NCLT prohibited lessors from taking back aircraft during CIRP.

3.2.3. Employees

The workers, from pilots and engineers to cabin and ground staff, are crucial to sustaining airline operations, they are treated unfairly in bankruptcy proceeding under the IBC. The wages paid to employees are categorized as unsecured operational dues under Section 53, which places them below government dues and secured financial creditors. In Jet Airways insolvency case, thousands of employees were left unpaid for months and had negligible recovery under the CIRP. In similar way, during SpiceJet²¹ crises in 2022, due to reports of salary arrears and delayed reimbursement, employees filed numerous lawsuit in regard to same. In contrast to many jurisdiction where employee claims are legally given priority in order to protect livelihoods, Indian insolvency law does not offer any particular protections, even if employees are essential to maintaining the airlines' ability to continue as a going concern.

3.2.4. Passengers

The passengers may be stakeholders who are directly affected by the airline insolvency due to the pre-payment mechanism used by the airline sector. The customers frequently buy tickets months in advance, and bankruptcy disrupts this basic structure. When the Jet Airways ceased operation in 2019, thousands of passengers who had paid for ticket were left without refunds or alternative carriage. Similar to this, in May 2023, during Go First's bankruptcy, thousands of people stranded and unsure of their compensation because the moratorium under Section 14 of the IBC stayed proceedings before consumer fora. Under, waterfall mechanism, passengers are ranked at the bottom of the Section 53 of IBC and are considered operational creditors with unsecured claims.

²¹ Kal Airways (P) Ltd. v. Spicejet Ltd., 2025 SCC OnLine SC 1502

3.3. Adequacy and Gaps in the Existing Framework

3.3.1. Assessing the Adequacy of IBC for Aviation Insolvency

The IBC, 2016, by instituting a time-bound resolution and creditor priority has undoubtedly transformed India's insolvency landscape. However, its uniform design is insufficient for the aviation industry, which is characterized by direct customer dependency, international leasing, and wafer-thin margins. The IBC guarantees procedural certainty, but it does not take into account the operational continuity, international duties, and public interest components that characterize airline crises, as demonstrated by scenarios of Jet Airways, Go First and SpiceJet.

3.3.2. Structural Gaps in the Current Framework

When the IBC's insolvency framework is applied to the aviation industry, several systemic flaws are exposed. The grounding of airlines during the CIRP is the most pressing issue. Although the debtor is protected from creditor enforcement by the Section 14 moratorium, it does not guarantee the debtor's continuous access to leased aircrafts, engines, or airports slots-assets that are essential to an airline's operations. As a result, airlines are frequently forced to halt operations, which reduces the enterprise value and the likelihood of a recovery. The way lessor's rights and cross border insolvency are handled is equally troublesome. Since international leasing accounts for between 70 and 80 percent of India fleets, the Cape Town Convention's incomplete implementation has bred mistrust among international lessors. India's treaty commitments were undermined and domestic carrier's lease prices were inflated by the moratorium that blocked repossession requests in the o First insolvency, which serves as an example. This indicates a structural discrepancy between national bankruptcy laws and international aviation finance standards.

Despite their crucial role in guaranteeing airline survival, employees, vendors, and airport operators have limited voice in the Committee of Creditors (CoC) due to the dominance of financial creditors. Furthermore, employees' claims are ranked behind secured creditors under Section 53 of the IBC, which leads to small recoveries as thousands of people lose their jobs. The insufficiency of a creditor-centric paradigm for an industry as operationally delicate and employment-intensive as aviation is shown in this structural mismatch.

IV. FINDINGS

The following are the key findings of the research work-

- Debateable post-liberalisation growth, with a very prominent expansion post-1991, reforms have surpassed financial resilience, leaving airlines endangered by fuel prices, regulatory burdens, and global crises.
- The IBC, 2016, is inappropriate for aviation. It is a generic framework that poses severe issues with sector-specific areas, such as leased aircraft, cross-border creditors, and employee welfare.
- The case studies disclose systematic failures, like Go First (2023), which exhibits nonviable sustaining operations through insolvency, while SpiceJet's distress reflects vulnerability and a lack of deterrent reconstruction.
- The process of revival in airline insolvency is lower, in comparison to the other sectors, as it mostly leads to liquidation or judicial proceedings, which undermines IBC's core objective of speedy resolution.
- Judicial inconsistency in the courts and tribunals has tried to adapt the IBC code in the aviation industry, but inconsistent interpretations have deepened the vulnerabilities.
- Sector-specific reforms need a structured Insolvency mechanism, which is an essential safeguard to national connectivity, investor confidence, and the flow of airline services.

V. CONCLUSION

In India's aviation sector, it could be better understood that the relationship between economic reform and bankruptcy reform is changing. After the liberalisation of 1991, which allowed private planes to take to the skies, there was fast growth, better connections, and tougher competition. Airlines like Kingfisher, Jet Airways, and Go First have gone out of business, which shows that deregulation and open markets aren't enough to keep businesses safe. Several crises have happened because regulators and organisations have not done enough to protect airlines from financial instability, poor management of operations, and shocks from outside sources.

The Insolvency and Bankruptcy Code (IBC), which was introduced in 2016, made big changes to India's financial system. The goal was to speed up the process of fixing businesses that were having trouble. The aviation business has shown that there are problems with the way it was built. It hasn't been very useful because of problems with international agreements like the Cape Town Convention, complicated relationships between creditors like lessors, airports, oil companies, and passengers, and a lack of laws that are specific to the industry. Protracted bankruptcy proceedings hurt the economy as a whole because they make people less likely to trust companies and keep their jobs. To bridge the gap between bankruptcy reform and economic change, there needs to be a specific plan and a clear vision. India should not have a single set of rules for bankruptcy; instead, it should make an aviation confined rules under the IBC that are in line with best practices around the world. However, under IBC, the passenger is regarded as an operational creditor with unsecured claims. Therefore, when they claim their share during resolution or liquidation, they receive little to no recovery since they are placed on the lowest rung in the priority waterfall in accordance with Section 53 of the Code. That being said, the next step is to make an insolvency system that protects creditors' rights, encourages foreign investment, and keeps sectors strong. India can make its insolvency system better by using both foreign best practices and basic needs. This will help airlines that are having trouble and the aviation industry as a whole in the long run.

VI. RECOMMENDATION

- **Increased Clarity and Efficiency in Resolution:**
The IBC's provisions tailored to the aviation industry will speed up and improve the predictability of resolutions by reducing the time needed for litigation regarding regulatory clearances, repossession, and cross-border disputes.
- **Maintenance of Essential Services:**
In order to maintain national connection, the DGCA and MoCA's institutionalized involvement during insolvency would guarantee continuous slot distribution, license retention, and operational safety.
- **Improved Safety for Employees and Passengers:**
By prioritizing employee claims and establishing a statutory consumer protection fund, the insolvency

structure would be more trusted, reducing public outrage and protecting livelihoods.

- **Increased Trust Among International Investors:**
Harmonization with the Cape Town Convention and international best practices will integrate India's aviation insolvency system with international standards, draw in foreign investment, and signal regulatory stability.
- **In the direction of a sustainable aviation sector:**
When taken as a whole, these changes would strike a balance between consumer protection, creditor rights, and regulatory monitoring, creating the groundwork for a more robust and internationally competitive aviation industry.

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