Syllabus subtopic: Government Policies and Interventions for Development in various sectors and Issues arising out of their Design and Implementation.

Prelims and Mains focus: about the performance of IBC since its inception

News: After the Insolvency and Bankruptcy Code (IBC) became law in May 2016, the ecosystem of corporate insolvency resolution process (CIRP) was put in place by the year-end. As of December 2019, the system had been in existence for three years.

How good have been the loan recoveries?
As of 31 December 2019, the 190 companies that had defaulted on loans yielded resolution plans with different degrees of realization. Claims worth Rs.3.52 trillion in total had been filed by financial creditors, primarily banks. Of this, around Rs.1.52 trillion—43.1% of the claims under consideration—has been recovered. This is much better than the rate of recovery before IBC was put in place. Take the case of 2015-16: Of the total bad loans up for recovery worth Rs.2.21 trillion, only Rs.22,768 crore, or 10.3% of the loans, was recovered. This evidence suggests IBC has been a huge success compared to the earlier loan recovery process.

Is there a twist in the IBC success rate?
The two biggest loan recoveries in the case of Bhushan Steel and Essar Steel India make up around 49.5% of the overall recovery. If these recoveries are left out, the total rate of recovery falls to 30.5%. If another big recovery, Bhushan Power and Steel, is excluded, then the rate of recovery falls further to 28%, which is substantially lower than the overall rate of recovery of 43.1%. Having said that, it is much better than what used to be the case before IBC was in existence. Also, up until 2015, it used to take 4.3 years on an average to resolve an insolvency case in India. That has fallen dramatically after IBC came into effect.

What about the cases that do not go for resolution?
If a resolution plan cannot be agreed upon within 330 days, the company
that has defaulted on the loan goes for liquidation. Till now, liquidation has been initiated against 780 firms, of which 40 have been closed in the process. The recovery rate for firms that were liquidated in October-December was 10.7%. If the biggest recovery is left out, the rate is close to nil.

How many firms are in bankruptcy courts?
As can be seen from the chart, the number of companies being admitted to corporate insolvency resolution proceedings at the National Company Law Tribunal (NCLT) has shot up since January-March in 2017. The number of such companies was 1,961 as of December 2019, up from 1,497 as of September. What the data indicates is that the number of companies facing insolvency resolution is piling up at NCLT faster than it can dispose of them. This is the problem Debt Recovery Tribunals used to face earlier.

What does this mean for the IBC system?
At the current rate of disposal of cases by NCLT, it could take nearly five-six years for the most important cases to be settled. There is also a risk that the new system is getting overloaded with too many corporate defaults being brought under CIRP. One way to get around this hurdle is by encouraging banks to sell smaller loan defaults of up to Rs.100 crore and not take them to NCLT, so as not to clog the IBC system.