

Personal Guarantor Recovery Set to Surge; Timelines Continue to Rise

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Synopsis

- The recovery rate from personal guarantors currently stands at 5.22%. This rate is anticipated to rise following the Supreme Court's recent ruling affirming the constitutionality of the IBC provisions regarding Personal Guarantors' Insolvency Resolution. This ruling implies that the personal assets of guarantors can now be utilised to settle outstanding debts owed to creditors.
- The average time taken for resolution or liquidation continues to increase for operational creditors (OCs) and financial creditors (FCs) during the September quarter. Meanwhile, the overall recovery rate till Q2FY24 was 31.85% implying a haircut of approximately 68%. The cumulative recovery rate has been on a downtrend, decreasing from 43% in Q1FY20 and 32.9% in Q4FY22 as larger resolutions have already been executed and a significant number of liquidated cases were either BIFR cases and/or defunct with high-resolution time.
- After slowing in the pandemic period of FY21 and FY22, the number of insolvency cases referred has increased by around 19% y-o-y in Q2FY24. However, despite the increase, the number of cases admitted to the insolvency process continued to be lower compared to earlier quarters in FY20. The distribution of cases across sectors remains broadly similar, compared to earlier periods given the extended resolution timelines.

Insolvency Resolution of Personal Guarantors

Apart from the details on the corporate insolvency process which have been covered later, figure 1 contains details on the insolvency resolution and bankruptcy proceedings related to personal guarantees. Personal guarantees have come into the limelight as a recent Supreme Court judgement upheld the constitutionality of IBC provisions on Personal Guarantors' Insolvency Resolution and dismissed over 200 petitions which had challenged the legal validity of such provisions.

Figure 1: Insolvency Resolution of Personal Guarantors

Period	Applications filed by				Total		Adjudicating Authority	
	Debtors		Creditors					
	No of Cases	Rs crore	No of Cases	Rs crore	No of Cases	Rs crore	NCLT	DRT
FY20	3	49.7	22	3,289.9	25	3,339.5	24	1
FY21	23	2,485.9	239	37,632.8	262	40,118.8	256	6
FY22	86	3,397.6	875	63,616.9	961	67,014.5	946	15
FY23	70	10,396.9	687	35,886.9	757	46,283.8	756	1
Q1FY24	37	1,364.4	77	3,047.5	114	4,412.0	114	-
Q2FY24	65	279.7	105	2,468.5	170	2,748.3	143	27
Total	284	17,974.2	2,005	1,45,942.6	2,289	1,63,916.8	2,239	50

Source: IBBI

Of the above 2,289 applications.

- 88 were withdrawn/rejected/dismissed before the appointment of a resolution professional.
 - Resolution professionals were appointed in 991 cases, while 282 cases have been admitted.
 - Out of these cases, 90 have been closed, 7 have withdrawn, 62 have been closed due to non-submission/rejection of plans.

- Only 21 have yielded approval of repayment plans and have realised Rs 91.27 crore which is 5.22% of their approved claims. 62 cases have been withdrawn/rejected/dismissed.

Corporate Resolutions

Timelines Continue to Increase for Cases across the Board...

The delays for CIRP closure are higher compared to Liquidation across various categories of stakeholders, but the corporate debtors take somewhat less time for resolution compared to the other two stakeholders (financial creditor and operational creditor). On a sequential basis, the number of days has increased across all categories.

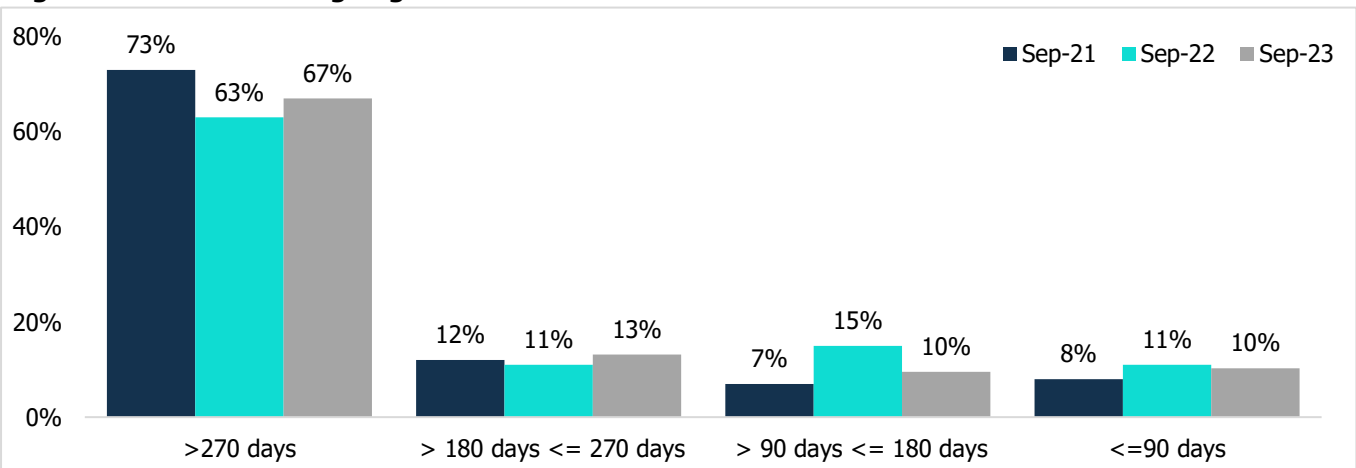
Figure 2: Timeline of Cases (# of days)

	Resolution					Liquidation			
	FC	OC	CD	FiSP	Total	FC	OC	CD	Total
Sep-23	659	662	563	632	653	493	468	394	472
Jun-23	643	635	541	552	632	480	458	391	462
Jun-22	552	555	518	-	550	447	418	390	428
Mar-23	613	632	541	-	614	476	450	390	456
Mar-22	531	528	516	-	528	433	401	373	412
Mar-21	463	458	439	-	459	366	344	324	351

Source: IBBI

Of the over 2,000 ongoing CIRPs, there has been a delay of more than 270 days for the completion of the process of 67% of ongoing CIRPs in September 2023 as compared to 73% in September 2021 and 63% in September 2022. The share has broadly moved to the higher number of days tier. Further, we can observe that the 'more than 180 days but less than 270 days' segment is the second largest highlighting the significant delays in the process. Further, the other two categories have a similar share in the current quarter compared to the last quarter indicating that a similar number of cases have commenced in both quarters.

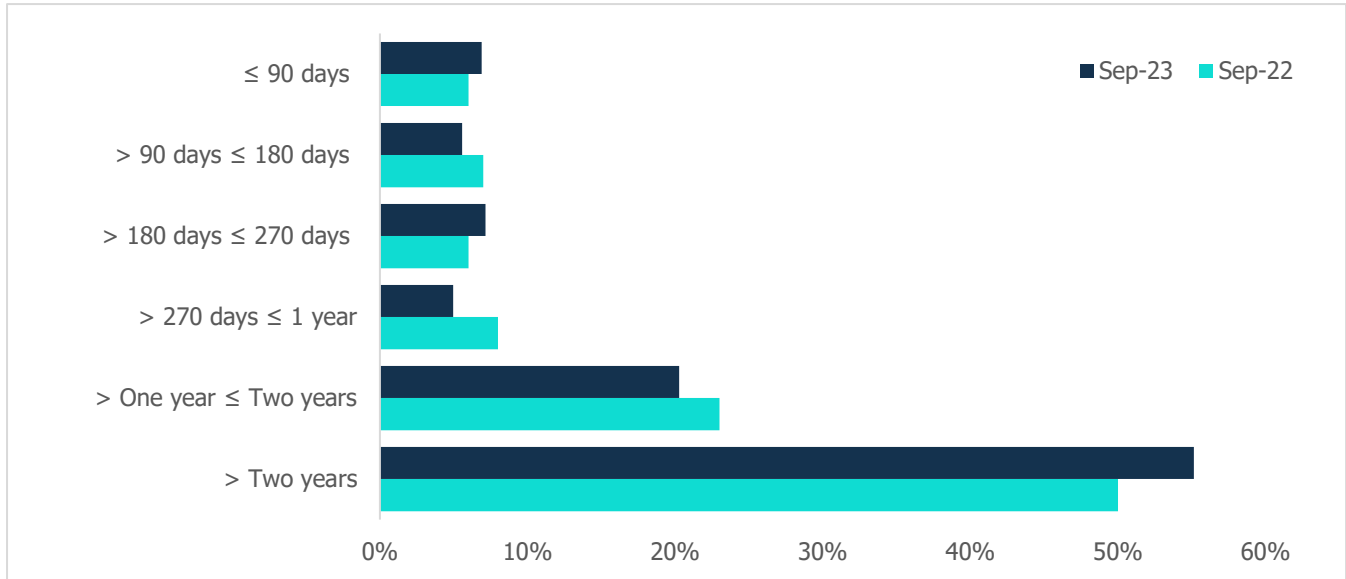
Figure 3: Timeline of Ongoing CIRPs



Source: IBBI

...and Even Time for Liquidation Remain Elevated

Figure 4: Timeline of Cases under Liquidation



Source: IBBI

Figure 4 highlights the pendency even for cases which have gone into liquidation with nearly 55% of the cases pending for more than two years and another 20% of the cases pending for more than one year.

While the Recovery Rate Continues to be Stuck at Around 30%

Figure 5: Summary of CIRPs Yielding Resolution

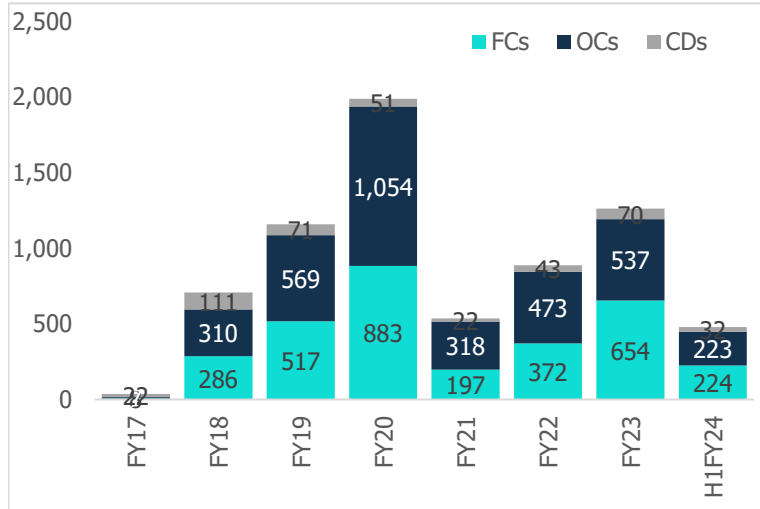
Particulars	Amt/%	
	For Q2FY24	Up to Sep. 2023
Total admitted claims of Financial Creditors (Rs cr)	65,246.6	991,815.6
Liquidation value (Rs cr)	9,456.8	187,460.6
Realisable by FCs (Rs cr)	20,771.3	315,937.2
Realizable by FCs as a % of their claims admitted	33.01	31.85
Realisable by FCs as a % of their liquidation value	219.64	168.54

Source: IBBI

Post the implementation of the IBC, the overall recovery rate till Q4FY22 in India reached 32.9%. The recovery rate for Q2FY24 stood at 33.01%, while the overall recovery rate reached 31.85% till Q2FY24. Consequently, for the cases which have been resolved, the creditors have continued to face a haircut of approximately 68% on admitted claims. Some of the cases being disposed of are several years old. Thus, there is a huge amount of interest and overdue charges admitted to such cases, inflating the overall figures.

Additions to the Corporate Insolvency Resolution Process Continue to Grow at a Measured Pace

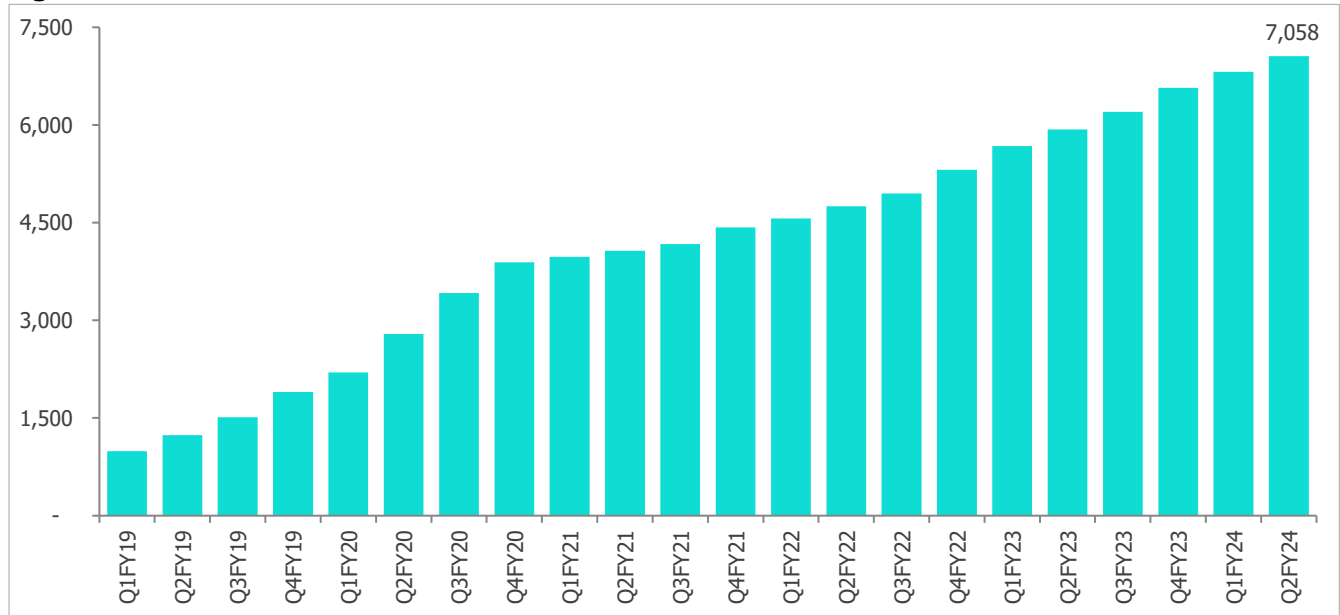
Figure 6: Year-wise & Stakeholder Initiation



The CIRP initiation scaled up rapidly till FY20 and dropped off in FY21 due to the pandemic. In FY22 and FY23, CIRP initiation commenced rising again. In FY23, the number of cases crossed the FY19 threshold, and the growth has continued in Q2FY24. The share of CIRPs initiated by corporate debtors has reduced significantly over time and is now initiated primarily in cases where the defaults are quite high.

Source: IBBI

Figure 7: Cumulative # of CIRPs Admitted

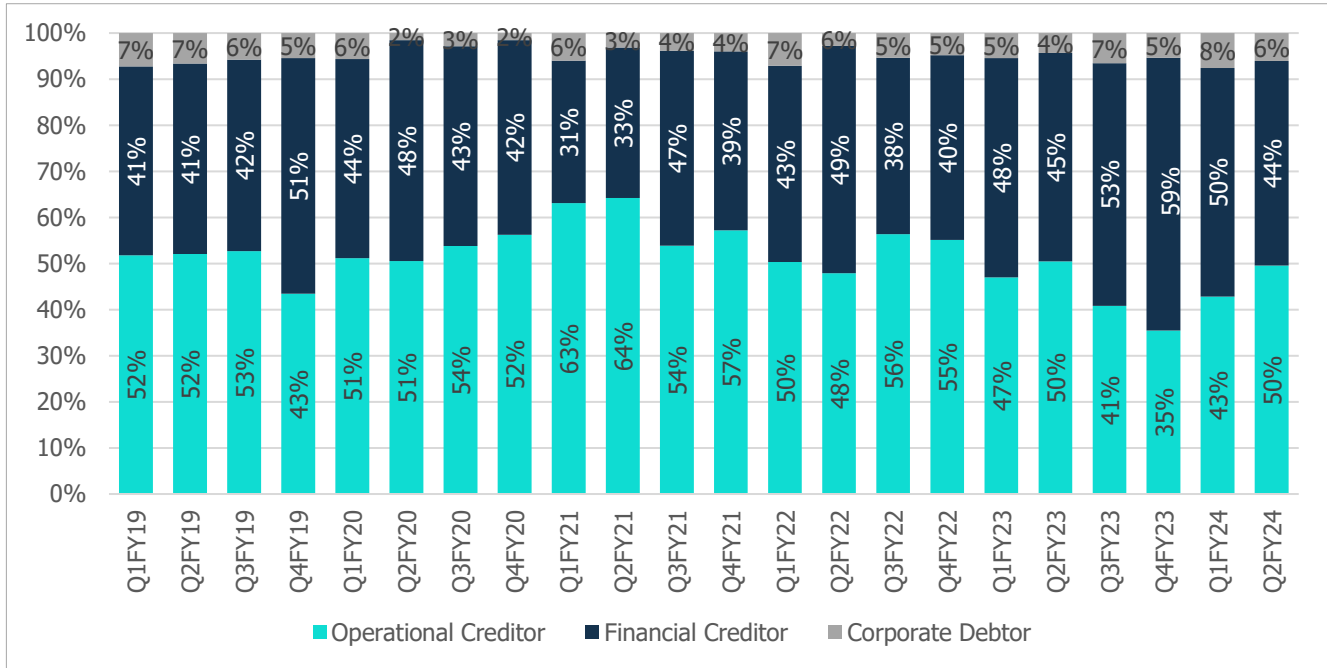


Source: IBBI

The number of cases admitted for Corporate Insolvency Resolution Process (CIRPs) has increased each quarter since the launch of the Insolvency and Bankruptcy Code in 2016., highlighting the rising acceptance of IBC as an effective debt resolution mechanism. The admission of cases has increased y-o-y in Q2FY24 by nearly 19%, however, despite the increase, the number of cases admitted to the insolvency process continues to be lower compared to earlier quarters in FY20.

IBC has continued to gain in popularity, with over 7,000 companies being admitted and a significant number of these cases on a cumulative basis being filed by the financial creditors (3,141 cases) and the operational creditors (3,491 cases). The share of corporate debtors has continued to remain the smallest over the same period.

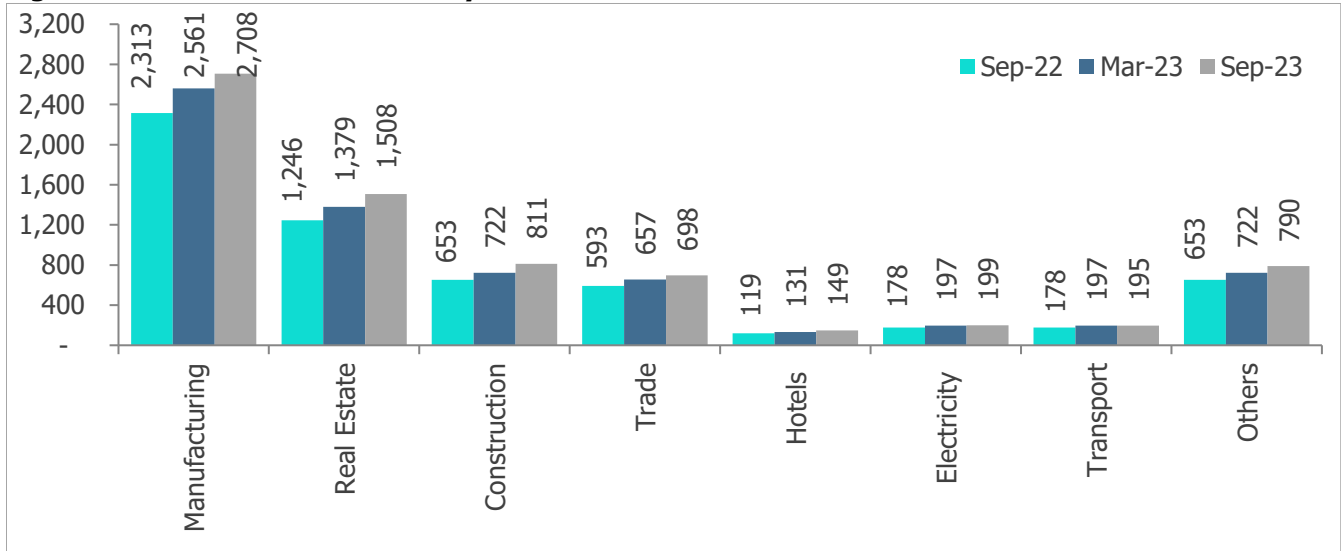
Figure 8: Stakeholder-wise Distribution of CIRPs During the Quarter



Source: IBBI

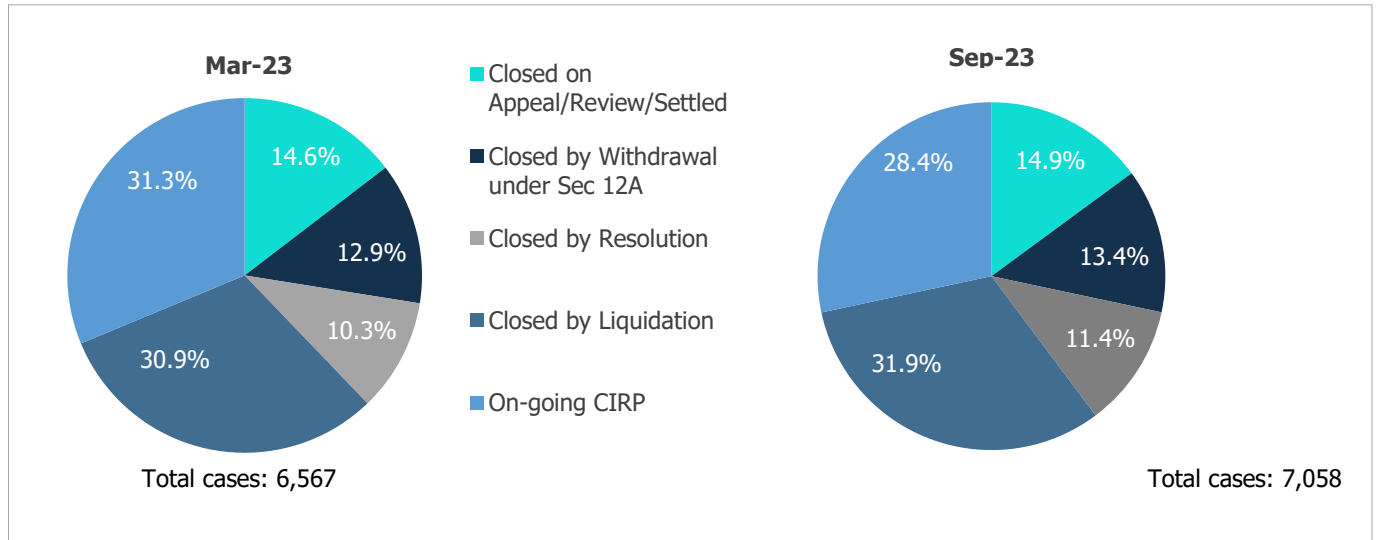
Figure 9 shows the dispersion of the admitted cases by sector. The share of the various sectors has largely remained constant compared with the previous period. As can be observed in Figure 9, the manufacturing sector accounts for the highest share at 38% of the overall cases, followed by the real estate (21%), construction (11%) and trade (wholesale & retail) sectors (10%).

Figure 9: Cumulative # of CIRPs by Sector



Source: IBBI

Figure 10: Status of CIRPs



The status of the cases has largely remained constant compared with the previous period. Of the total 7,058 cases admitted into CIRP at the end of Sep 2023:

- Only ~11% have ended in approval of resolution plans, while 28.4% remain in the resolution process vs. 31.3% as of the end of March 2023.
- 2,249 have ended in liquidation (31.9% of the total cases admitted). Meanwhile, 77% of such cases were either BIFR cases and/or defunct.
- Around 14.9% (1,053 CIRPs) have been closed on appeal /review /settled, while 13.4% have been withdrawn under Section 12A. A significant number of withdrawn cases (around 54%) were less than Rs.1 crore, while the primary reason for withdrawal has been either the full settlement with the applicant/creditors (405 cases) or other settlement with creditors (267 cases).

Update on Avoidance Transactions

Under the IBC, resolution professionals (RP) can reverse any transaction entered by the debtor company before the IBC is invoked if the RP can prove that the transaction was intended to divert funds or alienate assets. These provisions are generally used on related party transactions, fund diversions and other relevant corporate actions and any money so recovered is distributed amongst the lenders. However, such claims can only be done after approval by the NCLT.

Figure 11: Status of Avoidance Transactions

Nature of Transactions	Applications Filed		Applications Disposed		
	#	Amount (Rs cr)	#	Amount inv. (Rs cr)	Amount rec. (Rs cr)
Preferential	150	15,102.3	49	799.0	34.8
Undervalued	19	925.1	5	362.4	5.8
Fraudulent	240	89,595.1	34	1,169.3	5.6
Extortionate	3	70.7	1	0.1	-
Combination	612	2,13,604.3	114	42,561.3	5,183.5
Total	1,025	3,19,297.5	203	44,892.0	5,229.6

Source: IBBI

As per Figure 11, RPs have filed 1,025 applications for avoidance transactions amounting to approximately Rs 3.19 lakh crore. Of these, only 203 transactions involving close to Rs 45,000 crore (approximately 14.1% of the amount involved) were disposed of and only Rs 5,229.6 crore (11.6% of the amount disposed) have been recovered. Further, in one case 758 acres of land out of 858 acres which was earlier valued at approximately Rs. 5,500 crore has been transferred; hence proportionate value has been considered.

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