

ARC Performance in 2022-23

Based on in-house data collected by ARC Association

	INR - crore			Growth (INR - crore)		Growth (%)	
	Mar-21	Mar-22	Mar-23	Mar-22	Mar-23	Mar-22	Mar-23
Book value of assets acquired	5,18,373	5,88,706	7,66,915	70,334	1,78,208	14%	30%
SRs issued	1,80,997	2,04,499	2,41,766	23,502	37,267	13%	18%
SRs redeemed (both full/ partial)	71,777	85,086	1,06,272	13,310	21,186	19%	25%
SR outstanding (= SR Issued- Redeemed)	1,09,220	1,19,413	1,35,494	10,192	16,082	9%	13%

Supplementing the progress depicted by these numbers is the not-so-known human face of ARCs, who, as responsible corporate citizens, have been putting up efforts to make a meaningful difference in the lives of those marginalised, underprivileged or physically challenged.

Glimpses of a few such activities follow. These are only illustrative, not exhaustive. All ARCs have been doing things in their own way to make a positive difference in society at large.

1. Knowledge on Wheels

An initiative by Arcil

Considering a large number of Zila Parishad Schools do not have science labs and e-learning facilities, Knowledge on Wheels



(Photo- Arcil)

(KoW) was conceptualised to bring science and other knowledge to the doorsteps of the underprivileged and tribal students of such schools in the Palghar district.

The KoW is a mobile library van equipped with multiple science experiments / exhibits designed and mapped to the state board syllabus, which carries science and co-curricular teaching aids with trained teachers to such schools.



(Photo- Arcil)

1A. Health care

Mobility is one of the essential elements of being independent, and artificial mobility aids help to overcome dependence and give confidence to the beneficiary to do something gainful in life.

Arcil has provided financial assistance to BMVSS, Jaipur, to provide artificial limbs, callipers, crutches, tricycles, wheelchairs, and hearing aids to 486 needy beneficiaries with mobility and hearing impairment. This will help each of these beneficiaries to walk back with dignity to a normal self-respecting, and productive life.

Our Vision

To harness a common platform for Asset Reconstruction Companies acting in coordination and develop favourable legal and regulatory environment for smooth functioning of ARCs.

Managing Committee

Chairman

Raj Kumar Bansal

MD & CEO, Edelweiss ARC

Vice Chairman

Pradeep Goel

CMD, Prudent ARC

Joint Secretary

Sanjay Jain

CEO, Aditya Birla ARC

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MD & CEO, ASREC ARC

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Nanha Ram Devineni

CEO, Maximus ARC

Neeta Mukerji

CEO, ACRE ARC

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CFO, ARCIL ARC

Chief Executive Officer

Hari Hara Mishra

Advisory Board

Birendra Kumar

M Narendra

Madhukar R Umarji

Siby Antony

2. For the bottom of the pyramid - Parivaar Education Society (PARIVAAR)

PARIVAAR is a humanitarian organisation inspired by the spiritual and humanistic ideals of Sri Ramakrishna and Swami Vivekananda, with its chief institutions based in West Bengal and a second branch in Madhya Pradesh. For the last 19 years, Parivaar has worked towards the total care and overall development of children who are highly vulnerable to exploitation, victimisation, and trafficking, including orphans, street children, abandoned children, and highly impoverished children from tribal areas.

An initiative by ACRE

ACRE has provided meals and education to 660 children in 6 Seva Kutirs run by PARIVAAR in Tamia tehsil of Chhindwara district in Madhya Pradesh. At these centres, children in the age group of 3 to 14 years get two meals daily with high-quality education for 5-6 hours in the morning (7.00 am to 10.30 am) and evening (4.00 pm to 7.00 pm) shifts. Seva Kutirs have enabled the all-around development of children, including communication skills, learning and co-curricular activities



(Photo-ACRE)

such as drawing, singing, dancing, games, and sports, etc. Seva Kutir Project has enabled some children to show tremendous potential by passing tough entrance examinations for selection in the government's prestigious Jawahar Navodaya Vidyalaya's, Ekalavya Model Residential Schools and Kanya Shiksha Parisars. The incidence of sickness has fallen with adequate and nutritious meals, which has contributed to the overall health and well-being of the children.



(Photo-ACRE)

2A. Social Action for Manpower Creation (SAMPARC)

SAMPARC Balgram, Bhaje, started in the year 1990, is known as a Model Children's Home of Maharashtra - working in an exemplary way for the care of orphans, the needy and children of commercial sex workers. Each child gets proper attention and care for physical and mental health, nutritious food, counselling, studies, discipline, sports and other curricular activities in a family environment.

ACRE has sponsored the annual expenditure of 120 residential girls at Social Action for Manpower Creation (SAMPARC) Balgram, Bhaje, Pune, which includes expenditures relating to food, education, supervision and other expenses. These girls supported by the company are from different regions.

3. Sports – Catch Them Young An initiative by JM Financial ARC

Sports play a crucial role that is integral to a child's overall / holistic development. Rural India is replete with various sports activities and games that children are exposed to from a young age. However, due to a lack of proper sports infrastructure and guided coaching, many potentially talented youths often miss out on opportunities that could hone their skills further and lead them on a possible path to successful careers in sports.



13-year-old Ashish Kumar trained under the project since May 2022 won at the 37th Junior National Athletics Championship – Guwahati, Assam



(Photo- JMF ARC)

JMF Sports Project was conceptualised and implemented to bridge the gap in sports infrastructure and regular, expert coaching that can help talented children and youth hone their skills and lead them on a path to successful careers in sports.

The project envisages a long-term change in youth development and an increase in their participation in district, state, national and international sports tournaments.

Through the project, JM Financial Asset Reconstruction Company Limited has enabled sports infrastructure creation through four large-sized and fully-equipped sports grounds in the most remote villages of Aliganj, Lakshmipur, Sikandra and Chakai blocks of Jamui, Bihar, for training in football and athletics.



(Photo- JMF ARC)

Legal and Regulatory Developments till June 2023

Reserve Bank of India (RBI)

Master Circular - Asset Reconstruction Companies
(03 April 2023)

In order to have all the current instructions / guidelines on the subject in one place, RBI issued the updated Master Circular on ARCs on 31 March 2023 on 03 April 2023.

<https://rbidocs.rbi.org.in/r docs/not ification/ PDFs/12MCARC010423FEDAEB96261407192FDE3788D1CB455.PDF>

Supreme Court of India (on SARFAESI)

Bank can't forfeit a deposit made after the auction purchase in case the bidder is not informed of the existing dispute against the confirmation of the sale

Mohd. Shariq v. Punjab National Bank and Ors. (Civil Appeal arising out of SLP (Civil) Nos. 17470 of 2019)

The Hon'ble Supreme Court ("SC") held that Rule 9(5) of the SARFAESI Rules could not be pressed into service in case the auction purchaser was not informed about the pending stay on the sale of the mortgaged property. Accordingly, the SC directed the bank to refund the deposit made towards purchasing the property.

Rule 9(5) enables the bank to forfeit the deposit amount on default of the auction purchaser to deposit the balance bid amount within the stipulated time. In this case, the SC noted that the auction purchaser was not informed by the bank about the

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challenge pending in the DRT against the confirmation of sale in favour of an auction purchaser.

NCLAT (on IBC)

- Amount of debt does not matter once the default has been established beyond the threshold

Guruprasad v. Hisbobkar v. Shree Aashraya Souhard Credit Society Limited and Ors. (Company Appeal (AT) (CH) (Ins) No. 51/2021)

The NCLAT Chennai held that once a default has been established to be over and above the threshold, the determination of the exact quantum of debt need not deter the admission of a Section 7 application, where both debt and default are established.

- Prior RBI permission is not required to be a co-resolution applicant

Puissant Towers India Private Limited v. Neuneon Towers Limited and Ors. (Company Appeal (AT) (CH) (Ins) No. 181/2022)

The NCLAT Chennai noted that no prior permission from the Reserve Bank of India (RBI) is required for an Asset Reconstruction Company (ARC) to act as a resolution co-applicant under IBC, provided any of the activities undertaken by the ARC as a part of resolution plan submitted by it is not prohibited under SARFAESI Act.

- Interest to be included in calculating the minimum threshold under IBC

Netafim Agricultural Financing Agency Private Limited v. Baliraja Sakbar Karkhana Limited

The NCLAT reiterated the settled position that for computing the minimum threshold under Section 7 of the Code, even the interest component needs to be added to the principal.

- Date of invocation of guarantee should be considered while filing a section 7 against the guarantor and not the date of default by the borrower

J.C. Flowers Asset Reconstruction Private Limited. v. Deserve Exim Private Limited

The NCLAT held that for the determination of if a Section 7 application against a corporate guarantor would be barred under Section 10 A of the Code, the date of default by the principal borrower is irrelevant, and only the date on which the guarantee was invoked would be relevant. NCLAT further went on to hold that if the guarantee deed contains an indemnification provision, such indemnity can be enforced against the corporate debtor, but it cannot itself change the date of default on the part of the guarantor.

In view of this, we need to be mindful that the guarantee has been invoked before issuing demand notices to the guarantors under IBC.

- Successful resolution applicant can continue avoidance application under the Code even post approval of the resolution plan

Kapil Wadhawan v Piramal Capital and Housing Finance Limited and Ors

The NCLAT observed that the legislative scheme delineated under Section 26 of the Code indicates the avoidance applications are not to affect the proceedings of the CIRP, and therefore it can even continue post the CIRP.

Whilst noting that applications under Sections 43, 45 and 66 have to be filed by the resolution professional, the NCLAT refused to agree with the contentions of the appellant that the said applications become infructuous once the resolution plan is approved, especially considering the instant matter, the resolution plan provided for the continuation of the avoidance applications by the successful resolution applicant.

For any information, please contact:

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