

**Lesson 2**  
**CORPORATE INSOLVENCY RESOLUTION PROCESS**  
**Case Laws**

Sr. No.	Case Laws	Topic	Takeaway
1.	Palogix Infrastructure Pvt. Ltd. v. ICICI Bank Ltd (NCLAT)	Initiation of CIRP	A 'Power of Attorney Holder' is not competent to file an application of CIRP. It is only authorised representatives, duly authorised by board resolution, who are eligible to present the same.
2.	Sanjeev Jain vs. M/s Eternity Infracon Pvt. Ltd (NCLT)	Conversion of application	There is no provision in the Code to convert a section 9 application into a section 7.
3.	M/s Wanbury Ltd. Vs. M/s Panacea Biotech Ltd (NCLT)	Principal and Interest amounts	There is marked difference between 'financial debt' and the 'operational debt' as per the definition that financial debt includes interest but operational debt does not include interest
4.	CBRE South Asia Private Limited vs. M/s. United Concepts and Solutions Private Limited (NCLT)	Principal and Interest amounts	The Interest amount cannot be clubbed with the principal amount of operational debt to arrive at the minimum threshold of Rs.1 Crore.
5.	Uttam Galva Steels Limited vs. DF Deutsche Forfait AG & Anr. (NCLAT)	Joint application	Two or more operational creditor cannot file a joint application u/s 9 of code, Financial creditor can file application either by "itself or jointly with other financial creditor"
6.	M/s Unigreen Global Pvt. Ltd. Vs Punjab National Bank & others (NCLAT)	Admission or rejection of application	The AA must admit an application filed by a CD if it is satisfied that the default has occurred, the application is complete, and the Corporate Debtor is not barred under section 11 of the IBC. Facts unrelated to or beyond the requirement of the IBC cannot amount to suppression of facts and cannot be looked at by the AA for denying admission.
7.	Ashok G Rajani Vs. Beacon Trusteeship Ltd. (SC)	Withdrawal of application	An applicant can withdraw an application admitted under Section 7, before the COC is constituted. This withdrawal by the applicant would not prevent any other financial creditor from taking recourse to a proceeding under IBC.
8.	Maharashtra Seamless Ltd. Vs State Bank of India (NCLAT)	Withdrawal of application	Withdrawal of application based on consideration by COC and settlement are part of CIRP but same should materialize within the prescribed timelines under the Code.
9.	Shailesh Verma, RP of Lavasa Corporation Ltd. Vs. Maharashtra State Electricity Distribution Company Ltd (NCLAT)	Moratorium (Section 14)	The direction of AA to continue to supply electricity to corporate debtor during CIRP is subject to payment of outstanding dues. CD can not enjoy the benefit of direction by denying the payment due.
10.	Indian Overseas Bank Vs. M/s RCM	Overriding effect of IBC	Provisions of the IBC would prevail notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

## Lesson 2

### CORPORATE INSOLVENCY RESOLUTION PROCESS

#### Case Laws

	Infrastructure Ltd. and Anr (SC)		
11.	M/s. Subasri Realty Private Limited v. Mr. N. Subramanian & Anr (NCLAT)	management of affairs of CD by IRP	Suspension of BOD after the appointment of the RP and declaration of moratorium, does not amount to a suspension of MD, or any of the directors or officers or employees of CD. If any person refuses to function on the direction of the RP or misuse the power, it is always open to the RP to take away such power, after issuing notice to the person concerned.
12.	M/s. Innoventive Industries Ltd. Vs. ICICI Bank & Anr (SC)	Duties of IRP	Once an insolvency professional is appointed to manage the company undergoing CIRP, the erstwhile directors who are no longer in management cannot maintain an appeal on behalf of such company.
13.	Canara Bank Vs. Ms. Mamta Binani, RP of Aristo Texcon Pvt. Ltd., (NCLAT)	Duties of IRP	RP is an officer of the court and he is obligation to exercise reasonable and responsible care for the company whose property and affairs are entrusted with him during the CIRP.
14.	Sunil Kumar Jain and others vs. Sundaresh Bhatt and others (SC)	management of operations of CD as going concern (Section 20)	In order for wages or salaries of workmen or employees for the CIRP period to be included in CIRP costs it must be proven that the RP managed the CD's operations as a Going Concern during the CIRP and that the relevant workmen or employees actually worked during the CIRP.
15.	Ashok Kumar Tyagi vs. UCO Bank (NCLAT)	RP to conduct CIRP (Section 23)	Once the CIRP admission order U/S 7 of the IBC has been stayed by NCLAT, IRP is not entitled to discharge any function and CD also cannot be restored
16.	Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta & Ors. (SC)	Committee of Creditors (Section 21)	AA cannot challenge the COC's commercial judgment on the basis of merits
17.	Pioneer Urban Land & Infrastructure Ltd. & Anr. vs. Union of India & Ors. (SC)	Homebuyers as FC	SC upheld the constitutional validity of the introduction of homebuyers as "financial creditors" to the IBC
18.	Phoenix Arc Private Limited Vs. Spade Financial Services Limited & Ors.' (SC)	Related party	SC elucidates the two-way relationship in related parties meaning that X can be a related party of Y, if either X is related to Y, or Y is related to X.
19.	Phoenix Arc Private Limited Vs. Spade Financial Services Limited & Ors.' (SC)	Related party	any parties that were related in the past and cease to be related parties at present in order to become a member of the Committee must also be considered for exclusion from the Committee.
20.	Swiss Ribbon Pvt. Ltd. & Anr. v. Union of India & Ors (SC)	Classification between FC & OC	Classification under IBC between FC & OC is based on an intelligible criteria and is neither discriminatory nor arbitrary nor violate Article 14 of constitution of India

## Lesson 2

### CORPORATE INSOLVENCY RESOLUTION PROCESS

#### Case Laws

21.	Ngaitlang Dhar vs. Panna Pragati Infrastructure Pvt. Ltd (SC)	approval of COC for certain actions (Section 28)	SC held that COC has been given supreme status without any judicial interference in order to ensure that the process are completed within the time frames
22.	Punjab National Bank Vs. Mr. Kiran Shah, Interim Resolution Professional of ORG Informatics Ltd (NCLAT)	Right of COC to replace RP	COC is not required to record any reason for replacing the RP that may otherwise call for proceedings against such RP
23.	Bank of India Vs. M/s Nithin Nutritions Pvt. Ltd. (NCLAT)	Right of COC to replace RP	NCLAT held that COC has the requisite powers to propose changing IRP even in meetings/subsequent to the first one and there is no requirement that they should give particular reason for the change
24.	Maharashtra Seamless Limited Vs. Padmanabhan Venkatesh and Others. (SC)	Appointment of registered valuer	Every valuation required under the IBC or any of the regulation made there under is required to be conducted by a registered valuer i.e. valuer registered with IBBI. Appointing any person, other than registered valuer to conduct valuation is illegal & payment made shall not form part of IRP cost or liquidation cost
25.	Tata Steel Ltd Vs. Liberty House Group Pte Ltd. & Others (NCLAT)	Request for Resolution Plan	Granting more opportunity to all the eligible resolution applicants to revise their financial offers, even by giving more opportunity, is permissible in law. However, all such process should be complete within the time frame.
26.	Brilliant Alloys Pvt. Ltd. v. Mr. S. Rajagopal & Ors (SC)	Withdrawal of CIRP	withdrawal of CIRP can be done even after the Resolution Professional issued invitation for expression of interest from resolution applicants to submit resolution plans
27.	M/S Bhaskara Agro Agencies Vs. M/S Super Agri Seeds Private Limited & Ors., (NCLAT)	Receipt of Resolution Plan	Regardless whether a Resolution Plan is viable and practicable or not, the Appellate Tribunal or AA cannot review the COC decision on appeal.
28.	Edelweiss Asset Reconstruction Company Ltd. Vs. Synergies Dooray Automotive Ltd. & Others (NCLAT)	IBC have overriding effect (Section 238)	NCLAT held that Section 238 of the code provides overriding effect of it over the provisions of the other Acts, if any of the provisions of an Act is in conflict with the provisions of the I&B Code.
29.	Bank of Baroda & Anr. Vs. MBL Infrastructures Limited & Ors. (SC)	Persons not eligible to be resolution applicant (Section 29A)	the resolution plan submitted by the promoter of CD was not maintainable due to his ineligibility under section 29A(h) of the Code. However, SC disposed of the matter without disturbing the approved plan on merits considering socio economic factors viz., the employment of several workers and that the CD is a running concern

## Lesson 2

### CORPORATE INSOLVENCY RESOLUTION PROCESS

#### Case Laws

30.	Arun Kumar Jagatramka Vs Jindal Steel And power Ltd. (SC)	Persons not eligible to be resolution applicant (Section 29A)	A person ineligible u/s 29A read with section 35(1)(f) is not permitted to propose a scheme for revival of a company undergoing liquidation under the code.
31.	Chitra Sharma v. Union of India, (SC)	Persons not eligible to be resolution applicant (Section 29A)	The provisions of Section 29A are intended to ensure that among others, persons responsible for insolvency of the corporate debtor do not participate in the resolution process.
32.	Swiss Ribbons Pvt. Ltd. vs. Union Of India (SC)	Persons not eligible to be resolution applicant (Section 29A)	The expression related party and relative contained in the definition Sections would include only persons who are connected with the business activity of the resolution applicant.
33.	Ebix Singapore PTE v. CoC of Educomp Solutions & Anr. (SC)	Approval of resolution plan	Resolution plan that has been approved by the CoC (but not yet by AA) cannot be viewed solely as a 'Contract' covered by Contract act.
34.	PNC Infratech Ltd. v. Deepak Maini, (NCLAT)	Approval of resolution plan	Unsuccessful resolution applicant can not challenge the score granted as per the evaluation matrix prepared by the CoC and the Resolution Professional as per the provisions of CIRP Regulations. the AA will not address the technical questions pertaining to those matters.
35.	Vallal RCK v. Siva Industries and Holding Limited & Others (SC)	commercial wisdom of CoC	SC held that commercial wisdom of CoC has been given paramount status without any judicial intervention for ensuring completion of the processes within the timelines under IBC.
36.	Macquarie Bank Limited v. Shilpi Cable Technologies Ltd	Application of CIRP by OC (Section 9)	SC held that - 1. Section 9(3)(c) of the code is directory and not mandatory in nature. 2. Demand notice under the code can be issued by the lawyer on behalf of Operational Creditor
37.	Radius Infratel Pvt. Ltd. v. Union Bank of India (NCLAT)	Corporate debtor cannot maintain appeal	Once an insolvency professional is appointed to manage the company, the erstwhile directors who are no longer in management, obviously cannot maintain an appeal on behalf of company.
38.	Nikhil Mehta & Sons (HUF) & Ors. v. AMR Infrastructures Ltd (NCLAT)	Flat buyers can initiate insolvency proceedings	All the allottees under real estate project, whether under assured return plan or not, shall fall under the definition of "Financial Creditor".
39.	Surendra Trading Company v. Juggilal	Time-limit for completion of CIRP	SC held that provision of removing the defects in an application within Seven days is directory and not mandatory in nature.

## Lesson 2 CORPORATE INSOLVENCY RESOLUTION PROCESS

### Case Laws

	Kamlapat Jute Mills Company Limited (SC)		
40.	Arcelormittal India Pvt. Ltd. v. Satish Kumar Gupta & Ors. (SC)	Time-limit for completion of CIRP (Section 12)	The time limit for completion of the CIRP as laid down u/s 12 of the code is mandatory and it cannot be extended beyond 270 days.
41.	Essar Steel India Ltd VS Satish Kumar Gupta (SC)	Role of COC in CIRP	SC emphasized the that primacy of the commercial wisdom of the COC in the resolution process as to whether to rehabilitate the corporate debtor or not by accepting a particular resolution plan.
42.	Ms. Ashish Ispat Private Limited Vs. Primuss Pipes & Tubes Ltd (NCLAT)	Withdrawal of Application (Section 12A)	NCLAT held that when a withdrawal application u/s 12A of the code is filed prior to constitution of COC, requirement of 90% vote of COC is not applicable it will be applicable only when COC is constituted.
43.	Nimitaya Infotech Pvt. Ltd. And Ors. Vs. Cox & Kings Ltd. (NCLAT)	Moratorium (Section 14)	Any action taken by landowner to enforce their security interest over their security deposits or maintenance advance by making any deduction from the same post initiation of CIRP would be in violation of Section 14.
44.	P. Mohanraj & Ors. v. M/s Shah Brothers Ispat Pvt. Ltd (SC)	Moratorium (Section 14)	No section 138/141 proceeding can continue or be initiated against the CD because of moratorium, such proceeding can be initiated or continued against the person in charge of, and responsible to the company during the Pre-CIRP period.
45.	Gujarat Urja Vikas Nigam Ltd. vs. Yes Bank Limited. (NCLAT)	Moratorium (Section 14)	AA ruled that Power Purchase Agreement (PPA) and the solar power project must work together to maximize the worth of the assets, it does not seems justified to terminate the PPA after liquidation order passed against CD as CD's supply of solar energy does not constitute a breach of the contract on CD's side..
46.	Alchemist Asset Reconstruction Company Limited Vs. Hotel Gaudavan Private Limited (SC)	Moratorium (Section 14)	Once the moratorium is imposed any proceeding initiated against the corporate debtor is non-est (does not exist) in law.
47.	Canara Bank Vs. Deccan Chronicle Holdings Limited (NCLAT)	Moratorium (Section 14)	The moratorium will not affect any proceedings initiated or pending before the Supreme Court under Article 32 of the Constitution of India or where an order is passed under Article 136. Further, it will not affect the powers of any High Court under Article 226 of the Constitution.
48.	Mr. Ajay Kumar Bishnoi Vs. M/s Tap Engineering and Other (HC)	Moratorium (Section 14)	HC confirmed that the moratorium u/s 14 of the IBC prohibits proceedings, but such proceedings do not include prosecution.

## Lesson 2

### CORPORATE INSOLVENCY RESOLUTION PROCESS

#### Case Laws

49.	Varrsana Ispat Limited Vs. Deputy Director, Directorate of Enforcement (NCLAT)	Moratorium (Section 14)	NCLAT held that section 14 of IBC is not applicable to criminal proceeding or any penal action taken pursuant to criminal proceeding or any act having the essence of crime or crime proceedings. The Supreme Court also upheld the order passed by the NCLAT
50.	Ms. Anju Agarwal Resolution Professional For Shree Bhawani Paper Mills Ltd. Vs Bombay Stock 19 Exchange & Ors (NCLAT)	Moratorium (Section 14)	NCLAT held that section 14 of IBC will prevail over section 28A of SEBI Act, 1992 & SEBI cannot recover any amount including the penalty from the CD. BSE cannot suspend trading of shares of CD for the same reason.
51.	Maharashtra Seamless Ltd. Vs. Shri Padmanabhan Venkatesh & Ors (NCLAT)	Moratorium (Section 14)	NCLAT held that Statutory dues or penalty imposed by regulator may be claimed as operational creditor but cannot be recovered during the resolution process.
52.	Rajendra K. Bhutta Vs. Maharashtra Housing and Area Development Authority (MHADA) (SC)	Moratorium (Section 14)	SC held that Section 14(1)(D), of the IBC speaks about recovery of property occupied, does not refer to rights or interest created in property but only actual physical occupation of the property.
53.	M/s Embassy Property Developments Pvt. Ltd. Vs. State of Karnataka and Others (SC)	Moratorium (Section 14)	The moratorium under section 14 did not impact the right of the government to refuse extension of the lease as the purpose of section 14 was to preserve the status quo and not to create a new right.
54.	Dakshin Gujarat VIL Company Ltd. Vs. M/s. ABG Shipyard Ltd. and Another (NCLAT)	Moratorium (Section 14)	NCLAT held that law does not stipulate that essential goods, including water & electricity should be supplied free of charge until moratorium is ended. The amount paid for these services by the RP shall be part of CIRP cost.
55.	Whispering Tower Flat Owner Welfare Association Vs. Abhay Narayan Manudhane, RP of Corporate Debtor and Ors (NCLAT)	Time limit for completion of CIRP	NCLAT held that object of the code is the resolution of the CD and efforts of all stakeholders has to be towards resolution of insolvency. NCLAT allowed extension of 90 days period during which RP and COC may complete resolution even though 730 days has already been elapsed in CIRP.
56.	Jaypee Kensington Boulevard Apartments Welfare Association & Ors. Vs. NBCC (India) Ltd. & Ors. (SC)	Committee of Creditors	<ol style="list-style-type: none"> <li>the treatment of any debt or asset is essentially required to be left to the collective commercial wisdom of the financial creditors and NCLAT does not have scope in the same.</li> <li>CoC can vote upon multiple resolution plans at the same time.</li> </ol>
57.	Mr. Manoharlal Mehta & Ors. v. Anil Vrijdas Rajkotia, RP of K K Welding Ltd (NCLAT)	Committee of Creditors	CoC is in superior position to make such business decisions of their commercial wisdom even when a Resolution plan duly approved by it. It is empowered to decide to liquidate the CD at any time following its

## Lesson 2

### CORPORATE INSOLVENCY RESOLUTION PROCESS

#### Case Laws

			constitution and prior to the confirmation of Resolution Plan.
58.	Lalit Kumar Jain Vs. Union of India & Ors (SC)	Approval of Resolution Plan by the Committee	Approval of resolution plan of a corporate debtor undergoing CIRP does not per se operate as a discharge to its surety/guarantor of their liabilities under contract of guarantee.
59.	Ghanashyam Mishra and Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited and Others (SC)	Approval of Resolution Plan by the Committee	<ol style="list-style-type: none"> <li>1. Once Resolution plan is approved by an AA, the claim forming part of resolution plan stands frozen and claim not forming part of resolution plan stands extinguished.</li> <li>2. Approved Resolution plan is binding upon Corporate Debtor, employees, members, creditors, government and any other stakeholders.</li> </ol>
60.	Next Orbit Ventures Fund Vs. Print House (India) Pvt. Ltd. & Ors (NCLAT)	Approval of Resolution Plan by the Committee	If resolution plan requires change in the nature of business when existing business of CD has become non-viable, then addition of new business line will not make the resolution plan unfeasible or unviable.
61.	Mobilox Innovations Pvt. Ltd. Vs. Kirusa Software Pvt. Limited (SC)	Applications by an operational creditor (Section 9)	SC undertook detailed analysis of the provisions relating to applications by an OC u/s 9 of the IBC code. the dispute must predate the receipt of the demand notice
62.	Innoventive Industries Ltd. Vs. ICICI Bank & Another (SC)	Application of CIRP (Section 7)	<ol style="list-style-type: none"> <li>1. A financial creditor can trigger section 7(1) of the IBC for default of a financial debt owed by the corporate debtor to any financial creditor.</li> <li>2. Dispute that existed before the receipts of demand notice/invoices by the CD will make application of an OC inadmissible.</li> <li>3. Even Non-payment of a disputed financial debt when due would constitute a default under IBC.</li> </ol>
63.	Swiss Ribbons Private Limited and Another Vs. Union of India and Others (SC)	distinguishment between financial creditors and operational creditors	The IBC needs to distinguish between financial creditors and operational creditors to preserve the corporate debtor as a going concern, while ensuring maximum recovery for all creditors.
64.	B.K. Educational Services Private Limited Vs. Parag Gupta and Associates (SC)	Applicability of Limitation Act	Where periods of limitation have been laid down in the IBC, they will apply notwithstanding anything to the contrary contained in the Limitation Act.
65.	Dena Bank (Now Bank of Baroda) Vs. C. Shivakumar Reddy & M/s SKC Infratech Pvt. Ltd vs M/s EOS Hospitality Pvt. Ltd (SC)	Applicability of Limitation Act	Entries made in the balance sheet and/or Books of accounts amounts to acknowledgement of debt as per section 18 of Limitation Act, 1963.

**Lesson 2**  
**CORPORATE INSOLVENCY RESOLUTION PROCESS**

**Case Laws**

66.	Babulal Vardharji Gurjar Vs. Veer Gurjar Aluminium Industries Private Limited (SC)	Applicability of Limitation Act	<ol style="list-style-type: none"> <li>1. Period of limitation for an application u/s 7 of IBC is three years from the date when the default occurs.</li> <li>2. Application u/s 7 of IBC is not for enforcing mortgage liability and article 62 of limitation act does not apply here.</li> <li>3. The date of the IBC's coming into force on 01.12.2016 is irrelevant to the triggering of any limitation period for the purposes of the IBC.</li> <li>4. Section 18 which allows extension of limitation would not apply to the application under consideration</li> </ol>
67.	RBI Vs. Dewan Housing Financial Corporation (NCLT)	Application of CIRP by RBI	The RBI, in its capacity as appropriate regulator, in terms of rule 5 of the Financial Service Provider Rules, can initiate CIRP
68.	Hindustan Construction Company Limited & Another Vs. Union of India & Others (SC)	Applicability of IBC	NHAI is a statutory body that function as an extended limb of CG and perform governmental functions that cannot be taken over by an RP under IBC nor such authority can be wound up under IBC.
69.	Nirej Vadakkedathu Paul & Ors Vs Sunstar Hotels & Estate Private Limited and Mcdowell Holdings Ltd (NCLAT)	Application of CIRP	<ol style="list-style-type: none"> <li>1. The shareholder have no 'Locus' once an application u/s 7 of by financial creditor is accepted and CIRP is initiated by AA and shareholders can not challenge the same.</li> <li>2. There is no law which allows third parties to settle claims of the Financial creditor on behalf of the corporate debtor without the consent of CD.</li> </ol>
70.	Anant Kajare Vs Eknath Aher	Application of CIRP	Since appellant is an investor therefore it cannot claim to be an aggrieved person for preferring an appeal against the order passed by the AA. However, the NCLAT held that an investor is entitled to file its claim before the Insolvency Resolution Professional.
71.	Sabarmati Gas Limited vs. Shah Alloys Limited (SC)		Case incomplete in module
72.	Committee of Creditors of Essar Steel India Ltd. V. Satish Kumar Gupta & Ors (SC)	Commercial wisdom of the COC	NCLAT held that it is always open to COC to adjudge the commercial wisdom of the resolution plan while approving it. The NCLT and NCLAT must never interfere with a commercial decision made by the majority of the COC.
73.	K. Sashidhar v. Indian Overseas Bank & Ors. (SC)	Commercial wisdom of the COC	<ol style="list-style-type: none"> <li>1. NCLT and NCLAT have no jurisdiction analyse the commercial decisions taken by the COC and opposition to resolution plan due to such Commercial decision is not open to challenge before AA.</li> <li>2. COC has discretion to approve any resolution plan and its discretion cannot be intervened with by AA</li> </ol>

**Lesson 2**  
**CORPORATE INSOLVENCY RESOLUTION PROCESS**

**Case Laws**

			except for in terms of Section 31(1) to examine compliance of Section 30(2) read with relevant regulations.
74.	Kalpraj Dharamshi and Another v. Kotak Investment Advisors Limited and Another (SC)	Commercial wisdom of the COC	Sc held that commercial wisdom of COC is not to be interfered excepting the limited scope as provided under Sections 30 and 31 of the I&B Code..
75.	Vallal Rck vs M/S Siva Industries And Holdings (SC)	Commercial wisdom of the COC	the commercial wisdom of the COC has been given paramount status without any judicial intervention for ensuring completion of the stated processes within the timelines prescribed by the IBC.
76.	Jindal Stainless Ltd. v. Mr. Shailendra Ajmera, Resolution Professional of Mittal Corp Ltd. & Ors. (NCLAT)	Approval of Resolution plan by COC	The decision of COC to vote on the Resolution Plan after completion of Challenge Process and not to further accept any modification of the plan, should not be interfered with.
77.	Binani Industries Limited v. Bank of Baroda & Anr. (NCLAT)	Objective of the IBC is Resolution and	Purpose of Resolution is for maximization of value of asset of the Corporate Debtor and thereby for all creditors and not for a 'stakeholder' or 'a set of stakeholders.
78.	Swiss Ribbons Pvt. Ltd. & Another Vs. Uol & Others (SC)	Liquidation	Sc held that preamble does not refer to liquidation, which is only pursued as a last resort if there is either no resolution plan or resolution plan submitted are not up to the mark.
79.	Binani Industries Limited v. Bank of Baroda & Anr. (NCLAT)	Principles for resolution plan	NCLAT laid down certain principles that a resolution plan should comply with.
80.	Vijay Kumar Jain v. Standard Chartered Bank and others (SC)	Meeting of COC	Former directors are entitled to receive resolution plan. the RP can take an undertaking from the erstwhile director to maintain confidentiality of the information.
81.	Maharashtra Seamless Limited Vs. Padmanabhan Venkatesh and Others (SC)	Modification of resolution plan	The court ought to cede ground to the commercial wisdom of the creditors rather than assess the resolution plan on the basis of quantitative analysis
82.	Committee of Creditors of Essar Steel India Limited Through Authorised Signatory Vs. Satish Kumar Gupta (NCLAT)	Subrogation and submission of claims	<ol style="list-style-type: none"> <li>1. It cannot be accepted that part of the resolution plan which states that the claims of the guarantor on account of subrogation shall be extinguished, cannot be applied to the guarantees furnished by the erstwhile directors of the CD.</li> <li>2. All claims must be submitted to and decided by the RP so that a prospective resolution applicant knows exactly what must be paid.</li> </ol>

**Lesson 2**  
**CORPORATE INSOLVENCY RESOLUTION PROCESS**

**Case Laws**

83.	Hem Singh Bharana Vs. Pawan Doot Estate Pvt. Ltd. & Ors. (NCLAT)	Approval of resolution plan by the COC	NCLAT held that After approval of resolution plan by the COC, it itself bound by its decision and cannot be allowed to go back from its decision.
84.	Hindalco Industries Ltd. Vs. Hiralak Industrial Works Ltd. (NCLAT)	Fraudulent initiation of CIRP	NCLAT imposed penalty on FC and CD and ordered for complete investigation by IBBI on the grounds of fraudulent initiation of CIRP and illegal constitution of COC
85.	Jindal Stainless Ltd. Vs. Shailendra Ajmera (NCLAT)	Submission of revised Resolution Plan	After adoption of Swiss challenge method to find out the best plan, one resolution applicant cannot be allowed to submit a revised plan