

Lesson 5
LIQUIDATION OF CORPORATE PERSON
Case Laws

Sr no.	Case Law	Topic	Take Away
1	Vedikat Nut Crafts Pvt. Ltd., (NCLT)	When can liquidation be ordered	COC decided to seek liquidation of the company without seeking extension of time of 90 days and without inviting expression of interest. It presents a telltale story of the irregularity committed by the Committee of Creditors. Such a decision is arbitrary and should not be sustained.
2	Small Industries Development Bank of India v. Tirupati Jute Industries Limited (NCLT)	When can liquidation be ordered	COC should not approve resolution plan which is not consistent with the provisions of section 30(2) (e) of the Code.
3	CA V. Venkata Sivakumar Vs. IDBI Bank Ltd (NCLAT)	Removal of liquidator	the Code does not explicitly state the grounds for removal of liquidator. AA may resort to Section 33 & 34 of the Code and Section 276 of the Companies Act, 2013 for the removal and replacement of liquidators on various grounds.
4	S. Muthuraju Vs. Commissioner of Police and Another (NCLT)	Taking charge as liquidator	NCLT directed the Superintendent of Police to give adequate police protection to the liquidator where unknown persons hurled threats with weapons and did not allow the liquidator to enter the premise of CD and carry out his functions..
5	Punjab National Bank Vs. Mr. Kiran Shah (NCLAT)	Removal of liquidator	NCLT held that after the liquidation order COC has no role to play. Hence cannot move an application for removal of liquidator.
6	Devendra Padamchand Jain V State Bank of india (NCLAT)	Replacement of RP	NCLT has jurisdiction to remove RP if it is not satisfied with functioning which amount to non compliance of 30(2) of the code
7	Hind Motors India Limited (NCLT)	Public announcement by liquidator	Applicant should pay for the cost associated with Public announcement and other process related cost which inter alia shall form part of the liquidation costs.
8	Rajive Kaul Vs. Vinod Kumar Kothari & Ors (NCLAT)	Powers and duties of liquidator (Section 35)	The liquidator has the power to remove and also appoint nominee directors of the corporate debtor which the company is bound to follow.
9	B.R. Traders Vs. Venkataramanarao Nagarajan & Ors. (NCLAT)	Powers and duties of liquidator (Section 35)	the liquidator is duty bound to make every endeavour to protect and preserve the value of the property of the CD and manage the operations as a going concern.

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10	IFCI Ltd. & Ors. Vs. BS Ltd. (NCLT)	Powers and duties of liquidator (Section 35)	Liquidator has power to consult any of the stakeholder entitled to a distribution of proceeds U/S 53 But that consultation is not binding on the liquidator
11	Precision Fasteners Ltd. vs. Employees Provident Fund Organisation (NCLT)	Liquidation Estate (Section 36)	Dues in respect of Provident Fund/Pension Fund/Gratuity Fund are not part of liquidation estate and they shall be paid in priority to all claims payable by the CD in liquidation.
12	Vijisan Jewels Pvt. Ltd. vs. Cimme Jewels Limited (NCLAT)	Powers of liquidator to access information (Section 37)	Corporate debtor did not transfer ownership of the assets or records Hence, NCLAT instructed the liquidator to report the theft of information to the authorities and also instructed the police station officer to file the report and take the necessary legal action against the former directors.
13	Prasad Gempex V Star Agro Marine Export pvt ltd & Ors	Verification of claims (Section 39)	In Case Resolution Plan is not approved and Liquidation order is passed in such case appellant can file claim before liquidator and liquidator will decide claim as per Section 40
14	Vijay Kumar Gupta Vs. Canara Bank (NCLAT)	admission or rejection of claims (Section 40)	If the Liquidator gets any information after the claim has been admitted and submitted to the AA pursuant to Section 40 of the Code, he shall not have the authority to reject or modify the admitted claim.
15	Indian Oil Corporation Ltd. Vs. Mr. Ashish Arjun Kumar Rathi, Liquidator of SBQ Steels Pvt. Ltd (NCLAT)	admission or rejection of claims (Section 40)	NCLAT upheld the decision of the liquidator to reject the claims, noting that though the liquidator has not clearly mentioned why he rejected the claims, he has mentioned that there is no binding agreement between the parties obligating the corporate debtor to pay interest and that reason is more than sufficient for rejecting the claim.
16	Mrs. Dipti Mehta, Resolution Professional, Prag Distillery Private Limited Vs. Shivani Amit Dahanukar and Ors. (NCLT)	Transactions defrauding creditors (Section 49)	It was directed that the asset of the corporate debtor shall be returned and restored to the corporate debtor by holding company as the assets were not sold but only transferred to the holding company for its utilization and the ownership of the assets is still with the Corporate Debtor
17	Edelweiss Asset Reconstruction Co. Ltd. Vs. Reid and Taylor India Limited (NCLT)	Unpaid debts of secured creditor (Section 52)	Only the first charge holder/ the secured creditor with first pari-passu charge can stay outside the liquidation process and realize his security interest. The applicant being the first charge holder is entitled to realise security interest under Section 52
18	Clutch Auto Ltd (NCLT)	Unpaid debts of secured creditor (Section 52)	The liquidator must give the creditor permission to exercise its right under Section 52 of the Code if the liquidator determines that the creditor has a security interest in the corporate debtor's assets.

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19	Om Prakash Agarwal Vs. Chief Commissioner of Income Tax (TDS) & Anr (NCLT)	Distribution of the assets (Section 53)	The deduction of TDS does not equate to paying government debts ahead of other creditors because it is not a demand for the realisation of tax liabilities.
20	Mr. S. S. Chockalingam Vs. Mr. CA Mahalingam Suresh Kumar (NCLT)	Completion of liquidation	If the bidder does not pay the remaining balance within prescribed time, liquidator can cancel the sale and can sold the assets to second bidder.
21	Alchemist Asset Reconstruction Co. Ltd. Vs. Moser Baer India Limited (NCLT)	Completion of liquidation	A liquidator is entitled to sell the assets without requirement of prior permission after reaching the conclusion that the assets are perishable, and it is likely to deteriorate significantly in value if not sold immediately.
22	R.K. Industries (Unit-II) LLP Vs. H.R. Commercials Pvt. Ltd. and Other (SC)	Completion of liquidation	Once the NCLT approves the decision to sell the assets of the CD in liquidation by adopting a particular mode of sale, there is no provision under the Code that empowers the NCLAT to suo motu conduct a judicial review of the said decision of NCLT.
23	Dr. Devaiah Pagidipati v. Southern Online Bio Technologies Limited, (NCLT) (same as chapter 4)	Sale of asset of CD as going concern	Sale of asset of CD undergoing liquidation as going concern does not required approval of NCLT, but approval of NCLT may be needed for claiming certain reliefs and concessions
24	M/s. Visisth Services Limited, v. S. V. Ramani, & Ors., NCLAT (same as chapter 4)	Sale of asset of CD as going concern	NCLAT held that sale of CD as going concern means sale of assets as well as liabilities and not asset less liabilities
25	Bank of Baroda v. Topworth Pipes & Tubes Pvt. Ltd, (NCLT)	Sale of asset of CD as going concern	In sale of CD as going concern during liquidation, successful bidder cannot be held liable for any past liabilities of the CD prior to effective date including liabilities arising in enquiries, investigations, assessments etc. during sale
26	Sharad Sanghi v. Ms. Vandana Garg & Ors (NCLAT)	Voting by COC	The COC had the jurisdiction to again caste votes and change its opinion in favour of the 'Resolution Plan' to make it a success and regulation 26(2) being directory which also stands deleted, NCLAT set aside the impugned order of NCLT
27	S. C. Sekaran v. Amit Gupta & Ors (NCLAT)	Sale of asset of CD as going concern	The liquidator is supposed to keep the corporate debtor as a 'going concern' even during the period of liquidation and can take steps under section 230 of the Companies Act, 2013.
28	Corporation Bank v Amtek Auto Ltd. & Ors (NCLT)	Submission of Resolution plan	The resolution applicant was not capable to implement the resolution plan. Hence, NCLT allowed only other resolution applicant to submit resolution plan and excluded certain period of time while calculating 270 days

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29	Chennai Metro Rail Ltd. Vs. Lanco Infratech Ltd. (Represented by the Liquidator) & Ors. (HC)	Winding up	Section 279 of the Companies Act, 2013 applies only in cases of winding up under the Companies Act, 2013 and not the Code.
30	Anuj Jain Vs. Axis Bank Ltd. & Ors. (SC)	Miscellaneous	SC observed and analyzed provisions related to Preferential Transactions, Duties and responsibilities of RP and Undervalued and fraudulent transactions.