

Lesson 4
RESOLUTION STRATEGIES
Case Laws

Sr. No.	Case laws	Topic	Takeaway
1.	Edelweiss Asset Reconstruction Co. Vs. Synergies Doorey Automotive Ltd. (NCLAT)	Restructuring through mergers, amalgamation and demerger	Merger and amalgamation of companies can be proposed in the resolution plan
2.	Bhushan Steel Limited (Tata Steel BSL limited after acquisition by Tata Group) Resolution applicant Bamnival Steel Ltd. (subsidiary of Tata steel Ltd) (NCLAT)	Section 29A	The promoters of BSL approach NCLT saying that a foreign subsidiary of Tata Steel, which was fined by an English Court for 'imprisonment for a term not exceeding twelve months, or a fine, or both'. While, Section 29A of the IBC mandates that a person convicted for any offence punishable with imprisonment for two years or more is ineligible for submitting a resolution plan. NCLAT upheld the acquisition.
3.	Dr. Devaiah Pagidipati v. Southern Online Bio Technologies Limited (NCLT)	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
4.	M/s. Visisth Services Limited, v. S. V. Ramani,& Ors (NCLAT)	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
5.	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
6.	Alchemist Asset Reconstruction Co. Ltd. Vs. Moser Baer India Ltd (NCLT)	What is the mode of sale provided to Liquidator?	NCLT held that liquidator is entitled to sell the assets without requirement of prior permission after reaching conclusion that the asset are perishable and it is likely to deteriorate significantly in value if not sold immediately.
7.	MRG Estates LLP Vs. Akash Shinghal, Liquidator, Amira Pure Foods Pvt. Ltd. & Ors. (HC)	mode of sale provided to Liquidator	The HC directed IBBI to consider the petition as a representation on the issue of adoption of Swiss Challenge method as a form of an auction under the Liquidation Process Regulations.
8.	Y. Shivram Prasad & Ors. v. S. Dhanapal & Ors (NCLAT)	What is the mode of sale provided to Liquidator?	1. Settlement can be made only at three stages i.e before admission, before constitution of COC, and in terms of section 12A 2. If the members or the 'creditors' or the CD approach the company through the liquidator for compromise or arrangement, the liquidator on behalf of the company will move an application u/s 230 of the Companies Act, 2013 before the adjudicating authority

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9.	Swiss Ribbon pvt.ltd & Anr. Vs. Union Of India and Meghal Homes pvt ltd (SC)	mode of sale provided to Liquidator	Preamble does not, in any manner, refer to liquidation, which is only availed of as a last resort if there is either no resolution plan or the resolution plans submitted are not up to the mark. Even in liquidation, the liquidator can sell the business of the corporate debtor as a going concern
10.	Edelweiss Asset Reconstruction Company Ltd. v. Bharati Defence and Infrastructure Ltd (NCLT)	Liquidation	The proposed resolution plan provided that the resolution applicant will sell the Corporate debtor in 2 years. NCLT held that resolution plan is for insolvency resolution of the Corporate Debtor as a going concern and not for the addition of value and intended to sale the corporate debtor. Accordingly, it rejected the resolution plan and ordered for liquidation.