

Mergers, Acquisitions and Corporate Restructuring
Prof. Chandra Sekhar Mishra
Vinod Gupta School of Management
Indian Institute of Technology – Kharagpur

Lecture - 40
Alternative Exit and Restructuring Strategies – Insolvency and Bankruptcy

Hello friends welcome to another session on mergers acquisition and corporate structuring and in this particular session that is your lecture number 40 which is effectively the last session of this particular course we will be talking about the alternative exit and restructure strategy that we discussed in this module. In the first 3 session of this particular model that is 8th model we talked about different restructuring strategy like breaking companies multiple parts.

We talked about equity car about spinout split out and the 4 session talked about a special case of leverage buyout in this particular session we will talk about the exit optional exit process for the company which become insolvent or bankrupt.

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These are the considered we are going to discuss insolvency and bankruptcy code which is 2016 which is implemented in India. We will talk about what are the different causes and symptoms of bankruptcy or insolvency we also talk about the corporate insolvency resolution process in a very broad framework we will discuss about. Because there are several margins acquisition possible by taking over sick companies or sick units the distressed units for that matter. So in that case what are the provision of the law which is enabler or not that you will discuss in this particular session.

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Keywords

- Insolvency
- Bankruptcy
- Financial Failure
- Business Failure
- Altman's Z-Score
- Financial Creditor
- Operational Creditor
- Waterfall Mechanism

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These are the keyword that we have insolvency, bankruptcy, financial and business failure, Altman's z- score, financial creditor, operating creator and operational creator and waterfall mechanism for payment of the dues to different craters for that matter.

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Concepts of Insolvency and Bankruptcy

- The words "**Insolvency**" and "**Bankruptcy**" are generally used interchangeably, but they have different meanings.
- The word "bankruptcy" is the condition of insolvency. It is a legal status of a person or a business who cannot repay debts to creditors.
- The term "insolvency" denotes the state of one whose assets are insufficient to pay their debts; or their general inability to pay their debts.
- The bankruptcy process begins with filing of a petition in a court or before an appropriate authority designated for this purpose. The assets of the debtor are then assessed and applied to the legal payment of the creditors.

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If you look, at the generic term as insolvency and bankruptcy they appear to be used in a synonyms but there are different meanings are there for example the bankruptcy is the condition of insolvency where the person who is doing a business or the business itself who cannot repay the debts to the greatest whatever reason you are not able to repay debts to the creators. And the creators could be both, financial as well as operational for that matter.

Insolvency is the state of one whose assets are insufficient enough to pay the liabilities of pay their debts that is the inability to pay as such and bankruptcy process will start with highly a petition someone may file a petition in a court or in within appropriate authority designated for their purpose and in that case what will happen assets of the data will asset and then liquidated and those proceeds from those disposal of assets can be given to the craters as per a particular scheme or manner as prescribed by the particular case and the law for that matter.

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The slide is titled "Concepts of Insolvency and Bankruptcy, contd.." and features the NPTEL logo in the top right corner. The content is organized into a bulleted list:

- Insolvency
 - Individuals: Bankruptcy ✓
 - Organizations and Corporates: Corporate insolvency
- If insolvency is untreated it will lead to
 - Bankruptcy in case of non-corporates ✓
 - Liquidation in case of corporates, i.e. winding up of a corporation or incorporated entity. Liquidation proceedings can be initiated by
 - Regulatory Bodies ✓
 - The Directors of a Company ✓
 - The Shareholders of a Company
 - An unpaid creditor a Company ✓

A video inset in the bottom right corner shows a man with glasses and a mustache, wearing a light purple shirt, speaking. At the bottom of the slide, the text "MERGERS, ACQUISITIONS AND CORPORATE RESTRUCTURING" is visible.

And yes insolvency can be applicable to individuals and can be applicable to partnership firms it can be applicable to companies for that matter if individuals insolvency is known as also bankruptcy whereas for corporate and organizations is called corporate insolvency. If insolvency is not treated because insolvency found out there is a problem with the company finance distress is there and the some recourse mechanism can be there.

Some correction can be done or some restructuring can be done in that case is it treated if it is not treated there is no conclusion for that process then it will lead to bankruptcy in case of non corporates whereas in case of companies or non individual bodies for that matter or non incorporated entity so incorporate entities it will lead to liquidation so liquidation means dismantling the company and then all the stakeholders whoever has take it will be paid the amount in a particular manner.

So liquidation can also be initiated by a regulatory authorities the government can also liquidated company that under special cases the directors of the company also can initiate the liquidation shareholders of the company also can use a liquidation and a creditor who has been

not been paid whether operating creator of financing they also can the initiate the liquidation proceedings and they can apply to the appropriate authority.

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Signs of Bankruptcy or Financial Distress, contd..

- Increasing trade payables without commensurate increase in business activities
 - Not making timely payment to the vendors
 - Seeking extended terms from vendors
- Increasing trade receivables without commensurate increase in business activities
 - Increase in average collection period
- Denial of credit and other credit related facilities by banker
 - Invoking of guarantees by the banker/ lender
 - Higher interest payments
 - Decrease in credit score, downgrading of credit rating
- Imposition of restrictions by vendors
- Higher attrition rate of key management persons; high employee turnover in comparison to industry;

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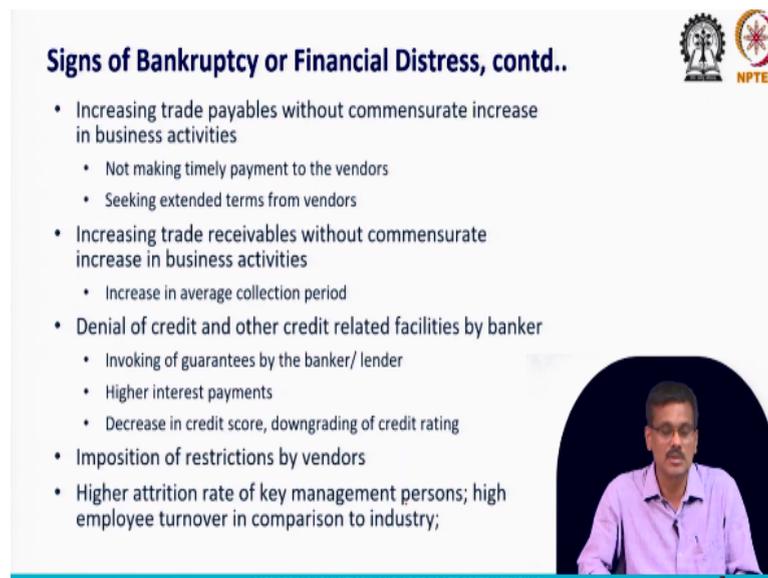
Can we look at that is finance because financial distress as bankruptcy is not overnight it happens over a period of time. So is it possible that the company is going to bankrupt in near future they are going to distress is there any sign for that because stakeholders may have look at that and then they will not deal also at the same time there could be some investors who are also known as vulture capitalist they look for distressed companies.

They will look for a sign of distress and they like to bid for those companies. and take over these companies and they may sell the assets of their company to the appropriate person who need these assets and they get a good gain in that also. So like we have venture capitalist we also have vulture capitalists who look for the distressed units. Besides that keeping that aside there could be any sign that yes for a healthy come for a normal company can there a sign of bankruptcy or distress.

Yes is the sales of the particular companies continuously falling or decreasing although it is not happening in the rest of the industry the cost of operation is displacement increasing which is not in commensurate with the revenues if the revenue is increasing cost is increasing that is understandable. But the revenue is falling or revenue is revenue stagnant but cost operation is increasing so there must be some problem for that matter. The margins the revenue and cost the difference margin is falling getting squeezed or getting negative for that matter.

Then company is not able to pay the to the normal device operating expenses cash flow is not sufficient they are delaying payment utilities paying the salaries wages to suppliers and also there is a delay in payment of statutory dues like provident fund you they have deducted they have not been paid deposited tax not being paid returns are not being filed in time this could be the some certain signs of financial distress there are letters coming from the different stakeholders about that you should pay this amount in time all those things are there.

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Signs of Bankruptcy or Financial Distress, contd..

- Increasing trade payables without commensurate increase in business activities
 - Not making timely payment to the vendors
 - Seeking extended terms from vendors
- Increasing trade receivables without commensurate increase in business activities
 - Increase in average collection period
- Denial of credit and other credit related facilities by banker
 - Invoking of guarantees by the banker/ lender
 - Higher interest payments
 - Decrease in credit score, downgrading of credit rating
- Imposition of restrictions by vendors
- Higher attrition rate of key management persons; high employee turnover in comparison to industry;

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Similarly we also have other like trade payable that means from where you took the services or the goods and credit that amount is increasing without any increase in the business assets revenue is not increasing but the trade privilege increase that means you are making delayed payment or not making the payment for that matter and time or you are seeking extension from the vendors about the more time to be given to the company or the debtors company treated for that matter.

Trade receivables increase that means you are giving more and more credit period thinking then more sales will take place and not able to collect the money from the debtors then that can be indicated by average collection there is actually increasing that is indicates that the debtor is, debtors are growing at a faster higher rate than the sales. Then the banker is there banker gives certain facilities like first later credit facilities could be there banker can also guarantee facilities.

And banker will give over that facilities cascaded faces so many facilities are they given by the banker when the company takes a loan or financing from bank so they may withdraw

certain facilities they may not extend those facilities also they may invoke the guarantees given by somebody on behalf of this company the distressed company. And interest payment is increasing the credit score of the company or even in case of individual like cibil score is decreasing credit rating is decreasing.

That means there is downgrading accrediting crediting agencies of this particular companies, debt instrument vendors are giving more information more restriction they may say that unless you pay in advance will not supply it because they are very unsure about the payment from the company for this business for that matter so they will put more restrictions and then the key persons are higher position people a key management persons are leaving the company.

And employee turnover, is high compared to the industry for that matter rest of the industry is always there but this is higher in this case so this could be taken as certain signs of bankruptcy or financial distress for any company for that matter these are the signs but it does not mean that the bankruptcy is taking place or distress is taking place this somebody can take a look at other indicators to conclude if there is a bankruptcy or not for a particular company.

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Signs of Bankruptcy or Financial Distress, contd..

- Other than cases of outright fraud, the debtor may be insolvent because of*
 - **Financial failure** - a persistent mismatch between payments by the enterprise and receivables into the enterprise, even though the business model is generating revenues, or
 - **Business failure** - which is a breakdown in the business model of the enterprise, and it is unable to generate sufficient revenues to meet payments. Often, an enterprise may be a successful business model while still failing to repay its creditors.
- A sound bankruptcy process is one that helps creditors and debtors realise and agree on whether the entity is facing financial failure and business failure. This is important to allow both parties to realise the maximum value of the business in the insolvency.

*Source: The report of the Bankruptcy Law Reforms Committee of November, 2015 (https://ibhi.gov.in/BLRCReportVol1_04112015.pdf accessed on 20 December 2022)

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And continuing with that if you look at the general failure signs for that matter there is an outright frauds company does not pay they have the money they do not pay the fraud they take the money from the lender or the intentional siphoning of the fund that is another case that is a different case not talking about that. We are talking about genuine business related failures so there can 2 categories financial failure where the payment that is made by the enterprise and the receivable that is coming to the enterprise the money.

Business is generating revenue but they are not able to pay because there is a mismatch in cash collector and cash to be paid. Another thing is that business failure where breakdown a business model that means, what the company thought of a business but that model is not working there is no demand for the product services so that is another reason also. So when the bankruptcy proceeding will take place the creditors and other people will see that if there is a business model viable business model or not.

Then they go for next if there is no viable business model then possibly the company should be liquidated assets but there is no scope for improvement if this business model is good then there is scope of improvement and then the financial failures can be handled as us. So keeping all those things a bankruptcy process is to be there in every country it is there most of the economy it is there. So the bankruptcy process is a process where which will help the creators and debtors.

Debtors means the company which has taken the money creators company which has given the money or given the goods and services on credit for that matter and they agree on whether the entity is facing financial failure and business they agree to that so that it is important so that the both parties realize the maximum value of the business in the insolvency so they go for continuing the business or liquidation for them but they should get the maximum value and they should come to conclusion about this reasons of failure.

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Predicting Bankruptcy – Altman’s Z-Score

Altman’s Z-Score suggests the likelihood of bankruptcy of a publicly traded manufacturing company.

$$Z\text{-Score} = 1.2 * T_1 + 1.4 * T_2 + 3.3 * T_3 + 0.6 * T_4 + 1.0 * T_5$$

$T_1 = \text{Working Capital} / \text{Total Assets}$: This measures liquid assets as firm in trouble will usually experience shrinking liquidity. ✓

$T_2 = \text{Retained Earnings} / \text{Total Assets}$: This indicates the cumulative profitability of the firm, as shrinking profitability is a warning sign.

$T_3 = \text{Earnings Before Interest and Taxes} / \text{Total Assets}$: This ratio shows how productive a company in generating earnings, relative to its size.

$T_4 = \text{Market Value of Equity} / \text{Book Value of Total Liabilities}$: This offers a quick test of how far the company’s assets can decline before the firm becomes technically insolvent (i.e. its liabilities exceed its assets).

$T_5 = \text{Sales} / \text{Total Assets}$: Asset turnover is a measure of how effectively the firm uses its assets to generate sales.



$Z > 2.99$	Safe zone	✓
$1.8 < Z < 2.99$	Grey zone	✓
$Z < 1.8$	Distress zone	✓



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And there is one model which quite old model for that matter Altman's Z-score which was designed in the context of US based manufacturing companies. But it has gotten certain relevance one can always develop a similar model looking at the available data so that with the help of certain ratio that model is created that can be applied to any company and we can forecast whether the company is going to bankrupt are they go in healthier.

So the Altman's Z score has got 5 different important ratios financial ratios for any company so and they have respective coefficients are there so these are the coefficients which is designed out of the discriminant function. so, in this case the T even ratio which is called working capital to total assets which talks about liquidity of the company. Working capital is the short term assets is liquid how liquid the company that is indicated by this ratio.

The retained earnings is the profit retain the business and that is used for the growth of the company that indicates the cumulative profitability more and more profit is there more and more militants can be there because the profitability is in decreasing then return only sets will decline. So that is one and in fact this is also known as the growth through internal accruals. And this talks about earnings before interest and taxes to total assets operating profit and other is creating enough operating profit to its size or not.

Then we talk about that the ratio this score talks around the ratio market value of equity and to book value of total liabilities this is talks about is this how the value of the equity is there is also talks about liver is actually inversible leverage where you have leverage you have liable to equity here inverse of leverage is equal to reliabilities and if this ratio is declining that means not good because that means equity value is declining in the market.

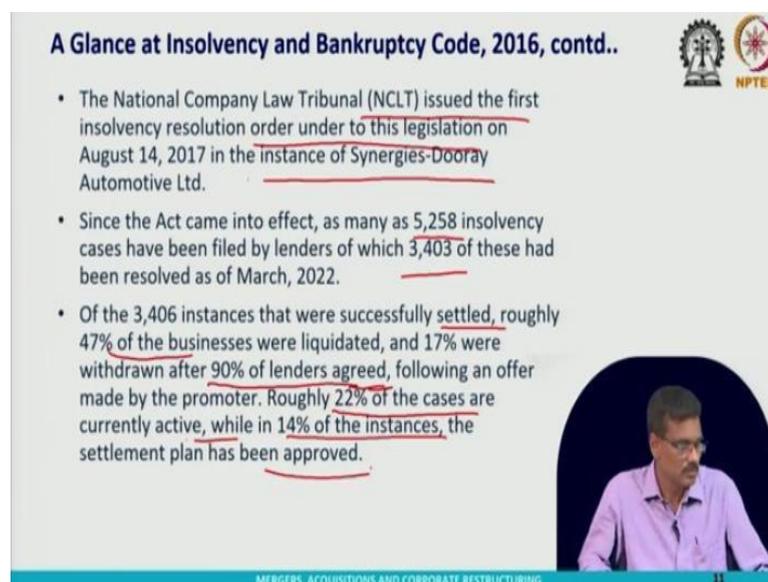
Then another last issue is called sales total assets which is called the how efficiently companies using the accessible asset turnover ratio for that matter all those things are considered then respective coefficient are multiplied and then one gets a score if the Z score is more than 2.99 that mean it is safe zone it is not a problem with the company. If is less than 1.8 that means its distress that means the company either, has become bankrupt or is just about to bankrupt.

And if it within 1.8 and 2 point is a gray zone that means depending on where this course starts turns towards 2.99 then you take one can take quick corrective measure so that it

becomes more it becomes viable business can revive if it is more than almost equal nearer 1.8 that means possibly chances or revival is going to be lower assets. In any case these are the indicators this is applicable in a special case of manufacturing design in this special case of manufacturing companies in US context.

Still this particular model has relevance and different authors have developed different other different models like Z square this Z score with their own data and depending contributions and also sector specific this is also this is just a generic model just suggests that possibly one can predict the bankruptcy with the help of Altman's Z -score.

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A Glance at Insolvency and Bankruptcy Code, 2016, contd..

- The National Company Law Tribunal (NCLT) issued the first insolvency resolution order under to this legislation on August 14, 2017 in the instance of Synergies-Dooray Automotive Ltd.
- Since the Act came into effect, as many as 5,258 insolvency cases have been filed by lenders of which 3,403 of these had been resolved as of March, 2022.
- Of the 3,406 instances that were successfully settled, roughly 47% of the businesses were liquidated, and 17% were withdrawn after 90% of lenders agreed, following an offer made by the promoter. Roughly 22% of the cases are currently active, while in 14% of the instances, the settlement plan has been approved.

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Then 2016 the insolvency and bankruptcy code in India was implemented as notified it is an Indian law where there is a unified framework now which is governing the insolvency and bankruptcy proceedings of companies partnership as well as individuals and unified law earlier there are several laws actually companies act SARFAESI act then RDDFBFI are sick industries companies across the SICK 1985 then partnership act has got a certain provisions several acts were there which had provision related to insolvency and bankruptcy.

So that was a more of very cumbersome process to address several things now all those things have been taken out and there is a insolvency, bankruptcy court 2016 has been notified which is a path breaking law in Indian corporate sector and which was notified 28 may 3016 and so that the multiple laws multiple forums complexes complexities which is there which is leading to lot of delay in resolution of distress entities or the resolution of insolvency or resolution bankruptcy that is gone we used to have BIFR earlier.

That is board for industrial and financial reconstruction as per the sick industrial companies act with reference to that now it is not there we have now installments in bankruptcy court 2016 and which governs the bankruptcy insolvency proceedings in India.

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A Glance at Insolvency and Bankruptcy Code, 2016, contd..

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In case of individuals partnership as well as companies the national company law tribunal which has issued the influence resolution. The first case that was in Synergies Dooray automotive limited in fact NCLT has got the benches or tribunals at different locations different cities in this country and Where this insolvency proceedings can expect place. After they are as of march 2022 some 5252 insolvency cases are filed by different lenders.

And out of that 3403 case have been resolved that is a good success factor in fact, there are still continue to streamline the process and is becoming more and more efficient system. And after this settled some 47 percent were liquidated business liquidated 17 people withdrawn this and out of the after that 90 percent lender agreed that a 90 percent lenders agree then the insolvency proceeding can be withdrawn.

And out of 22 percent are active now and 14 percent instances the settlement plan also has been approved so this shows that there is a robust process there is a good process where in a time bound manner this insolvency cases are being resolved by the NCLT.

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Desired Objectives of Corporate Insolvency Regime, contd..

- Protecting the rights of creditors
 - In the long run, the cost of credit is expected to decline.
 - Control of a company is not divine right. When a firm defaults on its debt, control of the company should shift to the creditors. In the absence of swift and decisive mechanisms for achieving this, management teams and shareholders retain control after default. Bankruptcy law must address this*
- Improve business environment and encourage entrepreneurship ✓
 - Smooth exit option for the entrepreneurs who fail due to genuine business reasons

*Source: The report of the Bankruptcy Law Reforms Committee of November, 2015
(https://ibbi.gov.in/BLRCReportVol1_04112015.pdf accessed on 20 December 2022)




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And the desire what the corporate insolvency regime any country for that matter the intention is to protect the interest of stakeholders like lenders employees and sales vendors. And so that they can reorganize the business is viable they can be reorganized or not viable unviable when they can be liquidated within a stipulated time and the process should be completed as early as possible. And that should lead to automatically efficient allocation economy resources.

So that these resources can be used for some other business or somebody can take over and do a good job compared to the present owner the company or the business actually lead to promote economic growth.

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Then also the course would be the regime should be protecting the rights of creditors in the long run what will happen the rights produce creditors protected they have become more

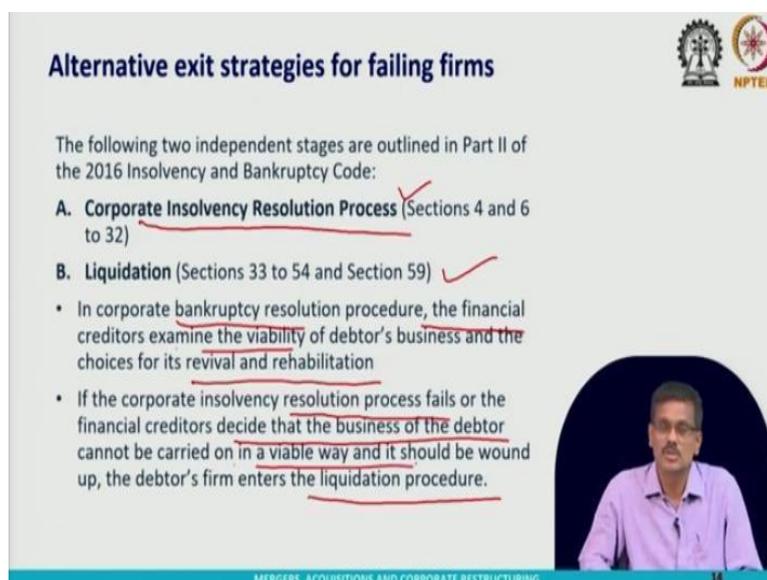
secure they feel more secure the cost of credit in case of banking company interest rate for that matter is going to be lower assets and control of the because the control what happens the owners feel that because since they are the owner of the company they have ultimate right.

Although they have taken the loan so that mindset has to be removed because the control of the company is not a divine right when firm is defaulting on the debt control of the company has to shift to the creditors and if that there is no swift and decisive mechanism for achieving this then management team use existing management of the company and shareholders retain control which is not desirable because they are not able to manage the business well and they are not able to pay the creditors in time.

So bankruptcy law has to address this, this was given by the bankruptcy law reforms commission the reference committee November 2015 based on that when the bankruptcy code was actually resigned and improve the another objective of the corporate insolvency regime is that improve business environment and encourage entrepreneurship. So that there is a smooth exit option for entrepreneurs who fail due to genuine business reasons because they fail and they are not able to come out of that.

Because there is no there is not a time bound process there is not a smooth process for that matter so they get litigation continuous so that has to be also address because businesses can always fail because of genuine regime we cannot keep on punishing the business for all the time to come because they have failed in paying the creditors.

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Alternative exit strategies for failing firms

The following two independent stages are outlined in Part II of the 2016 Insolvency and Bankruptcy Code:

- A. Corporate Insolvency Resolution Process (Sections 4 and 6 to 32)
- B. Liquidation (Sections 33 to 54 and Section 59)

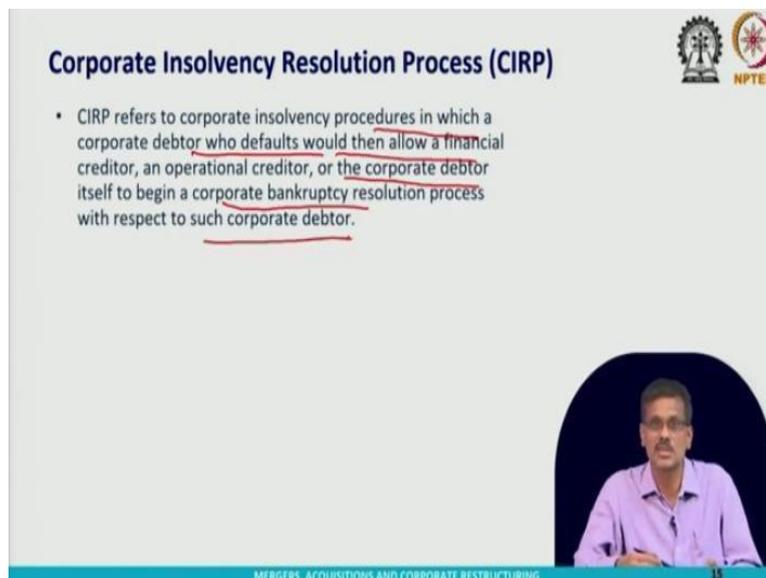
- In corporate bankruptcy resolution procedure, the financial creditors examine the viability of debtor's business and the choices for its revival and rehabilitation
- If the corporate insolvency resolution process fails or the financial creditors decide that the business of the debtor cannot be carried on in a viable way and it should be wound up, the debtor's firm enters the liquidation procedure.

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So what could the alternative mechanism exist strategies one is that 1 can start the corporate insolvency resolution process as per the section 4 and 6 to 32 that is of the insolvency bankruptcy court or the company can go to liquidation or liquidation can be preceded by corporate Installment resistance process and with the corporate resolution phase is can lead to liquidation also that process. And in case of corporate bank resolution procedure the financial craters will examine the viability of debtor Business they look at.

And then choice for find the choices for revival and rehabilitation and if the corporate influence resolution process fails in that case they may decide to close it down or liquidate for that matter because this business cannot be done in a viable way so that this company can be owned up so this is the general approach of a exit strategy for a failing firms for that matter.

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Corporate Insolvency Resolution Process (CIRP)

- CIRP refers to corporate insolvency procedures in which a corporate debtor who defaults would then allow a financial creditor, an operational creditor, or the corporate debtor itself to begin a corporate bankruptcy resolution process with respect to such corporate debtor.

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So CIRP is the process of getting the initial message, procedure done corporate insolvency resolution process as per the insolvency in bankruptcy code. In this process what happens a corporate debtor they debtor means the person the company which has taken the money on credit or the goods or service and credit which is defaulting then they will allow a financial creditor or operational creditor financial creditor is the person who has given a loan.

Operational creditor who is the person who has given goods and services and there is a amount is spending from the debtor or the Corporate debtor itself can also start for bankruptcy process the beginning of corporate bankruptcy resolution process with respect to that particular debtors. That means company itself also can start a voluntary liquidation a voluntary bankruptcy process.

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Who can initiate CIRP (contd..)?

- Section 8 and 9 – Initiation of corporate insolvency resolution process by **Operational creditor**.
- As per Section 5(20) A person who owes an operational debt, including anyone to whom it has been legally assigned or transferred, is referred to as a "operational creditor".
- These creditors include those who work for the business or who owe money for goods and services they rendered to the corporate debtor. For instance, workers, employees, suppliers etc.



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Who can initiate this CIRP financial creditor who was who is owed money. Where the debt was the given that was assigned or that has been transferred there could be like NBFC the finance institution there can be banks for that matter this could be example of financial creditor. Then as per section 8 and 9 operational creditor also can initiate the CIRP and to whom again they are legally transferred and referred to as operational creditor.

And these could be the people who owe money who for goods and services they rendered to the corporate debtor and for instance workers employees suppliers etcetera. There could the operational creditor they can also initiate the CIRP.

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Who can initiate CIRP (contd..)?

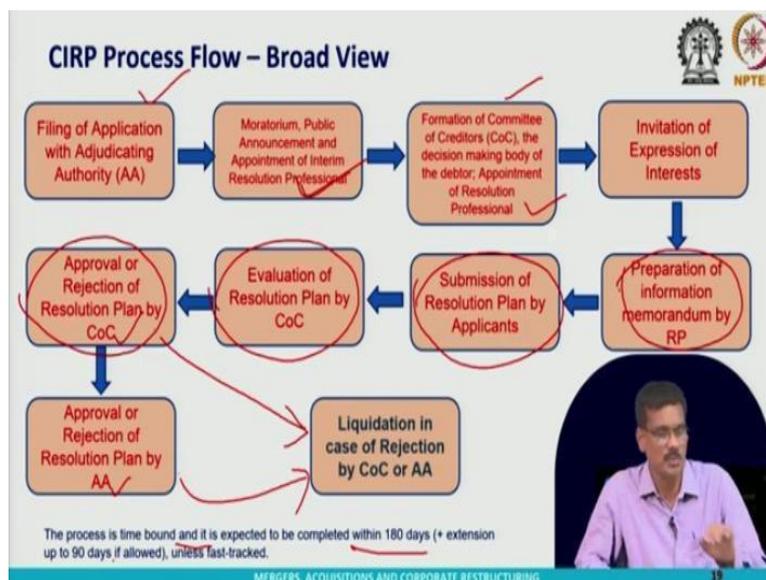
- Section 10 – Initiation of corporate insolvency resolution process by **Corporate applicant**.
- As per Section 5(5) of the code, the following persons can be "corporate applicant" i.e.,
 - corporate debtor or ✓
 - a member or partner of the corporate debtor who is authorized to make an application. ✓
 - an individual who is in charge of managing the operations and resources of the corporate debtor. ✓
 - a person who has control, and supervision over the financial affairs of the corporate debtor. ✓



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Then as per section 10 corporate applicant also can do and corporate applicant could be a corporate debtor itself or the member or a partner of the corporate debtor that the company for that matter which is industries or with the person who is in charge of the managing this corporate data and there is its operations or person and who has control and supervision over the financial affairs computer can be board of directors could also be there which can also initiate the CIRP or shareholder can also initiate the CIRP process because a top management can initiate the CIRP in a company.

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So this is broad flow of the CIRP first of all the; whoever is initiated the CIRP they will file an application with the adjudicating authority which is called the company lord national company lord travel and different branches are there. Then after that what happens they will notify they will make an advertisement in the public announcement this adjudicating authority until moratorium business that means yes whatever is there the business will go as usual and one interim resolution professional is appointed.

Who takes the charge of the companies management now there will be the link between the company and the other people for that matter then a former a commutative creditors is from and which becomes the decision making body of the debtor now and then appointment resolution they resolution processor here your internationally professional the same person can be appointment resolution professional or another person another entity can also be appointed.

And there are certain guidelines about who can be an inter a resolution professional as per the IBC not that every anyone or everyone can become the resolution professional these are

professional, experts for that matter then expression of interest is invited from different stakeholders saying that this company is being liquid this company has been filed as free insolvency process initiated.

And so that if somebody has an interesting company they can tell about that and with that the resolution professional prepare information memorandum looking at who has applied who has strictly claim about the company on and they will give a resolution plan also these people who have stake in the company and they will submit the resolution plan this there are the applicants now and this resolution plans will be now evaluated by the commutative committee of creditors become the decision making body.

And committee of creditors will look at evaluation plan, resolution plan and the resolution plan whatever the finalized for that matter that can be approved by the COC community grade or can also rejected by the community creditor. If it is rejected by the community creditor then goes to liquidation if it is approved by the community credit then it goes to the executing authority that is AA and they executive may finally approve it modify it or reject it.

If they reject it goes to the company or the business goes for liquidation this is general process of the CIRP and is a typical time bound in fact for each period there are designated number of days are there which is not is not in the scope of this particular course. But the number of days are specified extension days are also specified in how many people respond in how many they will file all those things are there.

It is desired to complete the process in 180 days but there can be extension to the extent of 90 Days can be also there so that at least the law the code provides for a definite time period so that people know that yes this resolution is going to be there and within time bound period this is going to be completed.

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Liquidation process under IBC,2016

- It should as per Insolvency and Bankruptcy Board of India (Liquidation process) Regulations, 2016 in congruence with IBC, 2016 ✓
- Form E of schedule II, provided by the corporate debtor must be submitted in person, by mail, or electronically to the liquidator as a proof of claim. ✓



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Then liquidation process if that is going to be there as per IBC 2016 it should be as per IBC liquidation process regulation in also in congruence with the IBC 2000 there are liquidation regulation 2016 as well as the IBC 2016 and there is a particular form which is provided By the corporate debtor we have submitted by person either by mail electron to the liquidator with liquid is appointed to whom that is particular form has to filled and submitted.

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Steps of Liquidation under IBC,2016

- Appointment of Liquidator ✓
- Announcement of liquidation and calling for submission of claims and appointment of valuers ✓
- Verification and acceptance of claims ✓
- Preparation of asset memorandum and other reports
- Formation of Liquidation estate (with inclusions and exclusions)
- Sale of assets ✓
- Distribution of assets as per waterfall mechanism
- Dissolution of corporate debtor (to be done within 1 year) ✓



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So than the process we have here appointment of liquidator is there and announcement liquidation when calling for the submission of claims and appointment valuables appointed registered who are registered actually as valuable they will appointed. Because they will value the assets and liabilities etcetera for the company. And then there will be people claiming about this of the stake in the company they will be verified they will be accepted.

In fact liquidation like resolution professional only and which was there in case of CIRP then there will be memorandum of asset is created moment of assets what are the different assets are there and on different other reports are there then there will be liquidation estate will be formed. And this asset cell will take place. Then distribution of assets will be taking place as per waterfall mechanism.

And who is going to get the money first that is defined and then the company will be dissolved with or the debtor will be dissolved within 1 year.

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Waterfall Mechanism under IBC

- Insolvency Resolution Cost & Liquidation Cost ✓
- Debts to Secured Creditor (who have relinquished their security interest) & Workmen's dues (for 24 months before commencement) ✓
- Wages & Unpaid Dues to employees (other than workmen) (for 12 months before commencement) ✓
- Financial Debts to Unsecured Creditors ✓
- Workmen's Dues for earlier period ✓
- Crown Debts ✓
- Remaining Debts ✓
- Preference Shareholders ✓
- Equity Shareholders or partners ✓

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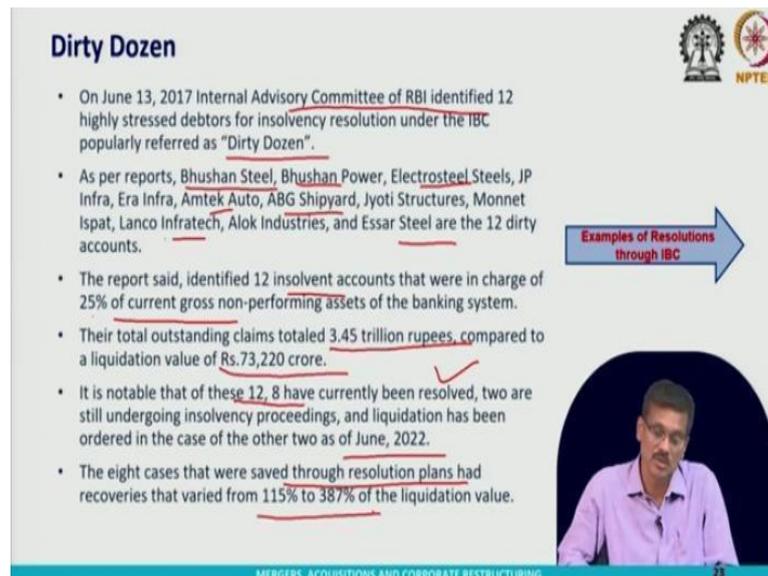
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So this what is the waterfall mechanism on the IBC in the liquidation first the liquidation cost because the insolvency resolution cost is involved people are appointed IRP is appointed resistance appointed so those incidental expense has to first taken care then secured creditor will get the money and then any work means in the company where the dues for 24 month before commencement of the insolvency resolution insolvency process.

So whatever dues is there those will be paid to the workers unsecured creditors then it will go to the whatever pressure one is left over it goes to on paid dues to the wages and to the employees. Then financial debt to the unsecured creditors then it goes to the workman dues for the earlier period. Suppose lies if this step and that is something still left over I could not be paid that will be paid now. Then comes if crown debts is the money which is due to the saturated authority government for that matter.

For that may be some tax dues are there so tax dues is a crown debt which is not have which is not a precedence over other debt they have lower presidents for that matter the ones crown debts has been paid anything left over it goes remaining debt remaining debt is paid then it goes to the preference shareholders and then whatever left over goes to the equity shareholder or the partner so this is the way the liquidation proceeds have to be paid to different stakeholders.

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Dirty Dozen

- On June 13, 2017 Internal Advisory Committee of RBI identified 12 highly stressed debtors for insolvency resolution under the IBC popularly referred as "Dirty Dozen".
- As per reports, Bhushan Steel, Bhushan Power, Electrosteel Steels, JP Infra, Era Infra, Amtek Auto, ABG Shipyard, Jyoti Structures, Monnet Ispat, Lanco Infratech, Alok Industries, and Essar Steel are the 12 dirty accounts.
- The report said, identified 12 insolvent accounts that were in charge of 25% of current gross non-performing assets of the banking system.
- Their total outstanding claims totaled 3.45 trillion rupees, compared to a liquidation value of Rs.73,220 crore.
- It is notable that of these 12, 8 have currently been resolved, two are still undergoing insolvency proceedings, and liquidation has been ordered in the case of the other two as of June, 2022.
- The eight cases that were saved through resolution plans had recoveries that varied from 115% to 387% of the liquidation value.

Examples of Resolutions through IBC

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In after this IBC was implemented in all so there is a RBI identified committee which identified to 12 highly stressed debtors they wanted to resolve those process as well as possible and these they are known as dirty dozen for that matter. In the common parlance like bhushan steel, bhushan power, electro steels, JP infra, Era infra, Amtek Auto, ABG shipyard infratech, essar steel etcetera the 12 big deals or big distress assets.

And this is actually taking care of having share of 25% and gross non performing in the banking system that time something to 3.45 trillion rupees. And they had a liquidation value of 73220 crore and out of this 12, 8 have been resolved and 2 are still continuing as of June 2022 are still continuing and the 8 cases that was their safety relation plans where recoveries had to the extent of 115 percent and to the extent 387 percent liquidation value that means the liquidation value is x rupees they were actually getting more than the liquidation for their estimated.

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IBC Examples, contd..

Dewan Housing Finance Ltd. (DHFL), contd..

- Piramal Capital had received approvals from the Competition Commission of India (CCI) and the Reserve Bank of India (RBI) AND National Company Law Tribunal (NCLT). The creditors of DHFL have approved its resolution plan with 94% of the vote.
- In January 2021, the Piramal Group won the bid to acquire stressed DHFL after seeing stiff competition from its competitor, Oaktree Capital.
- Piramal Group's Rs.37,250 crore offer includes Rs.12,700 crore in cash up front, Rs.3,000 crore in interest income recorded on DHFL's books, and Rs.19,550 crore in non-convertible debentures that must be repaid over a ten-year period.




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So these are certain examples that we have of IBC resolution like Bhushan steel was one of the, Dirty dozen for that matter where 1983 was increment these are the different steps that these was followed.

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IBC examples, contd..

Bhushan Steel Limited, contd..

- In accordance with the Insolvency and Bankruptcy Code's rules, the CIRP process was initiated on July 26, 2017.
- On 15th May 2018, NCLT approved Tata steel Ltd's (TSL) resolution plan
- Through its wholly-owned subsidiary Bannipal Steel Ltd. (BNL), which Tata Steel has acquired, the company bought Bhushan Steel (BSL), where it now holds a controlling 72.65% share.
- In order to facilitate the acquisition of Tata Steel BSL Limited (TBSL) through the corporate insolvency resolution process mandated under the Insolvency and Bankruptcy Code, 2016, Bannipal Steel Limited (BNL), a public limited company formed as an SPV (Special Purpose Vehicle), is a wholly owned subsidiary of TSL and was founded on January 19, 2018.



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And finally the version steel was actually acquired to buy the Tata steel limited and Tata steel limited is become now Tata steel BSL one new company was born actually formed so that means this became Bhushan steel was actually business-wise viable but financial problem was there it has been resolved and it is with the good hands of a good company reputed company like Tata steel has taken over that performance.

So this is an example where distress units can be taken over by the as a target as long as there is a business prospect.

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IBC examples, contd..:

Essar Steel

- Essar Steel India Limited (ESIL), an integrated steel producer with an installed steel-making capacity of 9.6 million tonnes per annum (MTPA), was promoted by the Ruia/Essar group.
- ESIL, was one of India's top four steel producers and the biggest integrated steel producer in Western India.
- Its product line comprises hot rolled steel, cold rolled steel, galvanised and colour coated coils, plates, pipes, etc.
- Out of the "Dirty Dozen" It was the single-largest settlement under the IBC in terms of the amount and percentage of amounts recovered by creditors, the largest M&A transaction of the year, and the greatest FDI for the year because it drew FDI from ArcelorMittal, the biggest steel manufacturer in the world.
- It had financial debts of Rs. 49,000 crore. The money was owed to a consortium of banks led by SBI that comprised PSU and private sector banks.



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So there are some other examples you have like Essar steel was another case is a long case lot of process took place lot of time took place per resolution.

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IBC Examples, contd..

Essar Steel, contd..

- In July 2017, the lenders referred ESL to NCLT Ahmedabad for bankruptcy resolution. Five metal goliaths, including ArcelorMittal and Numetal, submitted their EOL after the NCLT admitted the insolvency proceedings in August 2017.
- The case which has great importance in the recent bankruptcy resolution history went through NCLT, NCLAT and the final verdict was given by the supreme court.
- The order finally paved the way for the resolution of Essar Steel, one of the oldest cases in the IBC process.
- ArcelorMittal became the winner with a bid of a total of 42,000 crores; 92% of the total claims and it took 865 days to complete the resolution process.
- ArcelorMittal and Nippon Steel's joint venture, AM/NS India, successfully completed the \$5.7 billion (Rs. 420Billion) acquisition of Essar Steel India Limited, now renamed as ArcelorMittal Nippon Steel India Ltd.



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IBC Examples, contd..

Dewan Housing Finance Ltd. (DHFL)

- DHFL was established and incorporated by Rajesh Kumar Wadhawan on 11 April 1984. It was established to provide lower- and middle-income populations in semi-urban and rural areas of India with access to affordable home financing.
- DHFL has filed for bankruptcy, With over 90,000 crore in debt to several lenders, including banks, mutual funds, and private investors who maintained fixed deposits with the firm.
- The third-largest pure-play mortgage lender at the time, DHFL, has been recommended by RBI for resolution under the IBC in November 2019. It was the first financing business that the RBI has sent to NCLT utilising its unique authority granted under Section 227 of the IBC.
- As part of resolution process under the Insolvency and Bankruptcy Code (IBC), lenders led by Union Bank of India favoured the bid by Piramal Capital and Housing Finance to take over the beleaguered housing finance firm.



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And then you have another case a Dewan housing finance that is also the recent case that is 2021.

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IBC Examples, contd..

Dewan Housing Finance Ltd. (DHFL), contd..

- Piramal Capital had received approvals from the Competition Commission of India (CCI) and the Reserve Bank of India (RBI) AND National Company Law Tribunal (NCLT). The creditors of DHFL have approved its resolution plan with 94% of the vote.
- In January 2021, the Piramal Group won the bid to acquire stressed DHFL after seeing stiff competition from its competitor, Oaktree Capital.
- Piramal Group's Rs.37,250 crore offer includes Rs.12,700 crore in cash up front, Rs.3,000 crore in interest income recorded on DHFL's books, and Rs.19,550 crore in non-convertible debentures that must be repaid over a ten-year period.



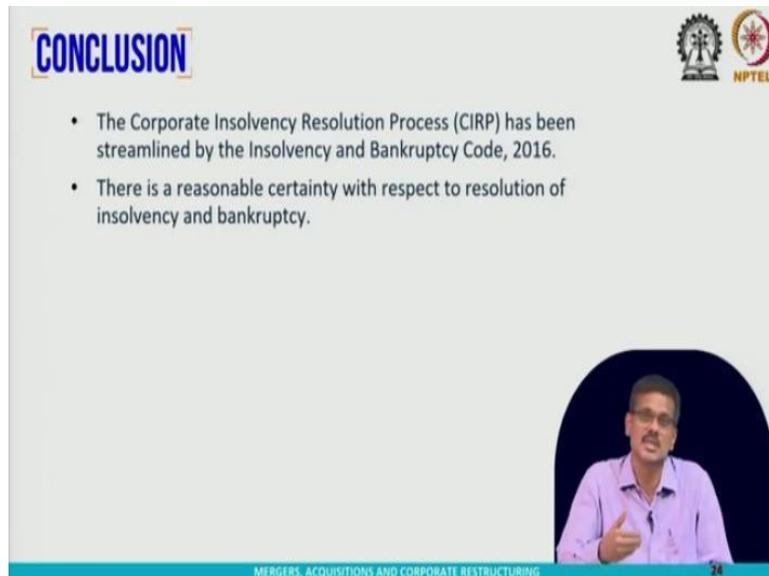
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And Piramal group finally took over those particular that company so these are the exam that discussed about and if resolution by the NCLT is not accepted by one of the any one. Then they can go to NCLIT that is opioid tribunal and the NCLT decision is not accepted by some of the one of the stakeholder then that can be resolved to the going to the supreme court earlier which was done by high court and all the cases.

And now it is the NCLT the national company law tribunal then appellate tribunal then supreme court these are the hierarchy of resolution of this process because there are several

cases has gone likes are still for that matter it has gone to that stage the final stage and finite has been decided as such.

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The slide features a light gray background. At the top left, the word "CONCLUSION" is written in a blue, bold, sans-serif font. In the top right corner, there are two logos: the Indian Institute of Technology (IIT) logo and the NPTEL logo. The main content consists of two bullet points in a dark gray font:

- The Corporate Insolvency Resolution Process (CIRP) has been streamlined by the Insolvency and Bankruptcy Code, 2016.
- There is a reasonable certainty with respect to resolution of insolvency and bankruptcy.

In the bottom right corner, there is a circular video inset showing a man with glasses and a light purple shirt speaking. At the very bottom of the slide, there is a teal-colored footer bar containing the text "MERGERS, ACQUISITIONS AND CORPORATE RESTRUCTURING" and the number "24" on the right side.

So, in conclusion corporate insolvency resolution process has been streamlined by the installments in bankruptcy court 2016. which has actually helped acquisition of distressed companies by good companies in the sector if the business is viable just because the financial problem is there that should not be closed down because there are several, stakeholders like employees, suppliers, neighborhoods so many people are actually involved they get benefit of the from the continuing of the business success.

Because business should be a going concern like as a fundamental principle of accounting business will be going concerned so to make it a going concern all the steps should be taken care taken by the stakeholders as well as the regulator as well as the government for that matter and now with this IBC 2016 there is a reasonable certainty with respect to resolution of insolvency bankruptcy in India and this particular mechanism also there in different other countries as per their requirements for that matter.

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So with this we conclude the course of mergers and aqueous mergers acquisition corporate structuring.