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FINAL WORD ON BHUSHAN POWER INSOLVENCY

In a pivotal ruling, the Supreme Court (SC) settled years of legal conflict over the resolving the insolvency issue of Bhushan Power and Steel Limited (BPSL). The judgment, delivered on September 26, 2025, in the case of *Kalyani Transco* case,¹ validated the acquisition by JSW Steel Ltd. (SRA-JSW) and affirmed the core goals and sanctity of the Insolvency and Bankruptcy Code, 2016 (IBC). The SC upheld the judgment dated September 9th, 2019 passed by the National Company Law Appellate Tribunal (NCLAT) thereby affirming the Resolution Plan.

Brief Facts.

- BPSL, one of the major defaulters identified by the Reserve Bank of India (RBI), entered the Corporate Insolvency Resolution Process (CIRP) in July 2017.
- The Resolution Professional (RP) admitted claims totally exceeding ₹47,204 crore for Financial Creditors (FCs) and ₹621 crore for Operational Creditors (OCs).
- The plan submitted by SRA-JSW was approved by the Committee of Creditors (CoC) in October 2018 and the National Company Law Tribunal (NCLT) in September 2019.
- Its implementation got complicated by criminal proceedings and a Provisional Attachment Order (PAO) issued by the Enforcement Directorate (ED) under the Prevention of Money Laundering Act PMLA.
- SC initially ordered liquidation of BPSL in May 2025 but recalled its order in July 2025 and reheard the appeals.

Key Principles.

SC established crucial legal boundaries for the insolvency resolution process. It emphasized certainty, and the sanctity of the final, approved Resolution Plan.

- **Finality and "Clean Slate" Doctrine:** SC held that a Successful Resolution Applicant (SRA) cannot be faced with claims that were not part of the Resolution Plan, after its approval. Accepting belated claims, such as for profits (EBITDA)², would amount to "*hydra heads popping*"

¹ *Kalyani Transco vs. M/s. Bhushan Power & Steel Limited*. 2025 INSC 1164. Judgment copy available [here](#).

² Earnings Before Interest, Taxes, Depreciation, and Amortisation

up" and would vitiate the sanctity and finality of the approved plan.³ This principle prohibits new claims, whether by erstwhile promoters or the CoC, that were not contemplated in the Request for Resolution Plan (RfRP).⁴

- **Commercial Wisdom (Non-Justiciable):** Decisions made by the CoC, such as the reclassification of Jaldhi's claim as contingent or the extension of the implementation period, fall under its commercial wisdom. It reiterated that this wisdom is non-justiciable and cannot be interfered with by the Adjudicating Authority or the Appellate Authority. The Plan was deemed compliant with the law as it stood at the time of approval, and the delay was attributed to external legal factors (like the ED's Provisional Attachment Order) rather than the SRA-JSW.
- **CCDs as Equity:** SC reaffirmed that Compulsorily Convertible Debentures (CCDs) must be treated as equity instruments as they do not involve repayment of debt, thereby confirming SRA-JSW's compliance with its upfront funding commitment. SC's decision was rooted in ensuring that the Corporate Debtor remains a going concern, which was achieved by the SRA-JSW converting BPSL into a profit-making entity.

Key Takeaways.

The SC's final ruling established essential parameters for the integrity of the IBC process.

- **Finality of the Resolution Plan is Absolute:** The Court held that belated claims fundamentally destabilize the framework and cannot be raised against the SRA post-takeover. The SRA cannot be subjected to continuous, retrospective financial demands once the resolution is finalized.
- **Continued Existence of CoC:** The argument that the CoC becomes *functus officio* after the plan is approved was firmly rejected. The CoC continues to exist and is empowered to monitor and supervise the RP's implementation until the plan is fully executed.
- **Treatment of Profits and Informal Claims:** Profits generated during the CIRP are not distributable to creditors unless the RfRP explicitly mandates it. Informal claims by OCs based on agreements or clerical errors that were not formalized in the approved plan hold no legal standing

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³ Para 157 -Committee of Creditors of Essar Steel India Limited through Authorised Signatory v. Satish Kumar Gupta and Others (2020) 8 SCC 531. SC has clearly held that "*such could not have been the intention of the legislature as this would amount to hydra heads popping up after the approval of the Resolution Plan. It has been categorically held that the SRA cannot be forced to deal with claims that are not a part of the RfRP issued in terms of Section 25 of the IBC or a part of its Resolution Plan.*"

⁴ Para 187 -*If we permit the claim not to be part of the Resolution Plan which has been approved by the CoC and the NCLT to be raised at such a belated stage, it could open a Pandora's Box and the very purpose of the IBC providing sanctity to the finality of the Resolution Plan duly approved would stand vitiated.*"