

Indian bankers set to rewrite corporate history

On Tuesday evening, the CEOs of some of India's biggest banks were on a panel discussing the changing banking landscape, at *Mint's* annual banking conclave at a south Mumbai hotel. Ahead of this, they had been ushered into the speakers' lounge where they were expected to pore over the finer points of the evening's discussion over coffee and cookies. Instead, most of them seemed busy checking e-mails and text messages on their mobile phones and trying to figure out, in hushed voice, what was happening to the bids for troubled steel-maker Bhushan Steel Ltd, one among the 12 cases identified by the Reserve Bank of India (RBI) in the first round in June 2017 for bankruptcy proceedings. The bids, submitted on 3 February at Deloitte's office at DLF Cyber City Complex Gurgaon, Haryana, were to open that evening.

Nothing can illustrate better the changing landscape in Indian banking. Corporations in India can no longer get away by not paying the dues of the lenders. If they are not in a position to pay back, their assets will be auctioned. Later, at the panel discussion, State Bank of India chairman Rajnish Kumar said the promoters of defaulting companies have no longer been ducking calls from bankers; they are willing to sit across table and discuss.

They better do that as they are left with very little choice. At a recent function in Kolkata, Raghu Mody, chairman of Rasoi Ltd and former president of industry body Assocham, succinctly summed up the new regime in Indian banking, when he said that earlier the promoters used to borrow from banks with an informal understanding that they would not have to pay back; now, if they want to borrow they must remember that they would need to return the money. The Insolvency and Bankruptcy Code, 2016 (IBC) was passed in May 2016, changing the legal framework for insolvency resolution in India for ever. The provisions relating to corporate insolvency were notified in November 2016 and within weeks the first case of insolvency was admitted in the National Company Law Tribunal (NCLT), a quasi-judicial tribunal, which enjoys the adjudication powers under IBC.

Going by media reports, JSW Steel Ltd and Piramal Enterprises Ltd have jointly offered to pay Rs29,700 crore to lenders of Bhushan Steel, the largest manufacturer of auto-grade steel in India, which had a Rs42,355 crore debt on its books in March 2017. The joint bidders are willing to pay Rs28,000 crore upfront and invest another Rs1,700 crore in the company in equity and expand production capacity by 40%. Tata Steel Ltd has also made a bid for Bhushan Steel for around Rs24,000 crore. Yet another bidder is a group of 500-odd employees of the company—this, however, is unlikely to succeed as the bid is not supported by a bank guarantee.

Tata Steel and JSW Steel have also submitted bids for Bhushan Power and Steel Ltd, which owes around Rs37,000 crore to its lenders. Over a dozen companies had earlier submitted the so-called expressions of interest for Bhushan Power and Steel, but only two stuck around and went for the final bids. Bhushan Power and Steel is the ninth of the 12 companies whose assets are being sold to the highest bidders. The others include Monnet Ispat & Energy Ltd, Electrosteel Steels Ltd, Jyoti Structures Ltd, Amtek Auto Ltd, Alok Industries Ltd, Lanco Infratech Ltd, and Jaypee Infratech Ltd, besides Bhushan Steel. None of these resolution plans has been cleared yet.

The law provides for a time-bound resolution within 180 days, with a provision to extend the deadline by another 90 days. This means, the resolution process must end within 270 days, a deadline that will expire for all the 12 companies by February-end. But the government is likely to extend the deadline by 60 days. A recent media report, citing unnamed finance ministry officials, indicated that the extension would be provided to only those companies that are already undergoing the insolvency resolution process. The same report also said the prospective investors have been reassured by the government over concerns such as forest clearances and stamp duty

exemptions. The promoters of the insolvent companies are barred from bidding.

The Economic Survey 2017-18 gives us a sense of the progress of bad asset resolutions. Describing the IBC resolution process as “a valuable technology for tackling this long-standing problem in the Indian corporate sector”, it says that of the 525 insolvency petitions filed in the NCLT, 30 companies are being liquidated, 10 have got their resolution plans approved, 36 have been closed by appeal or review and the rest are still going through the process. The lenders have been able to recover Rs1,854.40 crore out of the total claims of Rs5,530.30 crore, roughly one-third of the outstanding debt.

The rate of recovery is not uniform—among the 10 companies where resolution plans have been finalized, recoveries vary between 6% and 100%. Lenders could recover Rs54.7 crore out of total claims of Rs972.2 crore in the case of Synergies Dooray Automotive Ltd, but the entire exposure of Rs3.4 crore was recovered in the case of Prowess International Pvt. Ltd. According to the Economic Survey, the insolvency procedure is still work-in-progress, and resolving the cases in a time-bound manner with an efficient bidding process is critical for establishing the credibility of the new architecture.

No one can deny the fact that the insolvency law is the biggest reform in the Indian banking sector, which has changed the body language of both bankers as well as the promoters of their borrowers. While the banking community looks confident and aggressive in chasing loan defaulters, the defaulting promoters are no longer looking at bad loans as the problem of bankers; they have realized that it's their problem and they would need to come forward to solve it.

In this context, I am tempted to quote from the judgement of the high court of Gujarat (dated 17 July 2017) on the special leave application filed by Essar Steel Ltd, challenging the RBI decision directing banks to initiate insolvency proceedings against 12 companies, including Essar. It says, “(The) petitioner company is in debt of more than Rs45,000 crore for couple of years, its NPA (non-performing assets) was more than Rs32,000 crore in last year and more than Rs31,000 crore in previous year. It is also clear that when total debt is more than Rs45,000 crore, there is no option but to leave the issue at the discretion of the lenders to take appropriate steps in accordance with law...”

If the lenders continue to take “appropriate steps in accordance with the law”, many promoters run the risk of losing their empires. Armed with the insolvency code, Indian bankers are set to rewrite the corporate history.

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