



Impact of Insolvency and Bankruptcy Code, 2016 on Effective and Timely Recovery from Big Loan Defaulters

P. Christopher Raj

Department of Commerce, Scott Christian College (Autonomous), Nagercoil, Tamilnadu, India
Email Id: galtonchrist@gmail.com

Abstract

The current legal and institutional framework does not aid lenders in effective and timely recovery or restructuring of defaulted assets and causes undue strain on the Indian credit system. Recognising that reforms in the bankruptcy and insolvency regime the Government introduced the Insolvency and Bankruptcy Code Bill in November 2015, drafted by a specially constituted 'Bankruptcy Law Reforms Committee' under the Ministry of Finance. The Insolvency and Bankruptcy Code passed by the Parliament is a welcome overhaul of the existing framework dealing with insolvency of corporate, individuals, partnerships and other entities. It paves the way for much needed reforms while focusing on creditor driven insolvency resolution.

Keywords: Bankruptcy, Insolvency, Liquidation.

PAPER/ARTICLE INFO

RECEIVED ON: 07/11/2017

ACCEPTED ON: 18/12/2017

Reference to this paper should be made as follows:

P. Christopher Raj (2017), "Impact of Insolvency and Bankruptcy Code, 2016 on Effective and Timely Recovery from Big Loan Defaulters", *Int. J. of Trade and Commerce-IIARTC*, Vol. 6, No. 2, pp. 549-553

1. INTRODUCTION

The Insolvency and Bankruptcy Code, 2016 (IBC) is a historical development for economic reforms in India. The IBC is touted as a speedy process for early identification and resolution of financial distress of companies and limited liability entities, if the underlying business is found to be viable. The Tribunal will act as the adjudicating authority and deal with the cases related to insolvency, liquidation and bankruptcy. It is a watershed towards improving the credit culture in our country. The IBC provides for a single window, time-bound process for resolution of an asset with an explicit emphasis on promotion of entrepreneurship, maximisation of value of assets, and balancing the interests of all stakeholders.

2. STATEMENT OF THE PROBLEM

Bad loans are inevitable parts of banking business, but bank loan default are today threatening the viability of the banks. Weak credit discipline in banks, right from the appraisal to sanction stage, is one of the main bank specific factors in the build-up of stressed assets. The risk based supervisory process of the Reserve Bank keeps flagging some of these risks which are taken up with the institutions concerned for remedy. However, in order to ensure an effective enforcement action on the specific violations and breaches, a separate Enforcement Department has been established.

The gross non - performing assets at the end of financial year 2017 are Rs. 7.65 lakh crores (9.5%) and at the end of financial year 2018, it may increased to Rs. 8.2 lakh crores to Rs.8.5 lakh crores (9.9% to 10.3). The Asset Quality Review exercise undertaken in 2015-16 was a critical step in recognising the aggregate stock of non-performing assets across the banking system. A series of measures were put in place to provide a mechanism for coordinated resolution of stressed assets. The total outstanding of twelve big loan defaulters referred for Insolvency & Bankruptcy proceeding to NCLT, nearly Rs. 253729 crores.

The lenders have been adequately empowered under the IBC to take necessary action upon default. It is now incumbent upon all lenders to effectively leverage these powers through proactive, timely references under IBC on their own. Huge loans are deliberately defaulted. Hence, banks are entered in the crisis zone. Hence, an attempt is made to analyse the impact of Insolvency and Bankruptcy code, 2016.

3. REVIEW OF LITERATURE

Viral Acharya, RBI Deputy Governor, had observed that most of the assets remain laden with such high levels of bank debt that their interest coverage ratio is lower than one; they have little or no capacity to raise funding for working capital and capital expenditures, or to attract private investors to turn them around.

M.S. Sahoo, chairman of Insolvency and Bankruptcy Board of India (IBBI), interviewed that 12 cases involving large non-performing assets (NPAs) or bad loans, identified for resolution under the Insolvency and Bankruptcy Code, are yet to come before the board.

4. OBJECTIVES OF THE STUDY

1. To study the impact of Insolvency & Bankruptcy Code, 2016
2. To analyse the big loan defaulters referred for Insolvency & Bankruptcy proceeding to NCLT.

5. METHODOLOGY

This study is based on secondary data. Bar Chart was used for analysis.

6. ANALYSIS AND INTERPRETATION

The Code proposes two independent stages: Insolvency Resolution Process and liquidation. Financial creditors assess whether the debtor's business is viable to continue and the options are for its rescue and revival or decide to wind down and distribute the assets of the debtor. The following table shows the list of big loan defaulters referred for insolvency and bankruptcy proceeding to NCLT:

Table 1: List of Big Loan Defaulters

Name of Companies	Rs. (in Crores)
Bhushan Steel	44478
Lanco Infratech	44364
Essar Steel	37284
Bhushan Power	37248
Alok Industries	22075
Amtek Auto.	14074
Monnet Ispat	12115
Electrosteel Steels	10273
Era Infra	10065
Jaypee Infra	9635
ABG Shipyard	6953
Jyoti Structures	5165
Total	253729

Source: RBI Report on Big Loan Defaulters

Table 1 shows that the big loan defaulters referred to NCLT are Bhushan Steel (Rs44,478 crores), Lanco Infra (Rs44364 crores), Essar Steel (Rs37,284 crores), Bhusan Power and Steel (Rs37,248 crores), Alok Industries (Rs22,075 crores), Amtek Auto (Rs14,074 crores) and Monnet Ispat (Rs 12,115 crores), Electrosteel Steels (Rs10273 crores), Era Infra (Rs. 10065 crores), Jypae Infratech (Rs.9635 crores), ABG Shipyard (Rs.6,953 crores) and Jyoti Structures (Rs5,165 crores). The total outstanding debt of the 12 companies identified by the RBI for referral under the IBC is nearly 2 lakh crores. The outstanding debts of the 12 companies are shown in bar Chart.

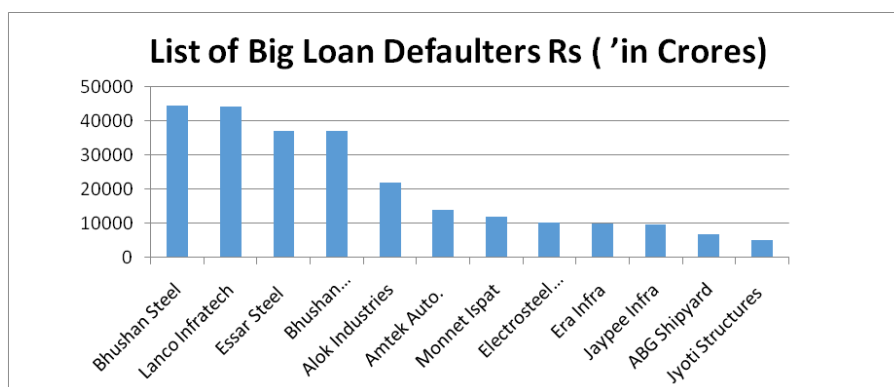


Chart 1: List of Big Loan Defaulters

7. SUMMARY OF FINDINGS

The Banking Regulation (Amendment) Ordinance, 2017 empowers the RBI to issue directions to banking companies to initiate an insolvency resolution process in respect of a default, under the provisions of the IBC. It also enables the Reserve Bank to issue directions with respect to stressed assets and specify one or more authorities or committees with such members as the bank may appoint or approve for appointment to advise banking companies on resolution of stressed assets. The Insolvency and Bankruptcy Board (IBBI) became operational on December 1, 2016. A speedy resolution is required to collect the dues from the insolvent companies. Since nearly 70 per cent of the non-performing assets (NPAs) are in loans through consortium and multi-banking arrangements.

The gross non-performing assets ratio of the banking system at 9.6 percent and the stressed advances ratio at 12 percent as of March 31, 2017, on the back of persistently high ratios in the past few years. Among the gross NPA 86.5 percent accounted for by large borrowers.

The total outstanding debt of the 12 companies identified by the RBI for referral under the IBC is nearly 2.53 lakh crores. The 12 accounts are led by SBI (six of them), PNB, ICICI Bank, Union Bank, IDBI Bank and Corporation Bank, according to bankers.

Big companies in the steel and infrastructure sectors dominate the list of 12 large accounts identified by an RBI panel for resolution under the Insolvency and Bankruptcy Code, 2016. RBI has asked banks to initiate bankruptcy proceedings against six of the firms within 15 days and to file petitions for the others within 30 days.

The NCLT has been appointed as the nodal court for insolvency and bankruptcy proceedings in India. A bankruptcy filing would result in recovering some funds owed through a debt restructuring, or ultimately through liquidation of the company.

8. SUGGESTIONS

- RBI move aimed at resolution of large volume of bad loans.
- The Government and the Reserve Bank of India should take necessary steps to strengthen the legal, regulatory, supervisory and institutional framework. These should be aimed at the ultimate objective of facilitating quick resolution of stressed assets in a time-bound manner.

- RBI must release a list bearing the name, period of pending and volume of NPA of defaulters.
- Bankers' Association may take collective action to collect bad loans from manufacturing and infrastructural companies.
- Bhushan, Essar Steel among 12 firms may move to insolvency courts. The Insolvency court should enquire the matters related to bankruptcy and take steps to collect the dues by win-win policy.

9. CONCLUSION

Strong banks alone can ensure a vibrant economy and a healthy nation. Banks represent people's money. People money should be utilized for people's welfare and national savings for national development and not for private corporate loot. The insolvency and bankruptcy bill aims at early identification of financial failure and maximising the asset value of insolvent firms. The unified regime envisages a structured and time-bound process for insolvency resolution and liquidation, which should significantly improve debt recovery rates and revitalise the ailing Indian corporate bond markets.

BIBLIOGRAPHY

- [1]. **Patel R. Urjit, (2017), "Insolvency and Bankruptcy: Changing Paradigm",** Business Line, August.
- [2]. **Tripathy Devidutta, (2017), "Twelve firms being moved to insolvency courts -sources,** Business line, June 16.
- [3]. **Venkatachalam. C. H. (2017), "Big loan defaulters referred for IBC to NCLT",** Business Line November 18.