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TIMES BUSINESS

THE TIMES OF INDIA, NEW DELHI | WEDNESDAY, APRIL 3, 2019

'CREDIT-NEGATIVE FOR INDIAN BANKS'

"This is a major development. And also shows how proactive the judiciary has been. While it's too early to say, but if banks voluntarily still invoke IBC, the practical impact will be minimal

CYRIL SHROFF | MANAGING PARTNER, CYRIL AMARCHAND MANGALDAS

"It is open to lenders to make a case that their action was independent of the RBI circular, then the insolvency process could go on. Norms for rejigging loans can still be made by RBI without forcing the banks to take action under the IBC process

SITESH MUKHERJEE | NATIONAL HEAD (DISPUTES), TRILEGAL

"It's credit-negative for banks. The circular had significantly tightened stressed loan recognition and resolution for large borrowers. But with the voiding, this may now have to be watered down. Resolution will be delayed

SRIKANTH VADLAMANI | VP (FIN INSTITUTIONS GROUP), MOODY'S

"The judgment opens up a Pandora's box in terms of the IBC ambit. While the NCLT proceedings already completed may not be disturbed, we will see challenges to other settlements, including those where lenders are converting debt to equity

DINESH KANABAR | CEO, DHRUVA ADVISORS

"The SC has upheld the Constitutional validity of the IBC in their previous judgment. So, the intent to bring discipline into the lending and borrowing market, around repayment, is not getting diluted in any manner

RAJNISH KUMAR | CHAIRMAN, SBI

SC Quashes Feb 12 Circular On Loan Default, Leaves Doors Open For Restructuring And Gives Relief To Stressed Cos

With bad loan clean-up drive halted, RBI may go back to drawing board

Former Central Bankers Expect The Regulator To Change Its Debt Stance

TIMES NEWS NETWORK

Mumbai: Former central bankers expect the RBI to rework its stance and henceforth consult with the government on giving specific directions to banks under the Insolvency and Bankruptcy Code (IBC). The RBI did not immediately react to the Supreme Court order as the governor and deputy governors were busy in preparing the monetary policy for FY20.

▸ NO SC RELIEF, P 20

Despite the February 12 circular being quashed, bankers do not expect the RBI to revive old restructuring schemes. While banks say they will have the freedom to restructure loans, the RBI can still push them to clean up their books by asking them to make higher provisions on the loans.

"This will not impact new admission as these will continue to be governed under IBC. Banks can drive resolution efforts and they can choose whether to go for restructuring or to IBC," said L Viswanathan, partner at law firm Cyril Amarchand Mangaldas. Also, defaulters do not get the upper hand as a result of the order and cannot insist on their loans being restructured. "While banks have the choice, there is no compulsion on them to exhaust all restructuring options before going to the IBC. The SC has upheld the IBC law and has held that admission will be based on default," Viswanathan added.

SBI chairman Rajnish Kumar told a TV channel that lenders have put up a framework under bank-led resolution approach, which is already functioning. "The Supreme Court has upheld the Constitutional validity of the IBC in their previous judgment. So, the intent to bring discipline into the lending and borrowing market is not getting diluted in any manner with this judgment," he said.

Kumar said SBI's approach to resolution of stressed assets is proactive — recognising assets early and take corrective action — and there will be no change in that. "The discipline which has come into the market around repayment...I don't think that is going to be diluted," Kumar stressed.

Within the RBI, the old restructuring schemes are failures, considering that almost all the loans that were restructured subsequently slipped into the non-performing asset (NPA) category. "Some of the restructuring were clearly not viable and were done to delay classifying the borrower as an NPA. The

that commodity cycles would turn," said a banker.

However, banks are expecting that some relief for power sector by allowing banks to restructure loans might be forthcoming. Sachin Chaturvedi, a member of the central bank's board, said in an interview with ET Now that the RBI could have avoided issuing a generic set of rules for stressed assets. According to Chaturvedi, the RBI needs to be considerate toward firms fa

spect to stressed debt.

Chaturvedi's views are contrary to the RBI's earlier stance that there could not be a special dispensation for a sector. RBI deputy governor N S Vishwanathan had earlier defended the February 12 circular, stating that the revised framework for resolution of stressed assets was to alter the balance of power to favour creditors. "For long, the balance of power in our country was in

OPTIONS BEFORE CENTRAL BANK

1. Can file a review petition in the Supreme Court
2. Can still push lenders to clean up their books by mandating higher provisions
3. May give in to demand for debt asset relief in power sector
4. May consult with govt on fresh directives for insolvency cases

HOW THE STORY UNFOLDED

Feb 12, 2018 | India Inc as well as lenders come under pressure after the RBI issues a circular directing banks to classify a loan account as stressed if there was even a day of default

Aug 27 | Power cos looking for a stay on the central bank's circular fail to get interim relief from Allahabad high court

Sept 11 | Supreme Court directs that all cases challenging the RBI circular be transferred to it, orders status quo on it

Dec 11 | Urjit Patel quits as RBI governor with the Feb 12 circular emerging as one of the flashpoints with the govt

Feb 7, 2019 | New RBI guv Shaktikanta Das rules out modifying the circular

Apr 2 | Supreme Court strikes down Feb 12 circular

Focus now on payment security for power cos

Sanjay.Dutta@timesgroup.com

New Delhi: The quashing of the RBI's February 12 circular on stressed assets shifts focus to implementing a payment security mechanism suggested by a government panel that diagnosed the cause of stress for thermal power projects.

Industry representatives saw the Supreme Court's verdict giving lenders and stressed private power producers an opportunity to work out a way forward, ensuring continuity and value maximisation for both. But Sabyasachi Majumdar of rating agency ICRA saw it slowing down "the already tardy pace of resolution of stressed assets in the power sector".

But none of these positions address the root cause—delayed payments by discoms. The power ministry's PRAAPTI portal shows discoms owing Rs 41,730 crore at the end of December 2018, the latest period for which data is available. Nearly half of this is owed to private companies.

Private power producers find themselves at the short end of the stick in the absence

ry for fuel, they are at the mercy of discoms when it comes to getting paid. PRAAPTI shows discoms taking between 544 and 580 days to clear bills.

The situation is further exacerbated by delay in adjudication and payment of claims by discoms taking 2-5 years. Besides, as the parliamentary standing committee on power's 40th report noted, there is a time lag of 12-18 months between rise in coal price and requisite tariff revision. The committee noted this affects the cash flow of private power producers. Most do not have d

The government on March 7 addressed issues pertaining to fuel supply and regulatory matters, which add to the stress, by approving the committee's suggestions in this regard but did not clear the recommendation for a bill discounting facility.

Under this system, sectoral lenders PFC/REC will pay power producers upfront and recover their bill from discoms in due course, charging late payment fee in case of delayed payments. In case of payment failure by a discom, the RBI

UNDER STRESS

TOP POWER SECTOR DEBTORS

Company	TOTAL DEBT (₹ CRORE)
KSK Mahanadi Power	14,165
Prayagraj Power Generation	9,883
Damodar Valley Corp	9,756
Adani Power Maharashtra	9,463
Jaiprakash Power Ventures	8,719
Coastal Energen	6,098
D B Power	5,931

Total debt of 75 cos under stress **₹2.24 lakh crore**

Source: 37th standing committee on energy (revised)