

Companies settling cases right after notice: Bankruptcy board chairman

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The Insolvency & Bankruptcy Board of India (IBBI) is the regulator looking at orderly proceedings and liquidation of ailing companies and helping banks and other creditors get their dues. In an interview, IBBI chairman M S Sahoo dismisses suggestions that resolution is getting delayed and says that the new law has made tremendous progress:

Are you happy with the resolution progress?

India did not have prior experience of an insolvency resolution law that was pro-active, incentive-compliant, marketled, and time-bound. The Insolvency and Bankruptcy Code, 2016 was, in many ways, a leap into the unknown. Yet, there is probably no parallel of such swift enactment and swift implementation. The progress has

been amazing. The entire regulatory framework and the ecosystem relating to corporate insolvency resolution process (CIRP) are in place. Debtors and creditors alike are undertaking CIRP. About 850 firms, including 12 big accounts identified by the RBI, have been admitted to CIRP. Of them, about 75 have been closed on appeal or review. About 140 have matured after ending up with orders for either resolution or liquidation. About 200 companies are undergoing voluntary liquidation. Work on individual insolvency framework has started. Regulation and development of valuation profession has started. The valuation examinations for three asset classes have commenced.

There is a perception is that insolvency proceedings are moving slowly...

Some amount of litigation is not unusual. It has happened with every other market law. What is important is how quickly the issues are getting settled. The courts and tribunals have very quickly sorted out several contentious issues relevant at the stage of admission into CIRP and, consequently, the process of admission is fairly streamlined now. A slight delay in a few matters at present means faster progress of all matters in future. You had talked about change in behaviour of companies after the law was put in place. Is there some analysis?

Over 2,000 applications have been closed, resulting in a recovery of about Rs 83,000 crore, according to news reports. The firms are settling defaults as soon as they receive a notice from an operational creditor. A few firms have also settled with intervention of the Supreme Court. A default entitles a stakeholder to trigger CIRP and, if triggered, it may end up in shift of control and management of the firm to a different set of people.

Is the law tilted in favour of banks, whose representatives sit on the committee?

The code assigns the responsibility to a CoC (committee of creditors) comprising financial creditors, who are not related to the company, while a financial or an operational creditor can initiate CIRP. As reasoned by the Bankruptcy Law Reforms Committee, the financial creditors have the capability to assess business viability of competing resolution plans as well as the ability to modify terms of existing liabilities. They believe that an operational creditor is neither able to decide on matters regarding the insolvency of the entity, nor willing to take the risk of postponing payments for better prospects for the entity.

Is IBC becoming another law for banks to recover their loans?

The Code is for resolution and not for recovery. That does not mean that the Code prohibits recovery through

resolution or liquidation. As long as the CoC passes on a failing, but viable business — the business having economic value — to a credible and competent resolution applicant, one should not worry.