

'80% of stressed assets resolved via IBC, only 20% in liquidation'

Even as the Insolvency and Bankruptcy Code (IBC) is set to complete four years in May, critics have assailed it as a tool of liquidation rather than resolution. MS Sahoo, head of the insolvency regulator, IBBI, asserts three-fourths of the companies that have gone into liquidation were already defunct when the Code was invoked. So, the claims of massive job losses due to liquidation under the IBC are unfounded. In an interview to FE's Banikinkar Pattanayak, Sahoo says as and when fresh default cases come up, chances of resolution as well as recovery remain high. Edited excerpts:

Since the IBC's inception in 2016, as many as 780 companies have gone into liquidation while only 190 companies have seen resolution. Is the Code delivering on its promise?

The number of companies getting into liquidation is four times that of companies getting rescued. But this needs to be seen in the context. The companies rescued had assets valued at close to ₹0.8 lakh crore, while the companies sent for liquidation had assets valued only at ₹0.2 lakh crore, when they entered the IBC process. Thus, in value terms, stressed assets rescued are four times those sent for liquidation. It is also important to note that of the companies rescued, one-third were either defunct or under the BIFR (Board of Industrial and Financial Reconstruction). And of the companies sent for liquidation, three-fourths were either defunct or under the BIFR.

Will there be a situation where fewer companies will go for



liquidation and more will see resolution?

Yes. In the days to come, a smaller number of companies would reach the stage of liquidation, and therefore, fewer liquidations. The credible threat of IBC process that a company may change hands has changed the behaviour of debtors. Thousands of debtors are settling defaults at early stages of the life cycle of a distressed asset. They are settling when default is imminent, on the receipt of a notice for repayment but before filing an application, after filing an application but before its admission, and even after admission of the application, and making best effort to avoid consequences of IBC process. Most of the companies are rescued in these stages and hardly 5% of companies reach the liquidation stage. Stakeholders would increasingly address the distress in early stages and the best use of IBC would be not using it all.

A media report has suggested job losses of 1.1 million on account of liquidations. Is it correct?

I have seen the report. It is premised on the misconception that companies undergo-

ing liquidation have assets (and consequently employment), at least equal to the aggregate claim of the creditors, which is ₹4.6 lakh crore. But the reality is they have far lower level of assets on the ground, which are valued at just ₹0.2 lakh crore.

Take the examples of Ghotaranga Minerals and Orchid Healthcare, which are liquidated. They owed ₹8,163 crore, while they had absolutely no asset and employment. What is material in this context is the assets a company really has or employment it provides, and not how much it owes to creditors. The IBC process would release idle or under-utilised assets valued at ₹0.2 lakh crore, which would have dissipated with time, for employment.

Fifty-one companies having assets valued at ₹93 crore have been completely liquidated. A sum of ₹96 crore realised from the sale of those assets has been released. Also, consider the jobs saved by the rescue of 80% of the distressed assets (through resolution), and jobs being created by new owners of rescued companies.

How has been the recovery for financial creditors so far?

Under the IBC, recovery is incidental, only after rescuing a company in distress. This incidental recovery has been pretty good. As many as 190 companies have been rescued till December 2019 through resolution plans. They owed ₹3.8 lakh crore to creditors. However, the realisable value of the assets available with them, when they entered IBC process, was only ₹0.77 lakh crore. The IBC maximises the value of existing assets, not of assets which do not exist. Under the IBC, credi-

tors recovered ₹1.6 lakh crore, which is about 207% of the realisable (liquidation) value of these companies. Despite recovery of 207% of the realisable value, financial creditors had to take a haircut of 57%, as compared to their claims. This only reflects the extent of value erosion by the time companies entered the IBC process.

How do you see the Code's performance vis-à-vis other tools such as SARFAESI and DRT, etc?

One can compare the recovery rate under the IBC with other options for recovery. The RBI data indicate that in 2018-19, banks recovered 5.3%, 3.5%, 14.5% and 42.5% of the amount involved through Lok Adalats, DRTs, SARFAESI and IBC, respectively. In addition to recovery and rescue, the Code provides so many enduring benefits for which there is no comparison. This is a swachhata drive to clean up NPAs, and to put companies in capable and credible hands. With the IBC in place, the repayment of loans is no more an option.

The resolution process in as many as 635 of the 1,961 ongoing cases has exceeded the mandatory 270 days. How to cut the delay?

Three things have happened. The Bench capacity of the NCLT and NCLAT has substantially been increased. There has been considerable learning by all elements of the ecosystem over the last two years. The resolution is now professionalised. Most of the contentious issues have been sorted out by the Supreme Court. The impact of these is visible in disposal of matters in the last quarter.

