

To

Editor, The Week
Corporate Office
PB No. 4278, Panampilly Nagar, Kochi
Kerala
PIN: 682036

6th April, 2019.

Dear Editor,

This refers to the article titled “**Modi report card: What has BJP govt done to help India's bleeding banking sector?**” by Mr. Soumik Dey, in the 4th April, 2019 edition of ‘The Week’. This article, inter-alia, carries a statement as under:

“The Central Bank of India (CBI) has over Rs 150 billion worth of bad loans, stuck in the realisation process of the Insolvency and Bankruptcy Board of India, the insolvency regulator.”

2. This statement gives two impressions, namely, (a) bad loans of the Central Bank of India are stuck up with the Insolvency and Bankruptcy Board of India (IBBI), the insolvency regulator, and (b) the Insolvency and Bankruptcy Code, 2016 (Code) is for realisation of bad loans. Both the impressions are misleading and incorrect as explained in this letter.

3. The Code segregates commercial aspects from judicial aspects of an insolvency proceeding and empowers and facilitates the stakeholders and the Adjudicating Authority to take decisions in their respective domain. The IBBI does not have any role in the proceeding. Therefore, the possibility of a proceeding or bad loan getting stuck up with the IBBI does not arise.

4. The objective of the Code is reorganization and insolvency resolution and not realisation of bad loans, as has been held as under:

(i) In the matter of Swiss Ribbons Pvt. Ltd. and Anr., the Hon’ble Supreme Court held:

“It can thus be seen that the primary focus of the legislation is to ensure revival and continuation of the corporate debtor by protecting the corporate debtor from its own management and from a corporate death by liquidation. The Code is thus a beneficial legislation which puts the corporate debtor back on its feet, not being a mere recovery legislation for creditors.”

(ii) In the matter of Binani Industries Limited, the Hon’ble NCLAT held:

“2. The objective of the ‘I&B Code’ is Resolution.

The Purpose of Resolution is for maximisation of value of assets of the ‘Corporate Debtor’ and thereby for all creditors. It is not maximisation of value for a ‘stakeholder’ or ‘a set of stakeholders’ such as Creditors and to promote entrepreneurship, availability of credit and balance the interests. The first order objective is “resolution”. The second order objective is “maximisation of value of assets of the ‘Corporate Debtor’” and the third order objective is “promoting entrepreneurship, availability of credit and balancing the interests”. This order of objective is sacrosanct.”

(ii) The Hon'ble NCLAT further clarified in the same matter that the Code envisages a resolution plan for resolving insolvency of a corporate debtor. It emphasized that resolution plan is not a sale, an auction or recovery.

5. In view of the above, we request you to kindly publish this letter immediately and prominently in 'The Week' to enable the readers to have a correct perspective.

Yours faithfully,

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(K. R. Saji Kumar)

Executive Director

Insolvency and Bankruptcy Board of India