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Insolvency regulator to get more teeth, punitive powers

Commenting on whether the IBBI needs to be further strengthened, a former central banker said, "There is merit in the argument that IBBI, being a general regulator like Sebi, should be given power over lenders on insolvency resolution matters."

Another expert said that Sebi has the power to crack the whip on a bank that wishes to go public if the markets regulator detects any wrongdoing in its sphere of regulation, even though the bank continues to be regulated by the sectoral watchdog RBI. "There is no reason why such powers can't be granted to the IBBI in case of insolvency resolution," he added.

According to the extant mechanism, the IBBI can approach the special courts — set up under the provisions of the Companies Act, 2013 — against a financial creditor if it suspects wrongdoing by the latter. However, since the regulator lacks adequate investigative prowess, it's not possible for it to prove its case through a solid probe.

Also, unlike Sebi, the IBBI just makes regulations but it doesn't have power to either interpret them first or enforce them properly. The capital markets regulator, in contrast, can punish the guilty, based on its own interpretation of its regulations and investigation. Of course, these can be challenged by the aggrieved party at the Securities Appellate Tribunal.

In September last year, following outrage over few cases mentioned earlier, the IBBI came out with a professional code of conduct for the lenders who form the committee of creditors, in sync with the recommendation of the parliamentary standing committee on finance, stipulating some dos and don'ts for them. However, in the absence of real power, it's not clear how the IBBI will enforce it strictly to achieve the desired outcome.

The parliamentary panel on finance last year warned that the IBC had strayed from its intended goals due to long delay in resolution and massive haircuts for lenders.

Shravan Shetty, managing director at consultancy firm Primus Partners, said: "The IBBI should also be empowered to look at innovative options for resolution. These include identifying and selling select valuable assets of a stressed firm separately to maximise realisation instead of waiting for a single bidder to buy the entire company. Also, the regulator needs to have power to order liquidation of insolvent companies if no resolution is found within a year.

Some analysts, however, feel the government's primary focus now should be to ensure swift resolution of assets and prevent value erosion. Misha, partner at Shardul Amarchand Mangaldas & Co, said the resources available to and the capacity of the NCLTs need to be ramped up urgently so that they are able to function at optimum capacity. There is also a need to consider introducing mediation as a means of dispute resolution in insolvency space, she said.

PLI scheme for IT hardware being sweetened

In comparison, the IT hardware has seen average quarterly production reaching ₹500 crore against estimated ₹750 crore and attracted investments of ₹16,500 crore.

There were problems right from the start with the IT hardware scheme.

When the government had announced the scheme on February 24, 2021, the outlay was fixed at ₹7,350 crore over a four year period. During this period, the government had estimated a production of up to ₹3.26 lakh crore, of which exports was expected to be of the order of ₹2.45 lakh crore. Later that year on May 4 when the government announced the names of the companies which had applied for the scheme, the production target was slashed to ₹1.60 lakh crore of which exports would be of the order of ₹60,000 crore. Since the incentive structure is based on achieving a minimum threshold of incremental sales over base year going up to a maximum limit, with companies committing lower production target the outlay of ₹7,350 crore for the scheme automatically got pruned by half.

IT hardware manufacturers blamed this on the low incentive structure which works out to an average of 2-2.5% over a four-year period which does not justify relocating units from China or Vietnam, especially for hardware products where import duties are nil as they fall under Information Technology-I products.

The incentive structure for mobile phones PLI, which got operationalised in August 2020 and saw companies committing up to the maximum limit, works out to around 4.5% over a five-year period.

Industry executives feel that the ideal incentive structure for IT hardware should be in the range for 7% to 8%.

For companies like Dell and HP, who have participated, domestic sales would continue to be more attractive than exports that has been the main driving force for the government behind designing PLI schemes.

India's import of laptops has increased by 42% – from $2.97 billion to $4.21 billion – in value terms, in the last five years. Around 87% of imports continues to come from China. In absolute terms, India's dependency on China is very high – it has increased from $2.83 billion to $3.65 billion during the last five years. For the year ending March 2021, India's import of laptops is estimated to have reached close to $5 billion out of which imports from China would be around $4.35 billion.

As per estimates, the global market for laptops, tablets and desktop computers has grown from $229.38 billion in 2018 to $ 240.99 billion in 2019 and is expected to stabilise around $220 billion by 2025. Only six global players comprise 89% of the market shipments for laptops and 81% for tablets. United States and European Union together represent more than 40% of the global market.

Coal, roads to lead asset monetisation overdrive

The agencies concerned – NHAI, PowerGrid etc – could use these funds to quicken the pace of their capital expenditures, thereby giving a boost to overall public capex and fixed asset creation in the economy.

Immediately after the Narendra Modi government unveiled the NMP in August 2021, this ambitious project to boost non-debt capital receipts in the government sector got off to a quick start. The NMP seeks to generate upfront revenues of ₹6 lakh crore in four years starting FY22, out of operational infrastructure projects, under various innovative long-term lease plans that don't require the government to cede ownership of the assets much.

Of course, the funds raised under NMP won't flow into the Centre's Budget, instead various public-sector agencies will lay their hands on these receipts and put the monies to use quickly for new asset creation. The capex boost by these public sector entities will also crowd in private capex, particularly in mining, seaport & airport infrastructure, gas pipelines and warehousing facilities.

"Though monetisation targets were low for the coal and non-coal mineral sectors for FY22, the achievements could be much more higher than the respective targets," the source said.

However, the second phase of NMP in FY23 could be challenging as the target for the year is a whopping ₹1.62 lakh crore.

Under the NMP, there are four approaches to mobilise funds and estimate the monetisation value – apart from market approach and 'capex route', conventional accounting methods of book and enterprise values are also being adopted to gauge the monetisation value.

Under the market approach, the monetisation value is determined on the basis of comparable market transactions. The capex approach is followed for asset classes that may be monetised through public private partnership-based models like highways, ports, airports and power-transmission. Here, capex by the private sector is counted as the monetisation value.

Of course, some of these ventures – like the National Highways Authority of India's bid to mobilse revenues upfront from operational highway stretches through the toll-operate-transfer (TOT) route and coal blocks allocations – had been running even prior to the NMP's launch.

The FY22 target for monetisation of coal mines and non-coal assets (bauxite, copper, limestone, iron ore etc) was just ₹3,394 crore or 12% of the indicative value of assets worth ₹28,747 crore to be monetised between FY22 and FY25. As of February 1 this year, as much as ₹4,600 crore was collected or through the mine-developer-and-operator (MDO) model where ownership of the mines will be retained by Coal India and the private developer would undertake mining activities and produce coal under a revenue-sharing mechanism. On March 2, the coal ministry also received 26 bids for 11 coal mines put under auction.

In terms of value, monetisation by the National Highways Authority of India (NHAI) could be close to its FY22 target of ₹30,000 crore with the authority having already realised ₹12,000 crore through Infrastructure Investment Trusts (InvITs) and Transfer-Operate-Transfer (TOT) models. The monetisation of toll receivables of Delhi- Mumbai Expressway and three bundles of ToT are being undertaken.

Power Grid, the public sector electricity transmission utility, has also mobilised about ₹7,700 crore through monetisation transmission lines, fully achieving the FY22 target.

Railways, along with the NHAI accounts for a major share in the four-year NMP, has collected just ₹390 crore via monetisation in the current fiscal so far, through the redevelopment of Habibganj railway station, as against the target of ₹17,810 crore for FY22. The target for railways was to monetise 40 stations in FY22.

With a lot of preparation already in place, officials believe the target of ₹1.62 lakh crore asset monetisation in FY23 is achievable.

However, the railways could be laggard next year also if it doesn't get its act together. Monetisation models of rolling stocks (private train operators) and stations are being re-examined by the railway ministry as the current models haven't attracted investors. According to the NMP, railways need to monetise 120 railways stations, 30 trains and 1,400 km track, among others in FY23. NHAI has plans to monetise 5,476 km roads worth ₹32,855 crore in FY23.

The NMP is in sync with the government's plan to revert to the path of fiscal consolidation without any lapse of time and create the fiscal heft to finance the ₹111-lakh-crore National Infrastructure Pipeline and other capital-intensive ventures. The idea is to crowd in private investments in infrastructure by making matching public funds available.

The assets to be monetised through 'structured contractual partnership as against privatisation or slump sale of assets', will include highway stretches, power transmission networks, freight corridors, airports, ports, gas pipelines and warehousing facilities.

Why Khaitans lost control of Eveready

McNally Bharat's net loss stood at a whopping ₹466 crore in 2018-19, on the back of subdued industrial growth and difficult financial conditions. McLeod Russel had a loss of ₹4.42 crore even after selling several tea estates to improve its cash flow. Yes Bank in 2019-end moved NCLT against McLeod on account of a loan default.

The financially stressed group suffered a major setback in November, 2019 when Aditya Birla Finance sold 25 lakh shares of Eveready after those pledged shares had been invoked by the financial services company. It resulted in dilution of promoter stake in Eveready, a key company for the group.

It was the first week of October, 2020. For the first time, promoter shareholding in Eveready fell below 5%, as banks and financial institutions continued to invoke and sell pledged shares of the battery maker for recovery of dues from ailing group companies. Eveready shares had been pledged with financial institutions and banks for securing outstanding dues of McNally Bharat and other group firms.

The Khaitans had held a comfortable 27.39% equity stake in Eveready at the end of the third quarter ending December 2019.

In July 2020, the Burman family, Dabur promoters, had acquired around 8.48% additional equity stake in the battery major via open market operations, taking its holding to 19.84%. Burmans became the single largest shareholder of Eveready. In 2019-20, the battery segment, on a turnover of ₹728.99 crore, recorded its highest Ebidta margin at 21.1%. Profit after tax stood at ₹179.57 crore.

Under Khaitan's leadership, the company had already diversified to the marketing of electrical & lighting products and forayed into the small home appliances segment to improving turnover and profitability.

On the other hand, in August last year, McNally had received a notice from one of its lenders to show cause as to why the company or its promoters and directors should not be included in the list of wilful defaulters.

Amid this scenario, Eveready's amounts of outstanding inter-corporate deposits (ICDs) to stressed promoter group companies increased. Auditor also flagged off the matter of the company's unsecure ICDs to "certain companies that are part of the Promoter Group". Earlier, rating agencies had raised concerns over its high net leverage and weakened liquidity amid financial support extended to the group companies.

Mohit Burman, Dabur vice chairman, had been emphasizing that Eveready should be run "professionally". Its board had in August last year appointed Suvamoy Saha, then a non-executive director, as joint MD. Significantly, appointing a joint MD was in line with what the Burman family wanted.

Saha assumed charge as the new MD after chairman Aditya Khaitan and managing director Amritanshu Khaitan resigned on last Thursday following the recent open offer from the Burmans.

"Because of the share pledged to support the ailing group companies, Khaitans lost control over Eveready," senior company officials told FE. Amritanshu Khaitan and his uncle Aditya Khaitan were not available for comments.

In a letter to the board on Thursday, Khaitan said as the Burman family expressed its interest to take management control of the company and give new leadership, it would be "appropriate" for him to step down from the board.

On March 1, a day after making the open offer to acquire an additional 26% share of the company, Dabur vice chairman Mohit Burman told FE that his family wants to acquire control and intends to be a promoter of Eveready as it believes if run "properly in a professional manner" with new talent, the company could grow at a much faster pace and profitably.

"The existing shareholding structure was not tenable. This company now needs to chart out on its own under a new leadership. Hopefully, we can provide the same," Burman said in an email interaction.

The Burman Group wants appropriate representation on the board through appointing three directors. The family will want to appoint a chairman after the open offer.

"Eveready has been a very strong brand. But the brand was in between losing its corporate image. That was hurting me. I think Eveready will get back its old glory, whatever little it has lost, following the change of ownership," that is how a former senior group official reacted to the Burmans' open offer.

Eveready was earlier owned by the erstwhile Union Carbide India. Khaitans fought a bitter battle with Nusli Wadia's Bombay Dyeing to acquire it in 1993.

PM, ministries to brainstorm on Budget proposals tomorrow

To ensure that the ongoing economic recovery takes root, the Centre has budgetted a 36% jump in its capital spending to a record ₹7.5 lakh crore for FY23 from the revised estimate for FY22 (excluding capital infusion into Air India), with particular focus on infrastructure creation. Its capex next fiscal will more than double from the pre-pandemic (FY20) level. The Budget's "commitment towards asset creation (public infrastructure development) will invigorate the virtuous cycle of investment and crowd in private investment with large multiplier effects which in turn will augment inclusive and sustainable growth", the finance ministry had said in its report for January.

The Budget has projected a real growth rate of about 8% for the next fiscal. This is in sync with the growth rate of 8-8.5% projected by the latest Economic Survey and is close to the central bank's forecast of 7.8% for FY23. The National Statistical Office has forecast 8.9% growth for the current fiscal after a 7.3% contraction in real GDP in FY21 in the wake of the pandemic.