Brookfield-Kotak bids for Jaypee’s power assets

By *Saikat Das*, *Baiju Kalesh*, ET Bureau | Dec 29, 2017, 08.19 AM IST

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2,200 megawatts of Jaypee's power assets are on sale.

MUMBAI: Canadian asset manager Brookfield and the Kotak Mahindra group have jointly bid for 2,200 megawatts of power assets belonging to Jaypee Power Ventures, a unit of Jaiprakash Associates, two persons with direct knowledge of the development said.

The consortium submitted its bid to the committee of creditors and top executives gave a detailed presentation on operational and financial details for the mix of both thermal and hydel assets in north and east India, they said. A deal, if concluded, will close at an equity value of Rs 3,500-4,000 crore, they said. The power assets are currently part of the strategic debt restructuring (SDR) process intended to salvage the debt-laden company.

Brookfield will own 90% of the assets, according to the proposal, one of the two persons said.

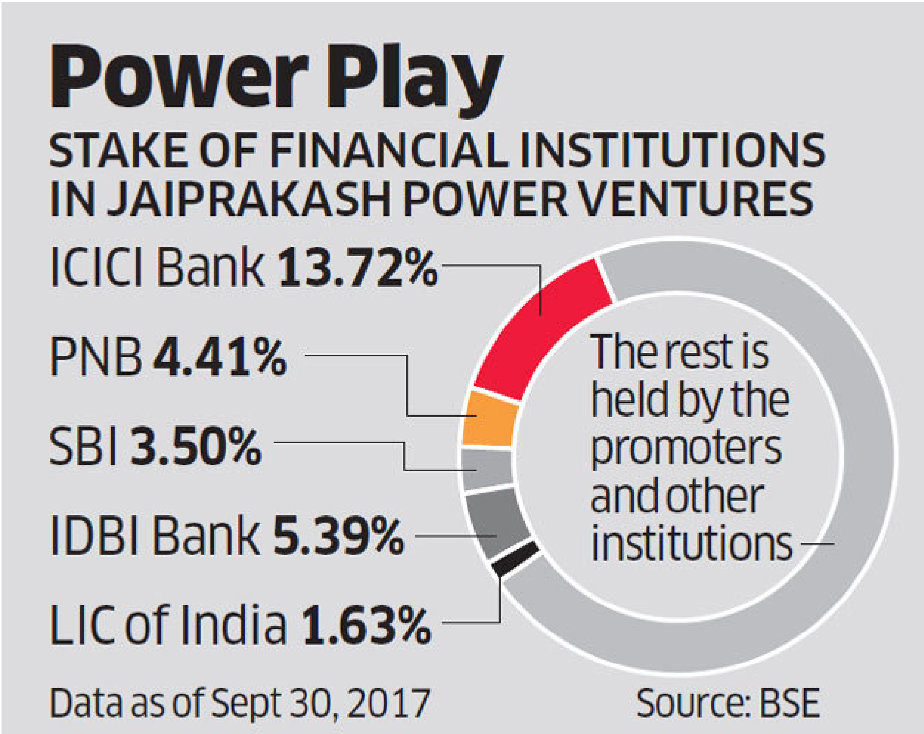
Kotak Mahindra to Decide on Funds

Brookfield’s local partner Kotak will hold the remaining 10%, he said.

Kotak Mahindra group will decide on the funds it will invest after getting a response from the lenders.

Kotak Mahindra Bank and the JP group did not respond to queries, while Brookfield declined to comment.

Some insolvency professionals say private equity funds have an advantage in such deals.



“Private equity players understand the dynamics of each business as they have direct sectorspecific access to industry experts,” said Mamta Binani, former president of the Institute of Company Secretaries of India and an insolvency professional. “PEs are all driven by returns… If they are bidding for a distressed asset, they will ensure its operational success… This will help establish their credibility for future stressed asset ventures.”

Kotak Mahindra and Brookfield have had a cordial relationship for the past six years since the Canadian asset manager invested in the bank’s $100 million infrastructure fund in 2011. They have also co-invested in road developers, renewable energy and technology driven companies in the past six years.

“The intent of any such JV has to be with the intent to maximise value and as a going concern,” said Babu Sivaprakasam, partner at Economic Laws Practice (ELP), a law firm. “Hence, continuance in running the company operations especially and not merely repayment of debt will be looked at. Any deviation from stated lines may draw attention, upsetting the apple cart.”

Lenders to Jaiprakash Power Ventures have been looking to sell assets under the SDR scheme since March. ET was the first to report on March 8 that Brookfield had held independent talks to purchase the 4,000 MW of assets. Lenders subsequently split these into two — 2,200 MW and 1,800 MW of assets — and sought bids separately for them.

Local lenders own more than 51% of the company led by India’s largest private sector bank ICICI Bank with a 13.7% holding, BSE data show. The rest is owned by State Bank of India, Punjab National Bank, IDBI Bank and India’s largest insurer Life Insurance Corporation of India.

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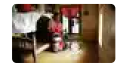

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Government to hold talks on seeking RBI relief for stressed power firms

By *Dheeraj Tiwari*, ET Bureau | Updated: Aug 29, 2018, 08.43 AM IST

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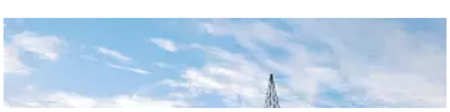


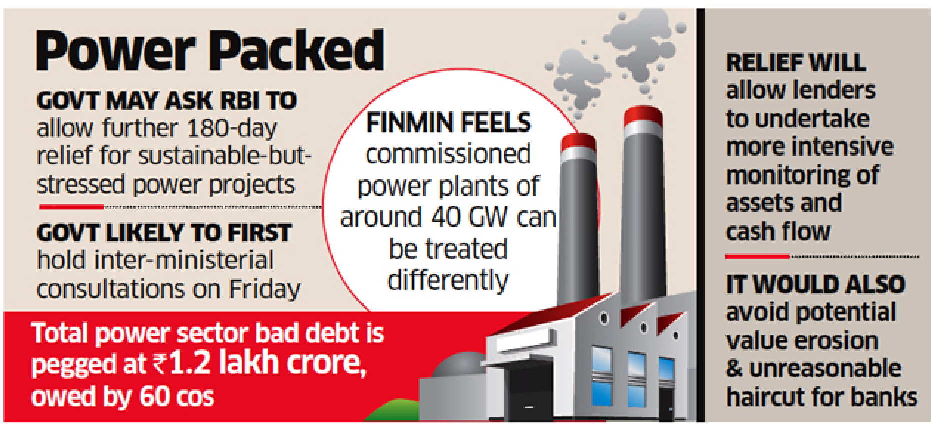
NEW DELHI: The government will consider asking the Reserve Bank of India (RBI) to allow a further 180-day relief for sustainable

RBI's February 12 circular said that defaulters have to be admitted to the National Company Law Tribunal (NCLT) for insolvency proceedings within 180 days.

but stressed projects in the power sector in line with the Allahabad High Court's suggestion, said a top official.

It will hold inter-ministerial consultations, most likely on Friday, before taking the issue to RBI, he said. The dispensation under which this can be done has never been used. Under Section 7 of the Reserve Bank of India Act, 1934, "the central government may from time to time give such directions to the bank as it may, after consultation with the governor of the bank, consider necessary in the public interest."

The Allahabad High Court had on Monday declined to give private power companies any interim relief on the RBI circular of February 12 that tightened bad loan norms. "We will seek views from cabinet secretary led committee on power sector on various options for resolving stress in the sector before approaching RBI as per the Allahabad High Court directions," said the official cited above. The finance ministry is of the opinion that commissioned power plants with capacities of 40 GW or thereabouts can be treated differently even though they may be in default.



RBI's February 12 circular said that defaulters have to be admitted to the National Company Law Tribunal (NCLT) for insolvency proceedings within 180 days, which ended August 27. The government had sought a further 180 days as had the companies.

"We had suggested that an additional period of 180 days should be provided, so that lenders can undertake more intensive monitoring of these assets and its cash flow," said a finance ministry official requesting anonymity. "This will also avoid potential value erosion and unreasonable haircut for banks." A parliamentary standing committee on energy had suggested a similar approach, the official added.

TWIN TRACK

Senior bank executives told ET that a consensus has been worked out for the resolution of around eight projects. "We may seek a few days relief from RBI given that the boards of banks have just approved the resolution plan and it will take a few more days to implement it," said an executive director with a PSB.

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Panel meeting to take up key power reforms

By *Sarita Singh*, ET Bureau | Aug 29, 2018, 08.07 AM IST

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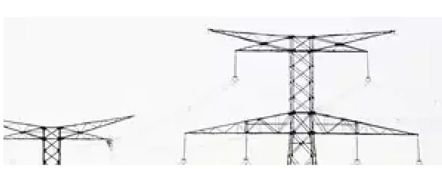

NEW DELHI: The empowered committee headed by cabinet secretary PK Sinha will meet for the first time on Friday to explore ushering in key reforms in the sector plagued with stressed assets

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with stressed assets.


Of banks' gross bad loans of around Rs 11 lakh crore, power sector accounts for Rs 2.5 lakh crore.

Some radical proposals likely to be discussed include doing away with the requirement of power generation plants to have power purchase tie-ups to get coal and a payment security mechanism for timely recovery of dues from the distribution companies, sources said. Private companies have been demanding flexible norms for coal allocation since states have not been calling power purchase tenders. "Delinking coal supplies with power purchase agreements will be a major reform for the sector. Power generation companies have to participate in tariff-based bidding for PPAs while coal availability is restricted," a government official said.

The companies have also sought a tripartite agreement between discoms, banks and themselves to mitigate payment risk, akin to the one for public sector. The outstanding dues of power distribution utilities to private companies stands at Rs 14,000 crore, he said. The committee is expected to have representation from Reserve Bank of India (RBI) as directed by the Allahabad high court on Monday. The call for the meeting came just a day after the HC asked the committee to submit its report within two months from July 29, the date of its constitution. The meeting will be attended by top officials of power, coal, finance and railways.

"The power ministry shall invite a representative of RBI, after consultation with the governor, as a member of the empowered committee forthwith," it had said. The power ministry on Monday directed power regulator Central Electricity Regulatory Commission (CERC) to allow changes in any central or state government duty to be passed on to consumers even after award of bids to help revive stuck power projects. Industry insiders said the power ministry also needs to include the directive in the amendments to national tariff policy to make it legally binding on regulators.

Of banks' gross bad loans of around Rs 11 lakh crore, power sector accounts for Rs 2.5 lakh crore. Non-availability of fuel, cancellation of coal blocks, lack of enough PPAs by states, inability of promoters to infuse equity and working capital, contractual and tariff related disputes, delay in project implementations are some of the factors responsible for the stress in the power sector.

The committee will look into ways to resolve the stress, explore changes in the fuel allocation policy to such power plants, facilitate sale of power by these stressed power plants, suggest changes required in regulatory framework for faster disposal of disputes and ensure interim payments during the pendency of the disputes, and ensure timely payments by the discoms.

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Be proactive on stressed power assets: HC to government

By *Sarita C Singh*, ET Bureau | Updated: Aug 29, 2018, 08.52 AM IST

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The court disallowed interim relief to power producers who wanted an order against the RBI's controversial circular related to insolvency proceedings against loan defaulters.

NEW DELHI: The Allahabad High Court has firmly told the government to consider issuing a directive to Reserve Bank of India against the February 12 circular on how lenders should deal with stressed assets, instead of taking an ambivalent or non-committal stand on the matter.

The court also observed that the finance ministry had told a parliamentary committee that lenders needed to be more proactive in dealing with stressed assets but the additional solicitor general's arguments before the judges reflected a "subtle shift and change in position".

The court told the government to consider using Section 7 of the RBI Act, which empowers the Centre to issue directives to the central bank in public interest after consulting the governor. The court's Chief Justice Dilip B Bhosale and Justice Yashwant Varma disallowed interim relief to power producers who wanted an order against the RBI's controversial circular related to insolvency proceedings against loan defaulters.

The court said that while the government can issue directives to RBI after consulting the governor, it is expected to do so only if there are sufficient grounds, and not "indiscriminately or randomly". The chief justice asked the Centre to consider quick action. "I observe that the Central Government should consider whether it would like to issue directions under Section 7 of the RBI Act on the basis of the report and other material, including reports of the Standing Committee within 15 days from today (August 27) in the light of the observations made in this order," he said.

HC POINTS TO SUBTLE SHIFT IN POSITION

Justice Varma criticised the government for not taking a clear stand on the RBI circular. "The Union rather than being non-committal and leaving it to the Court to resolve such differences must no longer remain ambivalent or inert. It must consider and decide whether the consultative process should be initiated. In any case it cannot be permitted to strike a discordant note before this Court and yet remain undecided on whether to initiate the process envisaged under Section 7," he said.

Justice Varma observed that he could "decipher and notice a subtle shift and change in position" of the ministry of finance in its response to a Standing Committee of Parliament and the stand that the additional solicitor general had taken in court. The government had told the committee that various special resolution schemes introduced by RBI were used by lenders more to address asset classification concerns rather than to effectively resolve stressed assets, and that lenders need to proactively identify stress early.

"While before the Standing Committee it was urged that the existing measures had proved to be ineffective and lenders needed to be proactive, the learned ASG submitted that the Union was in favour of extension of time even though it was in agreement with the basic and underlying intent of the impugned directive as well as the powers vesting in the RBI to deal with the subject of resolution of stressed asset. In fact the directive appears to be aimed at infusing a sense of urgency to initiate a resolution process since in the experience of RBI, the earlier schemes were not effective and result oriented," the court observed.

QUESTION OF BREATING TIME

Chief Justice Dilip B Bhosale said: "The question, whether a breathing time deserves to be granted in the larger public interest and to achieve vision of power to all, needs to be answered by the Central Government." He also said, "I am, prima facie, of the view that there should be unanimity amongst the different arms of the Government on such crucial issues like timeline for resolution and they should be flexible enough to address the problems in the proper perspective and resolve it in a positive manner."

Justice Varma also backed the RBI's sector-agnostic approach although power producers had argued that they deserve to be treated differently given their unique circumstances such as being a heavily regulated sector, unlike others like steel and cement. "In substance RBI is obliged to take a macro look at the financial condition and fiscal position of the nation as a whole. It is really not concerned with the formation of ameliorative or protective measures for a particular industry/sector," he said.

He said the Union government must consider and decide whether it should initiate action under Section 7 of the RBI Act. "Such issues should be resolved between the two governmental organs and should require no intervention of the Court," Varma said. Bhosale also reprimanded the RBI for not being able to explain non-constitution of internal advisory committee before issuing the circular. He also asked the RBI to answer if there was inordinate delay of 100 days out of 180 days provided for resolution plan outside IBC in coming out with a notification on credit rating agencies.

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'Coal imports may rise to 62 mt in FY19 to meet power demand'

PTI | Aug 28, 2018, 05.22 PM IST

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The agency has also maintained a stable-to-negative outlook on the power sector for the remaining FY19, despite a rise in electricity demand and an increase in short-term prices.

Higher demand for thermal power and lower-than-required growth in domestic coal output may push up coal imports to 62 million tonne this fiscal, says India Ratings.

According to the ratings agency, imported coal requirement is likely to increase to 62 million tonne this fiscal from 56 million tonne in FY2018 to meet the incremental power generation.

"With the demand for power likely to remain healthy in the rest of FY19 and thermal capacity contributing to the required growth, coal availability becomes a key determinant. Considering the historical growth rate of domestic non-coking coal production and offtake, imported coal requirement will increase, as against FY18 when imported coal usage declined," Ind-Ra said in a statement issued here.

According to Ind-Ra, in a scenario of lower-than-required growth in domestic coal output, short-term power prices would remain firm and are likely to be determined by the marginal cost of energy production undertaken using imported coal.

The agency has also maintained a stable-to-negative outlook on the power sector for the remaining FY19, despite a rise in electricity demand and an increase in short-term prices.

"The stable-to-negative outlook continues to reflect Ind-Ra's expectation of a continued low plant load factor of 60-62 per cent of coal-based thermal power plants over the rest of FY19, because of large capacity additions in the past five years and domestic coal availability challenges," it said.

It further said the country's dependence on thermal power generation is likely to remain high in the absence of any substantial improvement in power generation from other sources.

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Govt, EESL, World Bank sign $300 million pact to boost energy efficiency programme

PTI | Aug 28, 2018, 02.50 PM IST

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As an integral part of the operation, the first-ever IBRD guarantee in India will help the EESL access new markets for commercial financing.

The government, World Bank and state-owned EESL today inked a USD 220 million loan agreement and a USD 80 million guarantee pact to push energy efficiency programme in India. To be implemented by EESL, the programme will help scale up the deployment of energy saving measures in residential and public sectors, strengthen EESL's institutional capacity, and enhance its access to commercial financing.

The USD 220 million loan, from the International Bank for Reconstruction and Development (IBRD) to Energy Efficiency Services Ltd, has a 5-year grace period, and a maturity of 19 years.

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"The Government of India, the EESL, and the World Bank today signed a USD 220 million Loan Agreement and a USD 80 million Guarantee Agreement for the India Energy Efficiency Scale-Up Program," the joint statement by World Bank and EESL said.

The investments under the programme are expected to avoid lifetime greenhouse gas emissions of 170 million tons of CO_2, and contribute to avoiding an estimated 10 GW of additional generation capacity.

This would be over 50 per cent of the National Mission for Enhanced Energy Efficiency target of 19.6 GW indicated in India's Nationally Determined Contributions (NDCs) under the Paris Accord.

"The programme will help tackle the financing, awareness, technical and capacity barriers faced by new energy efficiency programs and support the UJALA and SLNP programs of the Government of India," said Sameer Kumar Khare, Joint Secretary, Department of Economic Affairs, said in the statement.

"This is one of the several steps being taken by the Government of India to meet its climate change commitments to reduce carbon intensity by 33-35 percent by 2030," he added.

The key components of the operation include: creating sustainable markets for LED lights and energy efficient ceiling fans; facilitating well-structured and scalable investments in public street lighting; developing sustainable business models for emerging market segments such as super-efficient air conditioning and agricultural water pumping systems; and strengthening the institutional capacity of EESL.

Under the Program, EESL will deploy 219 million LED bulbs and tube lights, 5.8 million ceiling fans, and 7.2 million street lights, which will be supplied by private sector manufacturers and suppliers.

Saurabh Kumar, Managing Director, EESL said in the statement, "This program provides us a valuable opportunity...while providing necessary impetus for replicating and magnifying our success across India with other energy efficiency technologies and programmes, and with other ESCOs and stakeholders across the spectrum."

As an integral part of the operation, the first-ever IBRD guarantee in India will help the EESL access new markets for commercial financing in line with the Bank's approach of maximizing finance for development. The guarantee is expected to leverage some USD 200 million in additional financing, to help EESL with its growing portfolio and future investment needs.

"India's energy efficiency market, estimated to be over $12 billion per year, continues to face implementation barriers, particularly in the residential and public sectors, which have some of the largest untapped potential for energy efficiency improvements.

"Building upon its experience of UJALA and SLNP, EESL is now expanding its initiatives to other energy efficiency measures," said Ashok Sarkar, Senior Energy Specialist and World Bank's Task Team Leader for the programme.

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Indian renewables sector to see strong growth, favourable policy support: Report

PTI | Aug 28, 2018, 02.10 PM IST

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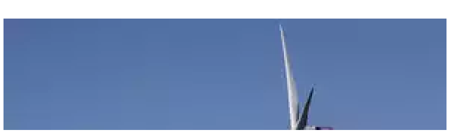

Renewables sector in India is expected to see strong growth and favourable policy support going forward as traditional fossil fuel power

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Renewable installations have been outpacing coal largely because the price of solar power has declined by over 40 per cent, making it more competitive against coal and more attractive for new-build projects.

projects are facing growing transition risks, an HSBC report says. According to the global financial services major, the solar sector will continue to receive favourable policy momentum, especially given India's leadership role in the International Solar Alliance.

"Given the woes (financial and operational) facing the coal power sector and rapidly falling renewable energy generation costs, we believe renewables in India will continue to see strong growth and expect favourable policy support," HSBC said in a research note.

Investment in the power sector in India is important to maintain economic growth and also to improve the livelihoods of large sections of the population which are still without electricity.

Coal now forms one-third of total installed generation capacity, but some projects are unable to sustain themselves due to issues including the non-availability of fuel, lack of purchase agreements and tariff disputes, the report said.

"We think the economics will continue to shift in favour of lower carbon power in India, especially as it promotes solar," the report added.

According to the report, fiscal year 2016-17 was a turning point for renewables as newly installed capacity (11GW) surpassed that of newly installed coal (7GW) for the first time.

"An additional 12GW of renewables (mostly wind and solar) was installed between April 2017 to May 2018, more than double that of coal power plants (5GW)," the HSBC report noted.

Renewable installations have been outpacing coal largely because the price of solar power has declined by over 40 per cent, making it more competitive against coal and more attractive for new-build projects.

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RBI deadline ends: Many power(less) plants may fall into bankruptcy

By *Sangita Mehta*, ET Bureau | Updated: Aug 28, 2018, 10.23 AM IST

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HIGHLIGHTS

- Nearly 40 companies would be victims of the Reserve Bank of India's February 12 circular
- Although the 180-day deadline ends on August 27, banks will not be rushing to the tribunals on August 28
- Power sector, which has around 34 stressed accounts with Rs 1.5 lakh crore of loans, is one of the biggest worry for banks

It junked numerous schemes which were keeping defaulters floating, but actually not reviving those firms for a long term.

The next 15 days could see power plants belonging to Jindal and telecom tower firm GTL and petrochemical maker JBF Industries heading to bankruptcy courts as the central bank-set deadline for resolution came to an end at midnight on Monday, but banks need not set aside more funds for these as they have already done so.

Nearly 40 companies which have defaulted on loans of more than Rs 2,000 crore but escaped getting into the resolution process, would be victims of the Reserve Bank of India's February 12 circular that gave 180 days to banks to resolve defaults. That ended on August 27. Now, banks have a 15 day window to begin the legal process to recover

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Urjit Patel Jet Airways Starbucks vs Sardarbuksh Power assets India's 1st Drone Policy SpiceJet Airtel offers Netflix Subscription Johnson & Johnson Airport security check Discarding medicines on August 27. Now, banks have a 15-day window to begin the legal process to recover their funds.

"Although the 180-day deadline ends on August 27, banks will not be rushing to the tribunals on August 28. The regulator has given banks 15 days to appoint legal counsels and resolution professionals," said a top banker who did not want to be identified. "During these 15 days, if a solution is put in place for any of the accounts and approved by all lenders, those accounts would not be referred to the court." The RBI on February 12 overhauled the resolution process for firms in default.

It junked numerous schemes which were keeping defaulters floating, but actually not reviving those firms for a long term. It set a time limit of 180 days for firms in default and those which were about to default for a resolution. If missed, the accounts will be tried under bankruptcy laws.

The power sector, which has around 34 stressed accounts with Rs 1.5 lakh crore of loans, is one of the biggest worry for banks since they feel that a resolution under bankruptcy code would erode the true value of the assets. Of these, 18 accounts are already referred to the National Company Law Tr i bu n a l (NCLT) — the dedicated court for bankruptcy cases. Lenders plan to refer some more accounts to NCLT such as Ind-Barath Energy (Utkal), Lanco Anpara and Jindal India Thermal Power.

But the RBI has threatened banks with severe consequences for failing to meet its new norms. "Any failure on the part of lenders in meeting the prescribed timelines or any actions by lenders with an intent to conceal the actual status of accounts or evergreen the stressed accounts, will be subjected to stringent supervisory, enforcement actions as deemed appropriate by the Reserve Bank, including, but not limited to, higher provisioning on such accounts and monetary penalties," the February 12 notification said.

Lenders led by State Bank of India have been working round the clock on resolution plans for KSK Mahanadi, Prayagraj Power, JP Power Venture, SKS Power, Jhabua Power and Coastal Energen. Speaking at an event in Mumbai, Rajnish Kumar, chairman of SBI, said seven cases in the power sector are likely to be resolved outside of bankruptcy court. He said that four are approved by SBI and the remaining four would be approved in the next two days. However, it is not clear as yet if boards of all banks will approve the plan which would require at least a 50% haircut on an average.

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Reducing the burden: CERC told to pass on duty changes to power users

By *Sarita Singh*, ET Bureau | Aug 28, 2018, 07.11 AM IST

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Industry insiders said the move will help several power projects stuck due to regulatory issues by expediting procedures.

NEW DELHI: The government has directed power regulator Central Electricity Regulatory Commission (CERC) to allow changes in any central or state government duty to be passed on to consumers even after award of bids, a move that may help revive some stuck power projects.

“Para 6.2 ($) of Tariff Policy 2016 provides that after the award of bids, if there is any change in domestic duties, levies, cess and taxes imposed by central government, state government or by any government instrumentality leading to corresponding changes in the cost, the same may be treated as ‘change in law’ and may unless provided otherwise in the PPA, be allowed as pass through subject to approval of appropriate commission,” the direction said.

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It's a rare case where the government has invoked its powers under Section 107 of the Electricity Act to issue this direction to the independent power regulator.

Industry insiders said the move will help several power projects stuck due to regulatory issues by expediting procedures. "This will expedite the cases relating to passthrough of additional cost due to change in law events, and help in early resolution of regulatory dues of about Rs 18,000 crore," Association of Power Producers (APP) director general Ashok Khurana said. "On an average, the necessary orders for Change in Law pass-through took 3-4 years."

Khurana said the development will also lead to reduced litigations. The power ministry has ordered that the commission will only determine the per unit impact of such change in taxes, which will be passed on. State power distribution companies may submit objections in 21 days. The order on tariff pass-through will be effective from the date of change in taxes. In cases where CERC has already passed an order, that order will apply to all cases and no additional petition should be filed. Khurana said this will obviate the need for all aggrieved parties filing separate petitions.

"This will reduce the burden on CERC/ SERCs of multiple petitions on the same issue," he said. The power ministry said the delay in decision making was affecting the power sector and was one of the factors causing stress. "It has been brought to the notice of the ministry that generating companies are facing difficulties in getting pass-through of changes in cost due to any change in domestic duties, levies, cess and taxes imposed by central government, state government or any government instrumentality under 'change in law' by appropriate commission," it said in a statement.

The difficulty is mainly because of considerable time being consumed in the approval process resulting into severe cash flow problems to the generating companies. This has also resulted in stress in the power sector." Total outstanding loans of scheduled commercial banks to the power sector (including renewables) stood at Rs 5.65 lakh crore at the end of March, according to the 40th Standing Parliamentary Committee.

Nearly 80% of this is accounted for by public sector banks and almost a fifth of this exposure is stressed on various counts, the committee said in its report. The government on July 29 had set up a high level empowered committee headed by cabinet secretary PK Sinha and representation from the ministries of railways, finance, power, coal and banks having major exposure to the power sector, to revive stressed thermal power projects.

The committee would look into various issues with a view to resolve them and maximise the efficiency of investments, including changes required to be made in the fuel allocation policy and regulatory framework. It will also look into mechanisms to facilitate sale of power, ensure timely payments, payment security mechanism, changes required in the provisioning norms/(IBC), asset restructuring company regulations, and other proposals for revival of stressed assets so as to avoid such investments becoming non-performing assets for lenders.

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Power ministry directs regulator to pass on changes in duties to consumer tariffs

By *Sarita Singh*, ET Bureau | Aug 27, 2018, 04.16 PM IST

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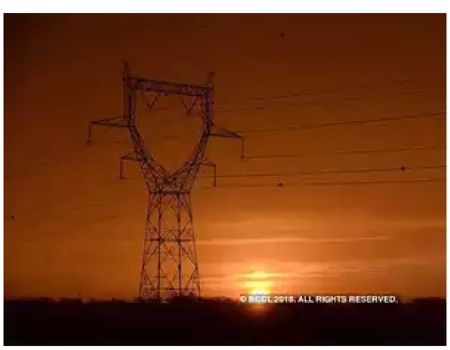

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In a rare move, the government has issued a direction to power regulator Central Electricity Regulatory Commission (CERC) to allow changes in any central or state government duties to be passed in electricity tariffs to consumers post bidding.

The industry welcomed the government's move and said it will expedite procedures, helping a big chunk of power projects stuck due to such regulatory issues.

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Association of Power Producers director general Ashok Khurana said, “APP welcomes the directions issued by power ministry today. This will expedite the cases relating to pass-through of additional cost due to change in law events, and help in early resolution of regulatory dues of about Rs 18,000 crore. On an average, the necessary orders for Change in Law pass-through took 3-4 years.” He also said adding this will also lead to reduced litigations.

This is one of the rare cases where the government has invoked its powers under section (107) of the Electricity Act to issue direction of such magnitude to the independent power regulator.

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Power companies facing insolvency get no interim relief from High Court

ET Bureau | Updated: Aug 28, 2018, 06.33 AM IST

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NEW DELHI: The Allahabad High Court declined to give private power companies any

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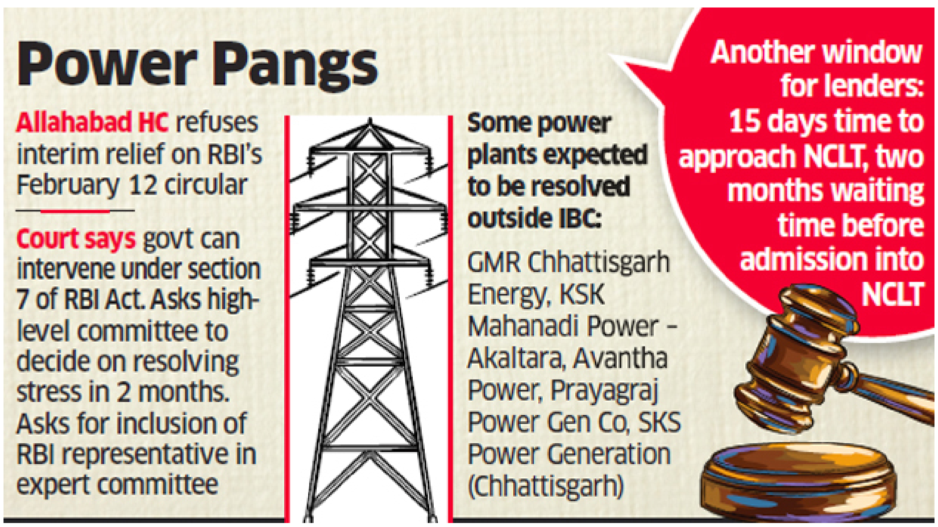
Banks were trying to come up with a resolution plan for these firms as going to the NCLT would mean large haircuts.

declined to give private power companies any interim relief on the Reserve Bank of India (RBI) circular that tightened bad loan norms on Monday, the deadline for finalising resolution plans for the stressed assets.

The court suggested the government could use a special dispensation that has never been used before to give directions to the central bank. The high court has mandated insolvency proceedings by lenders against defaulting power projects. Executives said that insolvency proceedings, which kick in as RBI's 180-day deadline has passed, may lead to steep haircuts for lenders because of the low valuations of stressed projects.

Bankers said they have 15 days to start insolvency proceedings against defaulters, and that it takes about two months to get a case admitted to the National Company Law Tribunal (NCLT), giving them another window to resolve the case. The circular issued on February 12 said that defaulters have to be admitted to the NCLT within 180 days, which meant a deadline of August 27. The companies had sought a relaxation on this as had the government. The issue will come up before the Supreme Court on Tuesday.



AT STAKE, PLANTS WORTH RS 17,000 CRORE

RBI wants the apex court to transfer to itself all cases on the matter that have been filed in the various high courts. Banks hope to salvage at least seven commissioned power plants worth Rs 17,000 crore for which new promoters have been identified. These projects have received bids that require lenders to take a 50% haircut.

Close to eight power plants have been admitted to the NCLT while another 15 will need to have the insolvency process initiated against them after the deadline, sources said. Plants of many companies including KSK Energy, Avantha Group, GMR Energy and Jaiprakash Power Ventures are being eyed by power companies and funds. Potential buyers include Adani Power, Vedanta Plc, JSW Energy, Resurgent Power and Edelweiss ARC with average bids at 50% of the project cost. Total power sector bad debt is pegged at Rs 1.2 lakh crore, owed by about 60 companies.

The high court asked the central government to decide on the matter and take action under Section 7 of the RBI Act within 15 days. This says that the central government can under Section 7 of the RBI Act within 15 days. This says that the central government can ask the RBI to take action it considers necessary in the public interest after consultation with the governor. The government has never used this dispensation. During court proceedings, the government had recommended an extension of 180 days to complete resolution proceedings.

RBI had sought direction from the government on stressed assets under the same section. It also said that stress in the power sector had been caused by state-run utilities being favoured at the expense of private ones.

SINHA COMMITTEE

The court has also asked the high-level empowered committee that was set up on July 29 under cabinet secretary PK Sinha to decide within two months on resolution in consultation with the RBI. The court has asked the government to include RBI representation in the high-level committee, which was set up to revive stressed thermal projects.

An executive with a public sector financial institution said that of 11 power projects identified to be resolved through bidding, deals for at least seven had been finalised and the necessary paperwork had started. “The lenders have 15 days to initiate insolvency proceedings against the defaulting projects, while admission to NCLT these days takes two months,” a senior bank executive said.

“So the lenders still have two-three months to save such projects. Even after admission, in case 90% of the lenders decide, they can withdraw a project from NCLT.” The high court has also ruled that any person or company with an urgent case can independently approach it with all material facts, sources said. The power companies had moved the Allahabad High Court seeking modification in the RBI circular saying it would trigger insolvency proceedings against 30,000 megawatts of assets, causing huge value erosion.

The companies said that many projects are stressed for reasons beyond their control. These include delays in land acquisition, green clearances, failure of Coal India to supply fuel and the reluctance of state distribution companies to sign power purchase agreements.

WHAT THE HIGH COURT SAID...

Delivering the verdict, Chief Justice Dilip B Bhosale said: “We are of the opinion that interim relief, at this stage, need not be granted. IPPA or APP are at liberty to apply for urgent interim relief if need so arises, placing the requisite factual details on record. The Central Government shall consider initiation of the consultative process contemplated under Section 7 of RBI Act, and conclude the same within 15 days from today.

“The High Level Empowered Committee shall submit its report within two months from the date of its constitution. The Ministry of Power shall invite a senior representative of the RBI, after consultation with the Governor of RBI, as a member of the High Level Empowered Committee forthwith. “This order shall not curtail the rights/powers of a financial creditor under Section 7 of the IBC or even of the RBI in issuing directions in specific case(s) under Section 35AA of BR Act to initiate corporate insolvency resolution process under Chapter II of Part II of IBC, in any given case, including the petitioners or members of the petitioners' Association.”

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