



A Month After RBI Directive, Banks Wade Through Insolvency Process

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On June 13, the Reserve Bank of India directed banks to refer 12 large stressed accounts for resolution under the Insolvency and Bankruptcy Code. The decision, an unusual one, was an attempt to break the status quo on the pile of bad loans that banks have so far failed to resolve. It was equally a test for the newly established insolvency process in the country.

Banks were given a month from that date to get the insolvency process started.

As of Friday, while the lenders have filed insolvency proceedings against all the 12 companies, some early hiccups have emerged in individual cases. Jyoti Structures Ltd. is so far the only case where lenders have successfully admitted the case at the National Company Law Tribunal.

In an interim order on July 10, the Kolkata bench of the NCLT said in the case of Electrosteel Steels Ltd., that the matter would be heard for admission on July 18 since nobody appeared on behalf of the company. A notice would be sent to the company through email and speed post, the court said.



Name	Case Filed	Case Admitted	Next Hearing Date
Monnet Ispat	✓	✗	July 17
Jyoti Structures	✓	✓	✗
Electrosteel Steels	✓	✗	July 18
Amtek Auto	✓	✗	July 17
Essar Steel	✓	✗	July 17
Bhushan Steel	✓	✗	July 19
Bhushan Power & Steel	✓	✗	July 19
Jaypee Infratech	✓	✗	TBA
Lanco Infratech	✓	✗	TBA
ABG Shipyard	✓	✗	TBA
Alok Industries	✓	✗	July 18
Era Infra & Engineering	✓	✗	July 25

TBA: To be announced

Source: Banking sources, NCLT

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Overlap With Winding Up Petitions

Among the 12 companies, two are already facing winding up petitions in court.

In the case of Era Infra & Engineering Ltd., the company at a hearing on July 12, brought to the tribunal's notice that there were several winding up petitions, which are pending adjudication before the Delhi High Court. The court asked legal counsel to examine whether the insolvency application is maintainable in such a scenario. The matter has been adjourned till July 25.

Insolvency proceedings against Alok Industries Ltd. face a similar question. In November 2016, the Small Industries Development Bank of India (SIDBI) had filed a winding up petition against the company. The Ahmedabad bench of the NCLT will hear the case on July 18.

“The NCLT has to ensure that there are no procedural lapses. The approach is that operationally it is more convenient to sort out issues beforehand and prior to admission of IBC application. There is a need for precedent setting also, which is happening now.”

Babu Sivaprakasam, Partner, Economic Laws Practice

Reluctant Promoters

In other cases, like Essar Steel Ltd., banks have run into hostile promoters.



that insolvency proceedings would be detrimental to the company's interest. It also argued that the RBI's criteria for selecting the 12 companies was arbitrary.

The Gujarat High Court has reserved its order in the case till Monday.

In the case of Bhushan Power & Steel Ltd., where Punjab National Bank is the lead banker, the company is likely to seek relief from the Delhi High Court, a person close to the development said. On Thursday, the NCLT said that the insolvency matter involving the company will be heard on July 19.

Bhushan Power & Steel did not respond to an email sent by BloombergQuint on Friday.

State Bank of India, the lead banker in the case of Monnet Ispat & Energy Ltd., faced some push back from the company when it argued that a proposed deal with the JSW Group had been rejected by the lenders. The bankers in turn said the deal wasn't good enough. The lending consortium owns majority stake in Monnet Ispat after they invoked the strategic debt restructuring scheme in August 2015. The next hearing in the matter is scheduled for July 17.

“ Seeking legal intervention is every citizen's right, we cannot stop them. As a banker it is our prayer to the court that they decide on matters quickly so that insolvency procedures can move ahead. The timeline of 180 days to our mind is fairly adequate to arrive at a resolution plan. If you delay matters any further then you have to face losses.”

Rajnish Kumar, Managing Director - National Banking, State Bank of India

In cases such as Jaypee Infratech Ltd., Lanco Infratech Ltd. and ABG Shipyard Ltd., the NCLT is yet to announce a date for hearing. Hearings in the Amtek Auto Ltd. and Bhushan Steel Ltd. cases are scheduled for July 17 and 19 respectively.

Under the IBC framework, the NCLT has 14 days to either admit or reject an insolvency case, from the time it is filed. However, the National Company Law Appellate Tribunal (NCLAT), in the case of JK Jute Mills Co. Ltd. v/s Surendra Trading Co., had observed that while the timelines prescribed under the code are important, the NCLT has inherent powers to extend the timeline to admit or reject a filing, on a case-to-case basis.

Banks have picked interim resolution professionals in each of these 12 cases and are awaiting admission to start the insolvency process. Once admitted, the resolution professional is finalised and a committee of creditors is formed. The resolution professional will then work on a resolution plan as well as peruse plans submitted by others. The plan then needs approval from 75 percent of the committee of creditors and the NCLT before being implemented.

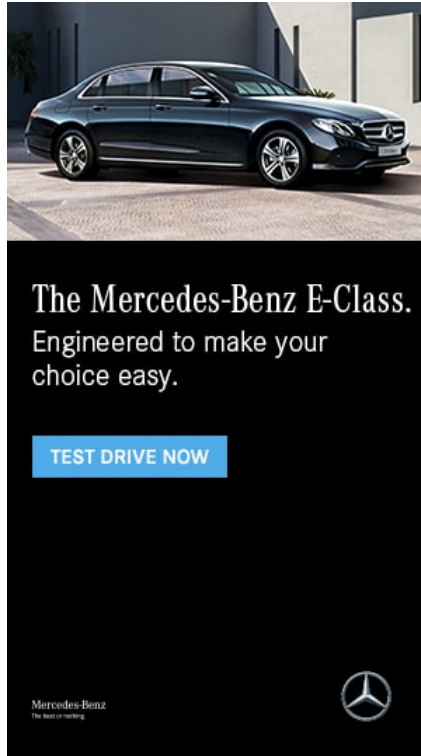
If a definite plan is not arrived at within 270 days of admission, the company will be liquidated as per provisions under the code.

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