GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS

LOK SABHA
UNSTARRED QUESTION NO. 701
ANSWERED ON MONDAY THE 7TH FEBRUARY, 2022
MAGHA 18, 1943 (SAKA)

MISUSE OF IBC

QUESTION

701. SHRI DAYANIDHI MARAN:

Will the Minister of CORPORATE AFFAIRS

be pleased to state:

(a) whether the Ministry has taken cognisance of NCLTs taking note of disproportionate haircuts by lenders to companies using the Insolvency and Bankruptcy Code (IBC) to settle large debts and if so, the details thereof;

(b) whether the Ministry has or is considering initiating investigations into borrowers misusing the IBC to obtain control of companies through family members or benamis and if so, the details thereof;

(c) whether the Ministry has or is considering investigations into consultancies misusing the IBC to help clients obtain control of companies & properties at huge loss to banks and if so, the details thereof; and

(d) whether the Ministry or agencies such as ED, CBI, CVC have received any complaints regarding violation of laws by defaulters or consultancies by misuse of IBC and if so, the details thereof?

ANSWER

MINISTER OF STATE (INDEPENDENT CHARGE) OF THE MINISTRY OF STATISTICS AND PROGRAMME IMPLEMENTATION; MINISTER OF STATE (INDEPENDENT CHARGE) OF THE MINISTRY OF PLANNING; AND MINISTER OF STATE IN THE MINISTRY OF CORPORATE AFFAIRS

[RAO INDERJIT SINGH]

(a): Realization by creditors through corporate insolvency resolution process (CIRP) under the Insolvency and Bankruptcy Code, 2016 (the Code/IBC) is market driven and is inter-alia dependent on quality of

assets at the time of its resolution. As of 31st December, 2021, 457 companies have been resolved under the Code so far. The resolution plans for 444 companies for which data is available, have yielded realisable value of Rs. 2.50 lakh crore for financial creditors (FCs) against total admitted claims of Rs. 7.54 lakh crore.

(b) and (c): Section 29A of the Code enlists certain categories of undesirable persons ineligible to submit a resolution plan during the CIRP of a corporate debtor (CD). Regulation 36A(8) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 imposes a duty on Resolution Professional (RP) to conduct due diligence to satisfy that the prospective resolution applicant is not ineligible under section 29A of the Code. RP, on receipt of resolution plan, is required to place the resolution plan for approval of Committee of Creditors (CoC) which the CoC may approve considering its feasibility and viability as provided under section 30(4) of the Code. Thereafter, the Adjudicating Authority approves the resolution plan under section 31 after being satisfied that the resolution plan, as approved by CoC, meets the requirements of section 30(2) of the Code, inter-alia, including that it does not contravene any of the provisions of the law for the time being in force. This ensures that any undesirable persons under section 29A are unable to take over the corporate debtor. Likewise, during liquidation proceedings of CD, the proviso to Section 35(1)(f) bars a liquidator from selling immovable and movable property to any person who is ineligible to be a resolution applicant.

(d): The Insolvency and Bankruptcy Board of India (Grievance and Complaint Handling Procedure) Regulations, 2017 enable stakeholders to file a grievance or a complaint against service providers under the IBC. Besides this, Insolvency and Bankruptcy Board of India (IBBI) also receives complaints and grievances from Centralized Public Grievance Redress and Monitoring System (CPGRAM), Prime Minister's Office, Ministry of Corporate Affairs and other authorities. Till 30th January, 2022, the IBBI had received 5782 such complaints and grievances, of which 5552 have been disposed after examination. Further, as per information available, Directorate of Enforcement has received one complaint against an RP of one CIRP, CBI has received one complaint regarding abuse of process in one CIRP matter and SFIO has received 8 (eight) complaints regarding violation of various provisions of the IBC.

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