



ALL INDIA UNION BANK PENSIONERS AND RETIREES FEDERATION
(Affiliated to All India Bank Pensioners & Retirees Confederation – AIBPARC)

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Dear Comrades,

14th September, 2018

News of Interest 12th SEP

MOTIVATIONAL QUOTES

“WE MAY ENCOUNTER MANY DEFEATS BUT WE MUST NOT BE DEFEATED”.

MAYA ANGELOU

HIGHLIGHTS

1. PNB SCAM: MEHUL CHOKSI SENT OVER RS 32.5 BN TO FOREIGN SHORES, SAYS ED
2. INDIANS WORK HARDEST, HAPPY WITH WORKING 5 DAYS A WEEK, SAYS STUDY
3. FIX NCLT/NCLAT DELAYS A YEAR ON, PROCESS FOR SELLING ESSAR STEEL IS STILL INCOMPLETE
4. RBI'S DEADLINE FOR BANKRUPT COMPANIES: SUPREME COURT STAYS INSOLVENCY PROCEEDINGS AGAINST DEFAULTERS
5. IBC: RELIEF FOR COMPANIES AS SC STAYS RBI CIRCULAR

Business Standard

1. PNB scam: Mehul Choksi sent over Rs 32.5 bn to foreign shores, says ED

Press Trust of India | New Delhi

An ED investigation has found that absconding jeweller Mehul Choksi diverted over Rs 32.50 billion funds, allegedly defrauded from a PNB branch in Mumbai, to foreign shores and he was in business of "highly inflating" prices of precious metals sold from his outlets.

The businessman has rejected the charges as "baseless".

The agency, which is probing the USD 2 billion (about Rs 130 billion) alleged bank fraud that also involved his nephew Nirav Modi, said Choksi was "using several dummy companies" to rotate funds and to divert money for his personal use.

In its chargesheet, the Enforcement Directorate has said Choksi allegedly diverted \$56.12 million (about Rs 4 billion) of loan funds to Nirav Modi and about USD 50 million (Rs 3.60 billion approx) to Modi's father Deepak Modi.

"Choksi was using several dummy companies for rotating his transactions. Under this arrangement, origin of the sale transactions and final destination used to be any of the Gitanjali group of companies.

"For in-between transactions, dummy companies were used for layering purpose wherein only sale/purchase bills were created and no movement of goods used to take place. He has been doing this to project inflated turnover to avail higher banking facility," the Enforcement Directorate (ED) has said in its charge sheet filed against the absconding businessman who is stated to be in the Caribbean nation of Antigua now.

Choksi, talking to some media organisations, has termed ED's allegations as "false and baseless". He has also alleged that this properties have been attached by the central probe agency "illegally."

ED charges are false and baseless: Mehul Choksi breaks silence on PNB Scam

The agency said it has detected that fund to the tune of Rs 32. 57 billion, that were obtained from PNB's Brady House branch in Mumbai, were "diverted" to countries like Thailand, the US, Belgium, UAE, Italy, Japan and Hong Kong and were deposited in "group entity" firms.

These funds, were "fraudulently obtained" by Choksi and his firms from the PNB by way of Letters of Undertaking (LoUs) and Foreign Letters of Credit (FLCs).

It also accused Choksi of grossly over-valuing the gems and jewellery that he sold.

"Choksi used to fix the rate/value of the goods without applying economic rationale. The goods in question were either low value or poor quality and was not commensurate with the price/value fixed by him," the ED said.

The charge sheet further said these charges have been "confirmed" in the statement given to it under the Prevention of Money Laundering Act (PMLA), by Vice President (banking operations) of Choksi's Gitanjali Group, Vipul Chitalia.

"It is further confirmed from the goods seized at Hyderabad whose declared value was found to be highly inflated and in some cases the actual value of these goods is even less than 3 per cent of the declared value," the ED said.

The agency alleged the proceeds of crime of money laundering in this case involving Choksi were "partly remitted back to Gitanjali group of companies" in India in guise of export-import transactions for settling earlier credit liabilities.

"The proceeds of crime has also been used for making payment against the villa booked by Choksi in UAE and for transferring preferential shares of MS Bezel Jewellery (India) Pvt Ltd to Ms Al Burj Diamond and Jewellery FZE, UAE...," the charge sheet said.

It also charged Choski of conducting illegal 'air to air' export using the Gitanjali group, where consignments exported from India to Hong Kong and back were routed to Dubai but were not cleared through customs at the UAE airport and were exported to Hong Kong or India.

Mehul Choksi's 41 properties are money laundering assets: PMLA Authority

The ED report also said that "fraudulent export and import" was being done by Choksi's firms and there was "no manufacturing activity" in any of the overseas companies situated at Hong Kong and the UAE and only bogus business and sale amongst group companies were carried out.

"The export/import was also not genuine and was just rotational transactions. The jewellery exported from India was dismantled and diamonds/pearls were taken out of it," the agency charged.

The ED said, "It is apparent that the funds acquired by fraudulent means were siphoned off within the country as well as to the overseas dummy companies owned and controlled by Mehul Choksi_himself."

"The dummy directors and others were mechanically transferring the goods and monies as per the directions of Choksi without any economic rationale and logic," the agency alleged.

The businessman has been also charged by the CBI for alleged corruption in this case and the ED has sought an Interpol arrest warrant against him apart from approaching a Mumbai court to get him declared a fugitive economic offender under a new law by the same name.

India has also recently moved for his extradition from Antigua.

2. Indians work hardest, happy with working 5 days a week, says study

The US leads the way with overtime, as 49 per cent clock more than 40 hours each week, followed by India 44 per cent

Press Trust of India | Mumbai

India leads the way as the hardest working country with 69 per cent of full-time employees saying they would work five days a week even if they had the option to work fewer days for the same pay, according to a survey.

Mexico was the second-highest at 43 per cent of workers, followed by the US at 27 per cent, according to the culture study survey by US-based multi-national workforce management firm Kronos Incorporated.

The UK (16 per cent), France (17 per cent) and Australia (19 per cent) are the least content with the standard five-day workweek, it added.

If pay remained constant, one-third of global workers felt their ideal workweek would last four days (34 per cent), while 20 per cent said they would work three days a week, the survey said.

While one in four global employees (28 per cent) are content with the standard five-day workweek, it added.

For this survey research was conducted by Future Workplace on behalf of Kronos Incorporated between July 31 August 9, 2018, among 2,772 employees.

It surveyed full and part-time employees living in Australia, Canada, France, Germany, India, Mexico, the UK and the US.

Meanwhile, the survey found that one-third of employees (35 per cent) would take a 20 per cent pay-cut to work one day less per week.

However, those numbers vary greatly by country, as 50 per cent of workers in Mexico, 43 per cent in India and 42 per cent in France would take that arrangement compared with only 29 per cent in Canada and 24 per cent in the US.

It also revealed that even though 75 per cent of full-time employees globally said they have enough time in the workday to finish their major tasks, nearly two in five (37 per cent) work more than 40 hours each week and 71 per cent claim work interferes with their personal lives.

However, full-time employees in Australia (37 per cent) and the UK (34 per cent) felt strongest that they do not have enough time in the day to get the job done, yet they do not work the most hours, it said.

The US leads the way with overtime, as 49 per cent clock more than 40 hours each week, followed by India (44 per cent), Mexico (40 per cent) and Germany (38 per cent), it added.

"It's clear that employees want to work and do well by their employers, and many roles require people to be present or on call during specific hours to get the job done such as teachers, nurses, retail associates, plant workers, delivery drivers, and nearly all customer-facing roles," executive director of The Workforce Institute at Kronos, Joyce Maroney said.

She said, organisations must help their people eliminate distractions, inefficiencies and administrative work to enable them to work at full capacity.

"This will create more time to innovate, collaborate, develop skills and relationships and serve customers while opening the door to creative scheduling options, including the coveted four-day workweek," she added.

Financial Express

3. Fix NCLT/NCLAT delays A year on, process for selling Essar Steel is still incomplete

In the initial bidding round for Essar Steel, one of the bidders was Numetal whose shareholders included a trust in which Rewant Ruia was a beneficial owner; the other bidder was Arcelor Mittal.

Given it has been more than a year since Essar Steel was first admitted for insolvency by the Ahmedabad bench of the NCLT, and the process is still not

over—despite an NCLAT verdict last week on the eligibility of bidders—it is clear matters are not proceeding as smoothly as was envisaged when the government first started the new insolvency process for defaulter firms. Indeed, some variant or the other of the Essar Steel-kind of delays is being played out in several other cases as well, making it clear the issue is a serious one.

In the initial bidding round for Essar Steel, one of the bidders was Numetal whose shareholders included a trust in which Rewant Ruia was a beneficial owner; the other bidder was Arcelor Mittal. Both bids were declared ineligible by the Committee of Creditors (CoC) since, under Section 29A of the Insolvency and Bankruptcy Code (IBC), defaulting firms were not allowed to bid unless they make good the default. Since Rewant Ruia was a member of the Ruia family, Numetal being declared ineligible was obvious; in the case of Arcelor Mittal, it was ineligible since it was a promoter of Uttam Galva which owed the banks `7,000 crore. Both parties appealed this decision at the NCLT—and later, NCLAT—but no final decision was taken; instead, the bidding process was allowed to go on.

In the next round, Numetal dropped Ruia and took on JSW instead, and Arcelor Mittal offered to pay the Uttam Galva dues, but with some caveats; to demonstrate its sincerity, it placed Rs 7,000 crore in an escrow account. This is what the NCLAT ruled on last week—it said that while Numetal's second bid, with JSW, was eligible, Arcelor Mittal would have to pay the dues of Uttam Galva in order to remain eligible. Reportedly, Arcelor Mittal plans to challenge this in the Supreme Court—apparently, on grounds that if Numetal could become eligible by simply dumping Rewant Ruia, it should be eligible anyway as it had sold its shares in Uttam Galva.

While the Supreme Court will, undoubtedly, take a call on this, since a decision is not taken on time, the issue gets a lot more complicated. After the CoC had declared both bids ineligible, for instance, the legal challenges should have been dealt with first. Only then should Numetal and Arcelor Mittal been allowed to proceed to the second round, after having fixed those parts of their bids—Rewant Ruia and the Uttam Galva dues, respectively—that were considered the problem. If this is not done for all other cases, they too will continue to get delayed, so there is a valuable lesson here for all those involved in the IBC process.

Economic Times

4. RBI's deadline for bankrupt companies: Supreme Court stays insolvency proceedings against defaulters

By Samanwaya Rautray Sarita C Singh | ET Bureau

New Delhi: The Supreme Court halted insolvency proceedings against defaulters in the power, sugar, shipping and textile sectors, providing relief to borrowers hours before the deadline for referring them to insolvency court expired by staying a Reserve Bank of India (RBI) circular issued in February.

Bankers said the decision will delay the process at least until November 14, when the next hearing is scheduled. They welcomed the intervention of the top judicial authority as it would help give final shape to questions of law and bring together multiple suits in courts across the country, which were

complicating

the

process.

The order is expected to lead to borrowers that have so far not sought judicial relief against the controversial RBI circular--which tightened default norms--to rush to the Supreme Court to halt, at least temporarily, debt resolution under the Insolvency and Bankruptcy Code (IBC).

The bench, comprising Justices RF Nariman and Indu Malhotra, directed banking regulator RBI to maintain the status quo on insolvency proceedings while transferring all pending cases on the matter in various lower courts to itself.

"IBC as a process has proven effective in resolution of stressed assets," he said. "It is a new law and there are precedents which are being set. While delays are not good and this order will likely delay some resolutions for another two months, it will give clarity on resolving these issues in the long run." Senior advocate Jayant Bhushan said that the ruling would only apply against those companies that had moved court.

"It is not a general order," he said, suggesting that it may not stand in the way of lenders initiating insolvency proceedings against those borrowers that have no such court protection as of now. Senior advocate Mahesh Agarwal, who represented the power companies, said the decision will provide relief to them.

Where cases have been referred to NCLT (National Company Law Tribunal) after the RBI circular, there will be a status quo and where they have not been filed, they will not be referred to NCLT now," he said.

Members of the Association of Power Producers, Independent Power Producers Association of India, South Indian Sugar Mills Association along with groups representing shipyards and textile makers got relief, he said.

Power companies welcomed the Supreme Court verdict saying it will prevent about 13 GW of stressed power plants from insolvency.

They are averse to go to NCLT because they feel it will not fetch the assets a fair price.

"SC order has provided a great relief to power sector stressed assets," Association of Power Producers director general Ashok Khurana said.

"This would provide time for bankers to finalise resolution plans for about 13 GW of projects which are presently in their final stages and the high-level empowered committee under cabinet secretary to submit its report on corrective actions that the government intends to initiate to mitigate stress factors."

Lawyer Saurav Kumar, Partner, law firm IndusLaw, also said the order would allow companies to negotiate with the bankers and arrive at mutual arrangements in the interim to sort out their bad loans.

"While we don't know whether the lenders would be interested, the challenge is to ensure that this is done without losing much time," he said.

The other challenge, Kumar said, would be to ensure that the insolvency proceedings kick in much before the assets are rendered unviable.

"As it is, not many are interested in buying power companies," he said.

Advocate Abhishek Singhvi, who argued for GMR Energy, said the RBI's circular was rightly stayed.

For highly stressed assets in the power sector, for whom I appeared, even the government of India supported a stay of the circular," he said.

"This blanket approach of RBI is very regrettable. It required the robust approach of the Supreme Court to grant status quo.

"Even the high court order impugned by us recorded six-seven findings in favour of the writ petitioner but did not grant interim relief so I argued that it was a case of 'operation successful but patient must die.' "

The Supreme Court decision gives lenders more time to completing resolution proceedings for borrowers such as KSK Mahanadi, Prayagraj Power, Jhabua Power and GMR Chhattisgarh Energy, which were hopeful of escaping the bankruptcy process. Resurgent Power, Adani Power, JSW Energy and Vedanta Plc have been eyeing a chunk of stressed power assets through the bidding route at as much as half the project cost.

Business Line

5. IBC: Relief for companies as SC stays RBI circular

Ksenia Kondratieva

In a breather to stressed companies, the Supreme Court on Tuesday put an interim stay on the Reserve Bank of India's February 12 circular asking banks to scrap all debt restructuring and begin insolvency process if a company delays payment even by a day.

There are about 70 such assets of which about 30 are in the power sector and the mix includes textile and shipping sectors. The apex court will hear the matter again on November 11.

The Allahabad High Court, on August 27, had refused to stay the RBI circular. This meant that the banks had another 15 days to find a resolution or put all the assets under the insolvency process.

This grace period came to an end on Tuesday. Therefore, the apex court's intervention is a breather to the companies and banks to cobble up a solution by November 11, according to experts.

At least four power companies, including Punj Lloyd, GMR, RattanIndia and IL&FS, had moved the Allahabad High Court, the Delhi High Court and the Madras High Court seeking relief from the RBI circular.

The Supreme Court has transferred all pleas filed before the various High Courts to itself while asking the RBI and parties to maintain status quo with regards to insolvency proceedings. The stay on RBI circular from the Supreme Court will now make it impossible for the lenders to take any power company to NCLT, experts note.

"We welcome the idea, it's a great relief to the power sector and basically saves about 13-14 GW of assets from being referred to NCLT. This gives adequate time to bankers to finalise resolution plans. the majority of resolutions are at the final stage," Ashok Khurana, Director General of Association of Power Producers, told BusinessLine.

He added that having around two months in hand will help lenders complete all documentation work related to finalising resolution plans through change of management route or via one-time settlements. The projects where the resolution have been almost finalised through change of management include KSK Mahandi, GMR's Raikheda and Chhattisgarh plants, Prayagraj Power, RattanIndia Power's Amravati and Nashik projects, Essar Mahan and other projects.

According to Khurana, the Supreme Court order also gives time to the High Level Empowered Committee formed by the government in July this year to address the issues of thermal power sector and headed by Cabinet Secretary to prepare the report, which is due for the High Court judgment in the end of September.

"So before the next hearing of the Supreme Court in November, we will know how all the stress points of the sector are being remedied as per the report of the Committee which will give more clarity (to the industry)," Khurana added.

Vishrov Mukerjee, Partner, J Sagar Associates, which represented the Association, GMR and RattanIndia before the Allahabad High Court and the Supreme Court, said: "The power companies have challenged the RBI circular on the basis that power sector is differently placed as a lot of reasons for the stress in the sector are external."

He added that while it is to be seen how the banks will react to the apex court's status quo order, ideally, the resolution process should now continue.

With kind regards,

Yours Comradely,



(**N. GOVINDRAJULU**)
GENERAL SECRETARY