Chapter III
Inadmissible Exchange of Stressed Assets

3.1 Inadmissible Exchange of Assets after the formation of the Trust

Between September 2004 and May 2005, IDBI, by executing six transfer/assignment/transfer of mortgage deeds, assigned 636 stressed assets with net loan outstanding of ₹ 9,004 crore to SASF.

However, IDBI Bank submitted (February 2006 / April 2006) proposals to GOI for exchange of turnaround cases for other stressed assets. Exchange of cases was not permissible as the objective of formation of SASF was to take over the NPAs / potential NPAs existing as on 31 March 2004 only. Thus, no subsequent exchange was permissible.

The GOI intimated (May 2006) IDBI Bank that the Stressed Assets Stabilisation Fund in existence was created for a specific purpose, i.e., for stressed assets for that point of time and it would not be proper to extend the scope and life of SASF.

Despite this, the Board of IDBI Bank decided (June 2006) and Board of Trustees approved (24 June 2006) exchange of eight turnaround cases with NLO of ₹ 1,522.29 crore for three fresh cases with NLO of ₹ 1,335.29 crore (SJK Steels Plant Limited (NLO: ₹ 603.42 crore); SPIC Petrochemicals Ltd (NLO: ₹ 528.46 crore and Shri Vishnupriya Industries Ltd (NLO: ₹ 203.41 crore). The transfer deed was executed (28 June 2006) between IDBI Bank and SASF for exchange of cases.

Audit noticed that in eight cases, which were transferred to IDBI in 2006, against a total NLO of ₹ 1,522.29 crore, the recovery made was ₹ 1,659 crore. On the other hand, the position of the three cases transferred to the Trust is as follows:

₹ in crore

Sr. No.	Name of the Borrower	Name of the promoters	NLO	Amount recovered
1	SJK Steels Plant Ltd	Shri Y. Jithin Kumar and Shri Y. Janardhana Rao	603.42	359.41
2	SPIC Petrochemicals	Dr. A. C. Muthiah	528.46	0.71
3	Shri Vishnupriya Industries Ltd	Shri N.H. C. Siva Reddy, Shri R. Negi Reddy and Associates	203.41	0.20

Thus, this inadmissible exchange which was not approved by the Government of India, benefitted IDBI. On the assets transferred to IDBI, the recovery was even more than the NLO. On the assets received by the Trust in exchange, the recovery was minimal.

3.2 Status of settlement of three exchanged cases

SPIC Petrochemicals Limited (NLO ₹ 528.46 crore; recovered ₹ 0.71 crore)

On a request (April 2010) made by Asset Reconstruction Company (India) Limited (ARCIL) (who acquired loans of ICICI Bank, Bank of Baroda, Dena Bank and State Bank of India and was the second largest charge holder on the Company after SASF), SASF gave consent under SARFAESI Act to ARCIL for taking action against SPIC Petrochemicals Limited (SPL) under the said Act. Accordingly, ARCIL took possession of the Kossapur unit under SARFAESI Act in May 2010.

Audit analysis, however indicated that recovery of ₹ 528.46 crore from SPL may not be possible for the following reasons:

The security available for the stressed assets transferred to SASF by IDBI was the charge on moveable and immoveable assets of SPL situated at Kossapur, Chennai. However, SASF would find it difficult to enforce any of the securities for the following reasons:

(a) The land allotted to SPL by the Government of Tamil Nadu was a part of the land allotted to another company Arochem- a joint venture of SPIC. Since the project was not coming up, it was allotted to SPIC on a temporary basis subject to backward integration with Arochem;

(b) As per Section 44A of the Land Acquisition Act, 1984 land allotted by the State Government cannot be mortgaged without previous sanction of the State Government. The proof of such sanction by the State Government could not be produced before the High Court;

(c) As per the terms of the agreement between SPL and Government of Tamil Nadu, SPL was required to pay cost of acquisition failing which the land was to be resumed by the Government and in the event SPL is wound up, land was to be resumed by Government of Tamil Nadu. In the hearing held in October 2012 at Madras High Court, Government of Tamil Nadu filed a counter application stating that the secured lenders did not have the mortgage and that the land should be resumed to the Tamil Nadu Government as per the terms of the agreement; and

(d) The imported equipments worth ₹ 400 crore (approximately) were lying in the SPL premises under the Custody of Customs Department. Commissioner of Customs (Imports) issued notice to SPL in August 2004 and filed an intervening application in May 2005 before the Debt Recovery Tribunal, Mumbai for recovery of its dues amounting to ₹ 456 crore.

At the time of disbursal of loan by IDBI, no personal guarantee was obtained.

Since there was a stay on sale of immovable property, ARCIL was trying to sell the movable property, reserve price of which was a paltry amount of ₹ 20.93 crore. Pro-rata share of the Trust was not available.

3.2.2 Shri Vishnupriya Industries Limited (NLO ₹ 203.41 crore; recovered ₹ 0.20 crore)

Total realisable value of assets of the party was ₹ 18.17 crore excluding imported machinery of ₹ 66.91 crore on which Central Excise authority had claims. Andhra Pradesh High Court ordered the Official Liquidator for sale of the secured assets (excluding land and the imported machinery thereon). The sale was yet to be completed (March 2013). In this case personal guarantees were available but without property details.

3.2.3 SJK Steel Plant Limited (NLO ₹ 603.42 crore; recovered ₹ 359.41 crore)

Against NLO of ₹ 603.42 crore, Trust received ₹ 359.41 crore up to March 2013 resulting in a sacrifice of ₹ 244.01 crore.

The Ministry in its reply stated that even though the exchange of assets was not in line with the objective and scope of formation of SASF which was reiterated by the Government of India when the proposal of exchange of assets was received from IDBI in May 2006, the Bank took a business decision in the interest of the Bank and to save some stressed assets in which there was a life for revival. However since the GOI did not agree with the proposal of the Bank for the exchange of assets, the observations of the Audit was accepted by the Ministry and IDBI Bank was being directed to take all remedial measures including necessary steps such as obtaining approvals from various regulatory authorities, Board, Government etc., if any , and complete the process in the next three to five years starting from financial year 2014-15 to restore the position prior to exchange of assets in 2006-07, as far as possible and consequently redeeming of special securities held by the Bank worth the value of assets taken over by the Bank since SASF at this juncture cannot take back these assets being refinanced by IDBI and their original value and nature altered. Further, the Bank was also being directed to take back the three assets which have been given to SASF in exchange.