

Chapter IV Recovery of Stressed Assets

4.1 At the time of transfer of the cases to SASF by IDBI, the cases were classified as normal cases, suit filed cases and decree cases. Over a period of 9 years, the Trust was able to settle⁴ 319 cases, resolve⁵ 101 cases and there were 211 unresolved⁶ cases. Details of cases settled, resolved and unresolved as on 31 March 2013 are given below:

₹ in crore

Sr. No.	Particulars	Number of cases	NLO	Amount recovered up to 31 March 2013	Settlement by way of shares	Total [(v) + (vi)]	Short (-) / additional recovery as compared to NLO (vii - iv)
(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)	(viii)
Settled cases							
1	Recovery less than NLO	150	1964.86	1025.59	24.10	1049.69	(-) 915.17
2	Recovery more than or equal to NLO	169	968.26	1473.24	38.56	1511.80	(+) 543.54
3	Total of settled cases (1+ 2)	319	2933.12	2498.83	62.66	2561.49	(-) 371.63
Resolved cases							
4	Recovery less than NLO	60	2650.30	785.32	43.62	828.94	(-) 1821.36
5	Recovery more than or equal to NLO	41	227.99	371.70	19.85	391.55	(+) 163.56
6	Total of resolved cases (4 + 5)	101	2878.29	1157.02	63.47	1220.49	(-)1657.80
Unresolved cases							
7	No recovery cases	79	625.32	0.00	0.00	0.00	(-) 625.32
8	Recovery less than NLO	117	2295.33	218.53	70.89	289.42	(-) 2005.91
9	Recovery more than or equal to NLO	15	85.04	99.54	7.79	107.32	(+) 22.28
10	Total of unresolved cases (7 + 8 + 9)	211	3005.69	318.07	78.69	396.75	(-)2608.94
11	Unreconciled	0	0.00	3.62	0.00	0.00	0.00
12	Total (3 + 6 + 10 + 11)	631	8817.10	3977.54	204.81	4182.35	(-) 4634.75
13	Recovery and adjustment of NLO in respect	Not adjusted above	189.17	93.60	0.00	93.60	(-) 95.57

⁴ In the context of SASF, settlement by way of cash and shares. No further recovery is expected except for recovery of amounts by sale or buy back of shares.

⁵ In the context of SASF, it is agreement reached for settlement but part of recovery is pending.

⁶ In the context of SASF, cases where no settlement has been reached.

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	of eight cases transferred back to IDBI						
14	Grand Total	631	9,006.27	4,071.14	204.81	4,275.95	4,730.32

Out of the total 319 settled cases having a total NLO of ₹ 2933.12 crore, 150 were settled for amount lower than NLO. The short recovery was to the tune of ₹ 915.17 crore. Similarly, out of the 101 resolved cases having a total NLO of ₹ 2,878.29 crore, in 60 cases the recovery was ₹ 828.94 crore against NLO of ₹ 2,650.30 crore, resulting in a short recovery of ₹ 1,821.36 crore as of March 2013.

In the unresolved category, in 79 cases with NLO of ₹ 625.32 crore, the Trust could not recover any amount and from the balance 132 cases it could recover only ₹ 396.75 crore against NLO of ₹ 2,380.37 crore.

Audit analysis indicated that out of 52 cases with NLO of more than ₹ 25 crore, 19 cases were settled, nine cases were resolved and 24 cases remained unresolved. Further, out of the 319 settled cases, 300 cases were with NLO less than ₹ 25 crore indicating that the Trust was able to settle small cases and a large number of big cases remained unsettled.

4.2 Audit examined 88 cases on a stratified random sampling basis. Details of borrowers, promoters of the entity, personal guarantee details, NLO, amount recovered upto 31 March 2013, amount settled by way of shares and short/additional recovery as compared to NLO are given in the Annexure IV. Summary of the cases is given below:

Particulars	No. of cases	NLO	₹ in crore
			Amount recovered
Settled cases	34	1391.01	967.16
Resolved cases	15	2326.60	686.03
Unresolved cases	39	1935.97	208.56
TOTAL	88	5,653.58	1,861.75

4.3 Deficiencies in treatment of personal guarantees

Out of 88 cases test checked in audit, in respect of eight cases with NLO of ₹ 1,061.85 crore, no personal guarantees were obtained by IDBI at the time of loan disbursement. In respect of the remaining 80 cases, the Trust could produce copies of personal guarantees for 53 cases only. Scrutiny of 53 personal guarantees revealed that only in the following six cases property details were available.

₹ in crore

Name of the party	NLO	Amount recovered including shares	Guarantee details	Value of property	Whether invoked or not
SJK Steels Plant Limited	603.42	362.18	Personal guarantee of Shri Y. Janardhana Rao and Shri Y. Jithin Kumar (₹ 1449 crore).	10.10	Not invoked. OTS approved.
E. R. Textiles Limited	77.93	10.35	Shri Grandhi Eswara Rao, Smt. Grandhi Sarawathi and Ms Grandhi Sarita E. R. (₹ 150 crore).	43.80	Invoked. Company is referred to BIFR.
Sujana Metal Products Limited	64.66	41.28	Shri Y. S. Chowdary Srinivasa Raju (₹ 15 crore)	50.24	Not invoked. Company was sanctioned Corporate Debt Restructuring.
Shamken Multifab Limited	37.01	0.00	Shri Sumit Chaturvedi, Shri H. B. Chaturvedi, Shri Sanjay Chaturvedi and Shri Amit Chaturvedi (₹ 15 crore each)	6.40	Invoked. SARFAESI Action initiated and matter is pending with DRT.
Dewan Sugar Limited	25.40	4.87	Shri V. S. Dewan and Shri Vivek Dewan (₹ 5.54 crore)	1.96	According to SASF, guarantee could not be invoked as Company was under Corporate Debt Restructuring and was under the aegis of BIFR.
Venus Sugar Limited	9.72	4.33	Shri M. P. Singh, Shri R. K. Gupta and Smt. Shashi Rani (₹ 10.94 crore)	3.31	Not invoked. Company is under BIFR.

In the remaining 47 cases no property details were available. Thus, obtaining personal guarantees became a fruitless exercise. As subsequent events indicated, the personal guarantees did not help at all in recovering dues. Only in one case, ₹ 4.99 crore could be recovered from Delta Innovative Enterprises Limited by invoking guarantees.

- Though the PGs contained various clauses including obligation to repay the dues by the guarantor on demand made by the lenders due to default of the borrowers and fixed the liability of the guarantors up to the full value of the loan, the same was not backed up by property details like

location, value, etc. Thus, IDBI had no means to judge the capability and competence of guarantors to give such guarantees in the absence of these details. PG can be said to be complete only after disclosure by the guarantor about property description and their values, proof of their ownership and undertaking not to dispose of the properties without consent of the lenders.

- Only in one case relating to M/s. Delta Innovative Enterprises Limited, SASF could recover ₹ 4.99 crore by invoking the PG.
- There was no system of obtaining copies of annual Income Tax return and property details from the guarantors.

Above position indicates that obtaining of personal guarantees became a meaningless exercise in the absence of the property and income details of the guarantors. Initially IDBI and subsequently the SASF Trust failed to demonstrate required due diligence. Only ₹ 4.99 crore could be recovered by invoking PG. Thus, an important instrument of PG for safeguarding the financial interests was rendered ineffective. Had IDBI/SASF gathered these details, they would have been in a position to further improve the settlement terms during negotiations with the borrowers. This could have increased the quantum of recovery.

The Trust stated (August 2013) that:

- At the time of creation of guarantee, details of assets of guarantors were not obtained as per the practice prevalent in IDBI and since all the accounts acquired by SASF were from IDBI, this lacuna persisted in the system.
- While considering settlement of accounts and release of personal guarantee by SASF, certified net worth certificate of guarantors was being obtained.
- In order to have a full picture of the means of the guarantors vis-a-vis settlement, the Trust revised the policy and would be obtaining Income Tax returns, affidavit of assets filed by the guarantors in the Courts / DRTs besides net worth certificate by a Chartered Accountant, to arrive at the value of guarantees.

The fact remains that the new policy would be applicable only for the cases which are yet to be settled. For the cases already settled, the Trust lost the opportunity for a better settlement.

The Ministry in its reply stated that the SASF had taken various steps to mitigate the flaw relating to personal guarantees.