

Chapter V Settled Cases

5.1 Settled cases are those where SASF had reached settlement with the borrowers or secured assets of the borrowers were disposed of by the Court / SASF / assignee and SASF recovered its dues by way of cash / shares. No further recovery was expected in those cases except for recovery of amounts by sale or buy back of shares.

5.2 Out of the 34 settled cases examined in audit, in 13 cases the settled amount was more than the NLO by ₹ 163.63 crore and in 21 cases the settled amount was lower by ₹ 587.47 crore as compared to NLO of ₹ 1,144.64 crore as shown below:

| ₹ in crore | | | | | | |
|------------------------|--------------|----------------|-------------------------------------|----------------------------------|--------------------------|--|
| Particulars | No. of cases | NLO | Amount recovered upto 31 March 2013 | Settlement by way of shares etc. | Total settlement (4 + 5) | Excess (+) / additional (-) recovery (6 - 3) |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| Recovery more than NLO | 13 | 246.37 | 409.40 | 0.60 | 410.00 | (+) 163.63 |
| Recovery less than NLO | 21 | 1144.64 | 540.69 | 16.48 | 557.17 | (-) 587.47 |
| Total | 34 | 1391.01 | 950.09 | 17.08 | 967.17 | (-) 423.84 |

Reasons for settlement below NLO as reflected in the records of SASF on the proposals received for OTS/NS from the borrowers were (i) concerned unit lying closed for a long time and difficulty to find buyers, (ii) statutory liabilities of the units, (iii) unit registered with BIFR as a sick unit, (iv) non-satisfactory performance of the unit, (v) delay in implementation of the project, (vi) pending legal cases, (vii) majority of secured lenders exited by way of assignment of debts, (viii) inadequacy of assets, etc.

5.3 Settlement below NLO

The recovery policy stipulated that valuation of the secured assets of the borrower should be carried out by a valuer engaged by SASF / other secured lender/Court. The policy also provided that value of security including collaterals available (on pro rata basis) as also amount of statutory liabilities and workers' dues shall form the basis for settlement amount. Fresh valuation could be sought if circumstances such as vintage of existing valuation, volatility of asset value, etc. so warranted. Where the value of securities was sufficient to cover the dues, the endeavour was to recover the maximum amount.

The table below shows borrower-wise details of settlement amount, value of secured assets, etc. in respect of the 21 cases examined in audit:

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₹ in crore

| Sr. No. | Sr. No. as per Annexure 1 | Name of the borrower | Name of promoter | NLO | Value of assets of the borrower | Pro-rata share of SASF | Total recovery including shares | Short recovery |
|---------|---------------------------|--|--|--------|---------------------------------|------------------------|---------------------------------|----------------|
| 1 | 2 | Mideast Integrated Steels Limited | Shri J.K. Singh and Smt. Rita Singh of MESCO Group | 462.24 | Not done | NA | 237.18 | 225.06 |
| 2 | 284 | Delta Innovative Enterprises Ltd. | Shri R. Kothandaraman Shri P. Vaidyanathan, Integrated Entreprises and Delta Global Finance Services | 5.70 | Not done | NA | 3.11 | 2.59 |
| 3 | 305 | Padmini Technologies Ltd. | Shri Vivek Nagpal | 5.18 | Not done | NA | 4.24 | 0.94 |
| 4 | 8 | Krishna Filaments Ltd. | Shri Satyanarayana Agarwal and four sons | 86.85 | 34.64 | NA | 21.26 | 65.59 |
| 5 | 10 | I. G. Petrochemicals | Shri S. S. Dhanuka and Shri M. M. Dhanuka | 71.03 | 199.90 | NA | 31.50 | 39.53 |
| 6 | 14 | Shree Rama Multitech Ltd. | Shri Vikram Patel and Shri Sharad Patel | 61.05 | 104.31 | NA | 25.36 | 35.69 |
| 7 | 35 | Transfreight Containers Ltd. | Shri Niranjana Lal Dalmia | 30.23 | 17.46 | NA | 20.53 | 9.70 |
| 8 | 45 | Krishna Vinyl Ltd. | Shri Satyanarayana Agarwal and four sons | 26.54 | 15 to 20 | NA | 16.81 | 9.73 |
| 9 | 46 | Bhandari Exports Ltd. | Shri Naresh Bhandari, Bhandari Hosiery Exports Ltd. in joint sector with PSIDC | 26.20 | 21.61 | NA | 18.08 | 8.12 |
| 10 | 65 | Ramakrishna Mills Ltd. | Shri R. Doraiswamy and Shri D. Laxminarayana Swamy | 18.74 | 40.55 | NA | 17.95 | 0.79 |
| 11 | 159 | Volant Textiles Ltd. | Shri V. O. Somani and his two Sons, viz., Ramesh & Rajesh Somani | 9.53 | 7.13 | NA | 7.50 | 2.03 |
| 12 | 18 | Morepen Laboratories Ltd. | Shri Sushil Suri | 47.99 | 545.38 | 53.77 | 27.83 | 20.16 |
| 13 | 6 | Pasupati Spinning & Weaving Mills Ltd. | Shri Ramesh Kumar Jain | 149.74 | 88.02 | 81.99 | 54.55 | 95.19 |
| 14 | 21 | Ganesh Benzoplast Ltd. | Shri Ramesh Pilani /Ganesh Group | 44.84 | 81.68 | 25.45 | 37.76 | 7.08 |

| | | | | | | | | |
|--------------|-----|---------------------------------|---|-----------------|-------|-------|---------------|---------------|
| 15 | 34 | Alexcon Foamcast Ltd. | Shri Kiran P. Dalal and Associates | 30.47 | 7.97 | 5.15 | 6.43 | 24.04 |
| 16 | 39 | Gujarat Cypromet Ltd. | Shri Narendra P. Mehta and Shri Mihir T. Choksi | 29.38 | 9.54 | 6.08 | 6.69 | 22.69 |
| 17 | 47 | Indore Wire Company Ltd. | Shri Sukhwant Singh and Shri Gurucharan Singh | 26.04 | 29.61 | 11.80 | 12.10 | 13.94 |
| 18 | 312 | Bnke Solutions Pvt. Ltd. | Shri Ajit Khandelwal Shri Sanjiv Khandelwal and Shri Nirmal Bagaria | 5.07 | 3.21 | 3.21 | 3.66 | 1.41 |
| 19 | 396 | Venus Cybertech Ltd. | Shri G. Vinod (Visakha Group) | 3.83 | 4.29 | 2.75 | 2.25 | 1.58 |
| 20 | 477 | Focal Vision International Ltd. | Dr. Manoj Maniar and Dr. Ajay Pandurangi | 2.62 | 0.56 | 0.56 | 1.26 | 1.36 |
| 21 | 559 | Kesar Petro Products Ltd. | Shri Sanjay Bagrodia and Maharashtra Petrochemicals Corporation Limited | 1.37 | 7.64 | 1.02 | 1.12 | 0.25 |
| Total | | | | 1,144.64 | | | 557.17 | 587.47 |

(Note # 1 Names of the promoters compiled from the transfer notes provided to audit by SASF.
#2 NA – Not available).

Substantial short recovery (below NLO) occurred on large NLO accounts such as Mideast Integrated, Krishna Filaments, Pasupati Spinning and Weaving Mills, I.G. Petrochemicals and Shree Rama Multitech Ltd. The personal guarantees of some of the promoters of these firms were available with the Trust. However, the Trust did not make efforts to ascertain the net worth / income of the promoters before arriving at the settlement amount. Such settlements below NLO, without due regard to the financial capacity of the promoters, can be said to have actually benefitted the promoters.

5.4 Out of 21 cases, in three cases valuation of assets was not done and consequently the share of the Trust was also not available. Since the policy provided that value of security including collaterals available (on pro-rata basis) as also amount of statutory liabilities and workers' dues was the basis for settlement amount, it was essential to carry out valuation to know the potential for recovery.

(i) Mideast Integrated Steel Limited (NLO ₹ 462.24 crore; recovered ₹ 237.18 crore)

The Trust stated (May 2013) that as per directions of Delhi High Court, IDBI in 2003 appointed M/s. M. N. Dastur & Co. for carrying out the valuation, which could not be completed, due to non co-operation of Official Liquidator and the borrower. It further stated that DRT approved (July 2004) payment of decreed amount of ₹ 319.57 crore over a period of seven years, carrying simple interest @ 6 per cent per annum amounting to ₹ 144.56 crore payable in two years

thereafter. As against this, payment of OTS of ₹ 220 crore within six months of approval, was approved (June 2005) by the BOT based on the discounted value of the proposed cash flow at 15 per cent. This was done as early exit might be a preferred option due to the fact that the capability of the borrower to service its huge debt of ₹ 647 crore appeared doubtful, lenders had lost confidence in the promoter and the viability of the borrower in the then form was doubtful.

The settlement of this case at ₹ 237.18 crore (₹ 220 crore OTS plus ₹ 17.18 crore interest) resulted in a sacrifice of ₹ 225.06 crore as compared to NLO of ₹ 462.24 crore.

(ii) Delta Innovative Enterprises Limited (NLO ₹ 5.70 crore; recovered ₹ 3.11 crore)

According to SASF, valuation of assets could not be done as the settlement was done with corporate guarantor and personal guarantor. Two guarantors of Delta Innovative Enterprises Limited viz. Integrated Enterprises Private Limited and Shri P. Vaidyanathan submitted proposal for payment of ₹ 4.99 crore which was approved by the Trust and it recovered ₹ 4.99 crore (₹ 3.11 crore by SASF and ₹ 1.88 crore by IDBI). However, the case filed by IDBI against Delta Innovative Enterprises Limited and one of the promoters viz. Shri R. Kothandaraman, is pending with DRT. There is a short recovery of ₹ 2.59 crore in this case as compared to NLO of ₹ 5.70 crore.

(iii) Padmini Technologies Limited (NLO ₹ 5.18 crore; recovered ₹ 4.24 crore)

According to SASF, valuation could not be done since charged equipment was already sold by a co-lender Pradeshia Industrial and Investment Corporation of Uttar Pradesh.

5.4 Out of the remaining 18 cases, in eight cases pro-rata share of the Trust on the assets of the borrower was not available in the records of the Trust. The Trust did not collect the details from other lenders so as to know its own pro-rata share and the prospects of recovery. There was a laxity on the part of the Trust to that extent.

The reasons for settling these cases below NLO as gathered from the records of the Trust are detailed below:

(i) Krishna Filaments Limited (NLO ₹ 86.85 crore; recovered ₹ 21.26 crore)

Justification for settlement below NLO, according to SASF was (a) unit was lying closed since long, (b) the Company was declared as a sick unit by BIFR, (c) though action under SARFAESI could be initiated finding a buyer for the unit may be difficult in the light of the condition of the assets and the huge liabilities, (d) outstanding statutory liability of the borrower was ₹ 237 crore and (e) the lenders were incurring expenses towards security and insurance of assets and

SASF had more than 65 *per cent* of the debt, bulk of the expenses was met by SASF.

(ii) I.G. Petrochemicals Limited (NLO ₹ 71.03 crore; recovered ₹ 31.50 crore)

The Trust accepted OTS proposal as the company's financial position was weak and its future was doubtful. Borrower's dues included other seven lenders with principal outstanding of ₹ 331.79 crore.

(iii) Shree Rama Multitech Limited (NLO ₹ 61.05 crore; recovered ₹ 25.36 crore)

Borrower's reference with BIFR was pending. 57 *per cent* of the secured lenders by value had exited by way of assignment. The terms of settlement were on the same lines as offered to other buyers.

(iv) Transfreight Containers Limited (NLO ₹ 30.23 crore; recovered ₹ 20.53 crore)

OTS offered was higher than the realizable value of the property. Borrower also had statutory liabilities of ₹ 12 crore. The case was with BIFR and recovery under SARFAESI Act was difficult due to labour issues.

(v) Krishna Vinyl Limited (NLO ₹ 26.54 crore; recovered ₹ 16.81 crore)

Industry was in poor condition due to stagnant demand and severe competition from imports. Borrower was incurring losses for four years and similar unit was sold for ₹ 5.21 crore.

(vi) Bhandari Exports Limited (NLO ₹ 26.20 crore; recovered ₹ 18.08 crore)

There were three more lenders with total dues of ₹ 6 crore.

(vii) Ramakrishna Mills Limited (NLO ₹ 18.74 crore; recovered ₹ 17.95 crore)

Borrower was incurring losses for three years and facing liquidity crunch. Working capital loan outstanding was ₹ 40.49 crore. Borrower raised funds of ₹ 3.48 crore from private financier to meet VRS settlement.

(viii) Volant Textiles Limited (NLO ₹ 9.53 crore; recovered ₹ 7.50 crore)

Borrower was declared sick by BIFR. Outstanding statutory liabilities amounted to ₹ 1.85 crore. SASF was the only secured lender. Sale under SARFAESI Act was difficult since plant and machinery were second hand imports and finding a suitable buyer was difficult.

The Trust stated (August 2013) that it has made it mandatory to incorporate details of settlement with other lenders in the OTS / NS memoranda in order to ensure that the Trust did not lose on account of lack of full information.

5.5 In the remaining ten cases even though valuation was carried out and pro-rata share of the Trust was available, the settlement resulted in sacrifices. The cases are detailed below:

- (i) Morepen Laboratories Limited (NLO ₹ 47.99 crore; recovered ₹ 27.83 crore)

According to SASF, OTS was approved in line with Corporate Debt Restructuring package⁷ approved (June 2006) by the Empowered Group. While approving the OTS, it was recorded that the operations of Morepen Laboratories Limited suffered in the past mainly due to investment undertaken for massive expansions and usage of short term funds for long term uses resulting in mismatch and liquidity constraints. Against the pro-rata share of ₹ 53.77 crore, the Trust recovered ₹ 27.83 crore, which resulted in a sacrifice of ₹ 20.16 crore as compared to NLO of ₹ 47.99 crore. Reasons for settlement below the pro-rata share were not recorded.

- (ii) Pasupati Spinning & Weaving Mills Limited (NLO ₹ 149.74 crore; recovered ₹ 54.55 crore)

Against SASF's pro-rata share (in the realizable value of the security) of ₹ 81.99 crore (valuation report of November 2009), the settlement was for ₹ 54.55 crore resulting into a short recovery of ₹ 27.44 crore with reference to pro-rata share. The total sacrifice was ₹ 95.19 crore. Reasons for settlement below the pro-rata share were not recorded by the Trust. Legal action could not be initiated as case was pending before BIFR.

- (iii) Ganesh Benzoplast Limited (NLO ₹ 44.84 crore; recovered ₹ 37.76 crore)

The party was under BIFR and was facing claims of ₹ 350 crore from companies like ONGC and JNPT and there were statutory liabilities of ₹ 5 crore.

- (iv) Alexcon Foamcast Limited (NLO ₹ 30.47 crore; recovered ₹ 6.43 crore)

The loans were recalled, guarantees invoked and suit filed with DRT, Mumbai in September 2000 by IDBI. Asset Reconstruction Company (India) Limited (ARCIL), (one of the institutions having exposure in AFL), had issued (November

⁷ The Reserve Bank of India evolved Corporate Debt Restructuring (CDR) Mechanism for a time-bound, transparent and orderly restructuring of debts of viable corporate entities facing financial difficulties because of factors beyond their control and due to certain internal reasons. The CDR mechanism has a three-tier structure viz. Standing Forum, Core Group and Empowered Group.

2004) notice under SARFAESI Act. The Trust had given (June 2005) its consent to ARCIL to take possession of assets under the SARFAESI Act. ARCIL had sold (August 2007) the assets of AFL through private treaty for ₹ 9.20 crore. Pro-rata share of the Trust amounting to ₹ 5.15 crore was received in February 2008. Taking into consideration other recoveries of ₹ 1.28 crore, the sacrifice in this case was ₹ 24.04 crore.

(v) Gujarat Cypromet Limited (NLO ₹ 29.38 crore; recovered ₹ 6.69 crore)

Pro-rata share of the Trust was ₹ 6.08 crore. Unit was lying closed since 2005. Borrower had statutory and other liabilities. Borrower was also under purview of BIFR.

(vi) Indore Wire Company Limited (NLO ₹ 26.04 crore; recovered ₹ 12.10 crore)

The assets were sold under SARFAESI Act for ₹ 20 crore and the pro-rata share of the Trust was ₹ 11.80 crore.

(vii) Bnke Solutions Pvt. Limited (NLO ₹ 5.07 crore; recovered ₹ 3.66 crore)

According to the Trust, the Company's net worth was completely eroded in 2004. Equipments had become outdated and the same would not have realised much value.

(viii) Venus Cybertech Limited (NLO ₹ 3.83 crore; recovered ₹ 2.25 crore)

Against the pro-rata share of ₹ 2.75 crore, ₹ 2.25 crore was paid by the party. Reasons for short recovery of ₹ 0.25 crore were not recorded.

(ix) Focal Vision International Limited (NLO ₹ 2.62 crore; recovered ₹ 1.26 crore)

According to the Trust, performance of the company was not satisfactory since inception. Customs authorities had initiated recovery procedure of their dues since plant and machinery was imported under Export Promotion Capital Goods (EPCG) scheme at a concessional import duty of 5 *per cent* requiring the company to fulfil its export obligation. EPCG license had expired. Sales Tax Department had also issued notice for cancellation of Sales Tax Registration of the company.

(x) Kesar Petroproducts Limited (NLO ₹ 1.37 crore; recovered ₹ 1.12 crore)

According to the Trust, the unit was lying closed for many years. Promoters were not having sufficient funds and case was under BIFR. Recovery through Official

Liquidator would have taken a long time. The Trust recovered ₹ 1.12 crore as compared to NLO of ₹ 1.37 crore resulting in a sacrifice of ₹ 25 lakh.

Out of the 21 cases, in 20 cases (except in the case of Krishna Vinyl Limited) personal guarantees were taken from the promoters / borrowers. However, no property details were available on records of the Trust. The Trust also did not collect the income tax returns from the guarantors. Had these aspects been taken care of, the Trust might have recovered higher amount than what it actually did.

The Ministry in its reply stated that the SASF had accepted the violation of policy in certain cases. However, since settlement had been sanctioned and amount received, there was no way to improve the settlement amount further. The SASF, the Ministry assured in its reply, had noted the observations for compliance in future.