

RBI Moves NCLAT Against Curbs on NPA Tag for IL&FS Group Cos

OPPOSITE VIEW RBI circular on recognition of assets applies across the board and had been upheld by SC

Karunjit.Singh@timesgroup.com

New Delhi: The Reserve Bank of India has moved the National Company Law Appellate Tribunal (NCLAT) against its order restricting financial institutions from classifying the accounts of group companies of debt-laden Infrastructure Leasing and Financial Services (IL&FS) as non-performing assets (NPAs).

The NCLAT had in February ordered that no financial institution declare any account of IL&FS group entities as non-performing assets (NPA) without first taking the permission of the appellate tribunal. The total debt of the IL&FS group is around ₹91,000 crore.

Gopal Jain, counsel for the RBI, said that RBI circular on recognition of assets applies across the board and had been upheld by the Supreme Court.

The bench, however, replied that it had not prohibited banks from recognising NPAs but has only asked that banks seek the permission of the NCLAT before doing so.

"You have made it a prestige issue. (You think) that I am an autonomous body and I have whole control over

Clash of Opinions

- **RBI's counsel** Gopal Jain said that RBI circular on recognition of assets applies across the board and had been upheld by the Supreme Court

- **Of the 169** domestic IL&FS group companies, 51 group entities have been classified as green, 13 have been classified as amber and 38 as red entities



You have made it a prestige issue... We cannot regulate banks but we can prohibit them (from recognising NPAs). You can regulate banks but you cannot prohibit the appellate tribunal (from passing orders)," said a two-member bench led by Justice SJ Mukhopadhaya

banks and how can appellate tribunal pass an order;" said the two-member bench led by Justice SJ Mukhopadhaya on Tuesday. "We cannot regulate banks but we can prohibit them (from recognising NPAs). You can regulate banks but you cannot prohibit the appellate tribunal (from passing orders)" said a two-member bench. The case will next be heard on March 29

PAYMENTS TO IL&FS CREDITORS

The NCLAT also directed IL&FS to provide the present status and the ro-

admap for the resolution of "amber" companies with a view that these companies begin making payments to creditors. "Amber" companies have total external debt of ₹16,373 crore.

All group companies of IL&FS are to be classified according to their ability to meet payment obligations.

Group companies which are able to meet all payment obligations were categorised as 'green'. Those companies which are able to meet only operational payments and senior secured debt obligations were categori-

sed as "amber" and companies unable to make payments to even senior secured financial creditors are categorised as "red".

The appellate tribunal had directed all "green" companies to service all their debt obligations. However, amber and red companies continue to enjoy a moratorium on all claims against them, granted by the NCLAT in October

Of the 169 IL&FS group companies, 50 group entities have been classified as green, while 13 have been classified as amber and 80 as red entities. Another 18 domestic IL&FS group companies are yet to be classified. Senior counsel for IL&FS, Ramji Srinivas, argued that the NCLAT pass the resolution framework put forward by the government which would include lender in a creditors committee similar to that in the Insolvency and Bankruptcy Code to decide on the resolution of group entities. Under this framework, lenders would receive proceeds from the sale of the group entities which are corporate debtors.

Counsel for lenders however argued that there was no need for a "resolution" in the case of amber companies as they were solvent and able to make payments to senior secured creditors.