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IL&FS: SFIO Files 1st Chargesheet

Sivasankaran, nine IFIN ex-directors and auditors accused of hiding info, falsifying accounts

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Mumbai: The Serious Fraud Investigation Office filed its first chargesheet in the IL&FS case against 30 individuals and entities, including businessman C Sivasankaran and nine former directors of unit IL&FS Financial Services (IFIN) on Thursday. It accused auditors BSR & Co

LLP and Deloitte Haskins & Sells (DHS) LLP along with others of concealing information and falsifying accounts. SFIO said loans were given to the Siva Group without adequate collateral.

Those charged include former IL&FS vice chairman Hari Sankaran and former IFIN MD Ramesh Bawa, both of whom are under arrest. BSR and Deloitte were charged along with audit partners Udayan Sen, Kalpesh Mehta and Sampath Ganesh. Others on the list were audit committee members, independent directors and the Siva Group chairman and his group companies. The other directors charged include Ravi Parthasarthy, Vibhav Kapoor and K Ramchand.

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In The Dock

MULTIPLE VIOLATIONS

CHARGESHEET AGAINST 30, INCLUDING FORMER DIRECTORS OF IFIN

Charges against auditors BSR & Deloitte, audit partners as well

Violation of cos law, Indian Penal Code; cheating and criminal conspiracy charges

Intent to injure the interest of the company, shareholders & creditors

Causing wrongful loss to the company



‘Senior Execs Covered up Info’

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The charges are under sections of the Companies Act and the Indian Penal Code, including those for cheating and criminal conspiracy. Infrastructure financier IL&FS unexpectedly defaulted on repayments in September last year, triggering a crisis in the market and a liquidity squeeze that has gripped NBFs. The government replaced the IL&FS board as part of a cleanup and the SFIO has been seeking to uncover the reasons why the seemingly sound company was forced to default.

SFIO said the IL&FS unit's management knew that a crisis was building.

"IFIN extended loans to companies of Siva, ABG, A2Z, Parsvnath Group and other companies," said the SFIO in its 840-page chargesheet, which ET has seen. "A number of these borrowers were not servicing their debt obligation... The top management was aware of the potential problematic accounts which were getting stressed in the succeeding month from the reports generated through the Management Information System (MIS) of IFIN."

Senior executives covered up the information, SFIO said.

"The management of IFIN adopted fraudulent practices in order not to let aforesaid loan/credit facility be classified as NPA (nonperforming assets)," the chargesheet said. "They started lending to other companies belonging to the borrowers for repaying the principal and/or interest of the aforesaid defaulting borrowers."

SFIO said the auditors didn't raise any red flags.

"The auditors, despite having knowledge of funding of the defaulting borrowers for principal and interest which was prejudicial to the interest of the company and its creditors besides having awareness of the impact of the same on financial statements, failed to report in the report for FY13-14 to FY17-18," SFIO said.

HARSH VIEW OF AUDITORS

The investigative unit of the corporate affairs ministry was harsh in its view of the auditors.

"The auditors colluded with the coterie

to conceal material information and in fraudulently falsified the books of accounts and thereby financial statements from FY13-14 to FY17-18... They knowingly did not report the true state of affairs of the company particularly the negative NOF (net owned funds) and negative CRAR (capital to risk asset ratio), which have resulted in causing loss to the creditors of the company who had lent and invested in the NCDs (non-convertible debentures)," it said.

Audit partners Sen and Ganesh had cited reliance on the Reserve Bank of India (RBI) inspection report rather than stating whether they had obtained the details necessary for the purpose of their audit, SFIO said.

"The auditor relied on the oral discussion of the company officials with RBI for reporting NOP and CRAR rather than RBI guidelines in FY17-18 and not disclosed this material departure from regulatory requirements and thus caused loss to the creditors of IFIN," SFIO said. "Auditors with their engagement teams did not use professional skepticism to ensure true and fair disclosure of state of affairs of the companies. They in fact colluded with official of the companies in order to conceal their fraudulent activities and thus they failed to perform their duties."

The SFIO pointed to the close ties between Sivasankaran and the erstwhile IFIN directors, citing email exchanges that revealed he allegedly arranged hospitality for Parthasarthy, Kapoor and Sankaran, including private jets, helicopter rides, resort bookings and redecorating the interiors of their apartments in Brussels, besides foreign trips.

"IFIN had entered into 15 transactions of advancing loans to or investing in debentures of different Siva Group companies," SFIO said. "Out of the 15 lending transactions, repayment of loans pertaining to only first four transactions were done."

LOANS INVOLVING SIVA GROUP

The SFIO detailed various loan transactions involving Siva Group companies, including the lack of collateral.

"In 2014, while lending to Siva India Commercial Traders Pvt Ltd, an additional security in the form of stock of Emerald Stone valued at Rs 59.26 crore was taken," the charge-sheet said. "As on 31 March 2015, the aggregate exposure to Siva Group companies stood at Rs 182.45 crore... The said exposure continued as loan from March 2015 to December 2015, with no security cover as so-called security of Emerald stock was existing only on paper without any physical verification."

The SFIO pointed to emails directing IFIN employees not to securitise outstanding dues while entering into a fresh lending exercise with the Siva Group companies. "It was observed from an email (of) February 1, 2018, (from) Parthasarathy to Sivasankaran that instead of protecting the interest of the company, Parthasarthy is found being apologetic to Sivasankaran for taking time for finalising the loan transaction of Rs 175 crore."

Calling the independent directors "mute spectators," the SFIO said they ignored all warnings and failed to serve the interest of the company and its stakeholders by not raising the issue in board meetings.

"Investigation revealed the audit panel members, independent director and CFO, IFIN, and group CFO of IL&FS were aware of the stressed asset portfolio, the modus operandi used for granting loans to group firms of existing defaulting borrowers to prevent them being classified as NPA," SFIO said.

"They connived with the management... they being part of the board were aware of the various RBI reports and overlooked the numerous impairment indicators in contravention of the accounting standard and principals."

Counsel Sachin Midha, who was appearing for Bawa, told ET he will apply for bail shortly. "Since the chargesheet has been filed, the SFIO's contention that Bawa could influence the witness or tamper with the evidence and hence shouldn't be granted bail, won't hold ground."



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