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Problems of Business Organizations in India

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Abstract

Finance is the life blood of every business organization. Business organizations avail term loans to satisfy their financial needs. Term Loans are the standard commercial loan, often used to pay for a major investment in the business or an acquisition. This creates obligations on the business organization to repay the loan amount and the interest there on at pre decided repayment schedules. When an organization is unable to honor its financial obligations or make payment of its creditors, it becomes problematic situation for both ie for organization itself and the secured creditor. Growing NPAs is the current problems of all the banks in India. As it is proved from the statistical information regarding overall recovery performance of commercial banks and co-op banks in India, SARFAESI(Securitization and Reconstruction of Financial assets and Enforcement of Security Interest Act, 2002) is the best tool for recovery as compared to other tracks of recovery (CPC, DRTs, Compromise settlements, Lok Adalat's, co-operative courts etc). SARFAESI is the golden weapon in the hands of banks and FIs to enforce its security interest without intervention of court. This Act has clear cut provisions which protect the interest of both borrower and secured creditors. The SARFAESI Act, 2002 was enacted on the assumption that the Bank will commit no mistake in the course of its business relations with the business organizations. There are the specially constituted Debt Recovery Tribunals (DRTs) which entertains appeals from the business organizations under section 17 of the SARFAESI Act. Many business organizations are in the conception that the DRTs will support the banks and their actions and will not effectively listen to their own grievances. On this background, it is necessary to understand the problems of borrowing units and awareness of borrower's rights under SARFAESI Act. It is necessary to examine how the business organizations have taken asylum of this SARFAESI Act and what problems they are facing due the implementation of SARFAESI Act by the creditors. Hence, the researcher set out the objectives to understand the problems of business organizations whose accounts are slept in to NPA category and to understand the how do the business organizations have taken asylum of this Act? For this present study primary and secondary data has been collected. The primary data is collected through the questionnaire supplied to the business organizations against whom the notice under SARFAESI Act has been served by the bank. Informal discussions are also held with business organizations to know their side. Secondary data is collected by using books, articles, newspapers related to the topic.

Key Words: *Securitization, Enforcement of security interest, NPAs*

Introduction

Finance is the life blood of every business organization. Business organizations avail term loans to satisfy their financial needs. Term Loans are the standard commercial loan, often used to pay for a major investment in the business or an acquisition. This creates obligations on the business organization to repay the loan amount and the interest there on at pre decided repayment schedules. When an organization is unable to honor its financial obligations or make payment of its creditors, it becomes problematic situation for both ie for organization itself and the secured creditor.

Indian banking Industry has been passing through economic and infrastructural changes. All commercial banks were suffering from the problems of piles of NPAs. Prior to 1993, the Banks had to approach Civil Courts for recovery of dues. The process of law guided by the CPC was time consuming and did not adapt to the changing demands of the economy. Civil Court and Co-operative court style both are famous for prolonged process. Adoption of Income Recognition Asset Classification and Provisioning (IRACP) norms led to the concept of NPA. Narsimham Committee II recommended that the banks and FIs should be given power of sale of the assets without intervention of the court and for reconstruction of assets. So, it was decided to have yet speedier legal method to recover dues. Thus, the expert committee recommended enactment of the new law for enforcement of securities by banks and FIs and securitization of financial assets.

To overcome the critical situation of increasing NPAs, an ordinance with the title "Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002(SARFAESI Act)" was promulgated by the President under his power under article 123(1) of constitution of India. The Bill was passed by both the houses of parliament which has received the assent of the President on 17th December 2002 and the Act came into force from 21.06.2002.

Growing NPAs is the current problems of all the banks in India. As it is proved from the statistical information regarding overall recovery performance of commercial banks and co-op banks in India, SARFAESI(Securitization and Reconstruction of Financial assets and Enforcement of Security Interest Act, 2002) is the best tool for recovery as compared to other tracks of recovery (CPC, DRTs, Compromise settlements, Lok Adalat's, co-operative courts etc). SARFAESI is the golden weapon in the hands of banks and FIs to enforce its security interest without intervention of court. This Act has clear cut provisions which protect the interest of both borrower and secured creditors. The SARFAESI Act, 2002 was enacted on the assumption that the Bank will commit no mistake in the course of its business relations with the business organizations. There are the specially constituted Debt Recovery Tribunals (DRTs) which entertains appeals from the business organizations under section 17 of the SARFAESI Act. Many business organizations are in the conception that the DRTs will support the banks and their actions and will not effectively listen to their own grievances.

Many studies, researches reveal that SARFAESI is the golden weapon in the hands of banks and FIs to enforce its security interest without intervention of court. This Act has clear cut provisions which protect the interest of both borrower and secured creditors. The SARFAESI Act, 2002 was enacted on the assumption that the Bank will commit no mistake in the course of its business relations with the business organizations. There are the specially constituted Debt Recovery Tribunals which entertains appeals from the business organizations under section 17 of the SARFAESI Act. Many business organizations are in the conception that the Debt Recovery Tribunals will support the banks and their actions and will not effectively listen to their own grievances.

Statement of the problem

On the above background, it is necessary to understand the nature of problems of borrowing units. It is necessary to examine how the business organizations have taken asylum of this SARFAESI Act and what problems they are facing due the implementation of SARFAESI Act by the creditors.

Objectives

1. To understand the problems of business organizations whose accounts are slept in to NPA category.
2. To understand that how do the business organizations have taken asylum of SARFAESI Act?
3. To give suggestions to reduce the NPA accounts.

Research Methodology

For this present study primary and secondary data has been collected. The primary data is collected through the questionnaire supplied to the business organizations against whom the notice under SARFAESI Act has been served by the banks for the recovery. Informal discussions are also held with owners of business organizations to know their side. The last question was purposefully kept open end so that, owners of business organizations can express their own views and ideas regarding SARFAESI Act and its provisions. For selecting business organizations, snowball sampling method is used. Secondary data is collected by using books, articles, newspapers related to the topic.

Limitation of the Study

Due to the time and money constraint only 80 business organizations i.e., borrowing units are selected for the study. In present study, attention is given to the general problems of business organizations and problems under SARFAESI track are concentrated.

Procedure under SARFAESI Act

After classifying an account as NPA, the bank or the authorized officer of the bank will issue a demand notice to the borrower under section 13 (2) of the Act demanding the borrower to pay the entire outstanding due as on date. Then after the procedure of recovery under SARFAESI has started. The borrower will have to face lot of difficulties once the account is classified as NPA. The business organizations may not really understand the whole procedure and the implications under SARFAESI Act, 2002.Wrong classification of an account as NPA will have disastrous consequences though one may say that the law is clear and the SARFAESI Act, 2002 provides a remedy to the borrower to file an appeal u/s 17.

When secured creditor issues 60 days demand notices to the borrower, he can raise his objections if any, to the demand being made by the bank under section 13 (2). It is to be noted that if the borrower is silent to the demand notice, the same will be noted when the borrower files an appeal before the DRT u/s 17 of the Act. It must be understood that as soon as the said notice is received, the borrower will get 60 days' time, during which he can make his representation or raise objection. Despite the stringent provisions under SARFAESI Act, 2002, no one can undermine the rights of the borrower and his right to property.

Analysis and interpretation of primary data

Table: 1 Occupation wise Classification of Business organizations

No.	Occupations	Frequency	Percent
1	Manufacturing Industry	28	35
2	Service Industry	15	18.75
3	Trade Business	20	25
4	Other occupation	17	21.25
	Total	80	100

This Table reveals that out of 80 selected business organizations, 35% are from manufacturing sector, who have taken loan from DCC banks or public sector banks. 18.75 % of the business organizations belong to the service Industries sector and 25 % are trading organizations. The manufacturing industries occupy very important role in society by generating employment opportunities and supporting the economy to grow speedily.

Table: 2 Age wise Classification of owners of Business organizations

No.	Age group	Private Sector	Co-op Sector	Total	Percent
1	Between 30 - 40	16	22	38	47.5
2	Between 40 - 50	11	13	24	30
3	50 onwards	4	14	18	22.5
Total		31	49	80	100

Age factor of owner's business organizations and loan sanctioning decision of the bank is co-related with each other. Generally, banks deny sanctioning the loan to the businessmen who crossed the age of 60 years. The rationale behind this is, sanctioning the loan to the aged person is risky one. The above table reveals that 47.5 % of the defaulters are belonging to the age group of 30-40, 30 % of the defaulters are belonging to the age ranging from 40-50 i.e. middle age group and only 22.5 % of defaulters are in the age group of 50 onwards or who are tending to be old age group.

Table: 3 Opinion of owners about Loan Sanctioning Time

No.	Particulars of loan sanctioned	Frequency	Percent
1	Delay in sanctioning the loan	48	60
2	At the right time	26	32.5
3	No Comment	6	7.5
	Total	80	100

The main causes of slippage of accounts to NPA category which can be related to functioning of a borrower or a bank or may be causes of general nature. Slow decision-making process in sanctioning and disbursement of loans creates the problem for the business organizations to run their business smoothly. This table reveals that 60 % of the owners of the business organizations have complaint that bank has delayed in taking decision and sanctioning the loan amount so that they could not start their unit as per plan. It affected on the demand and subsequently on profit of the borrowing unit. More than 32% of the owners of business organizations have responded that they got the loan in right time from the banks without any delay. But due to unavoidable circumstances their unit are facing difficulties to survive in the competition and able to repay the bank loan.

Table: 4 Follow-up Measures of Banks for Monitoring

No.	Visit of bank officers	Frequency	Percent
1	Before and after sanctioning the loan	29	36.25
2	Pre-sanction	14	17.5
3	Post sanction	15	18.75
4	Never visited the unit	22	27.5
	Total	80	100

This table depicts the responses from owners of business organizations in relation of banker's visit to the borrower's unit. 36.25 % of the total respondents are affirmative that bank officials have given both pre and post sanction visit to their unit. 17.5 % businessmen replied that bank officers have given only pre-sanction visit and 18 % respondents responded that bankers have given post sanctioning visits and more than 27% respondents replied that the bankers have never visited their unit, nor they have taken any follow up measure.

Table: 5: Problems Faced by the Business organizations

No	Different Problems of business organizations	SA	A	N	DA	SDA	Wt. Avg. Mean
1	Shortage of Raw Material	29	24	4	13	10	2.3875
2	Diversion of working capital funds	11	19	6	29	15	3.225
3	Weak capital structure	36	21	4	8	11	2.2125
4	Marketing problem	42	13	4	15	6	2.125
5	Low priority for up-gradation of the technology/ R and D	41	18	3	10	8	2.075
6	Bills receivable not received in time	18	19	5	18	20	2.9375
7	Stiff competition in the area	39	21	3	8	9	2.0875
8	Other problems	12	18	5	32	13	3.2

This table reveals that various problems are faced by the borrowing units in running their business smoothly and for slippage of their account to NPA category. The weighted average means of the different responses have been calculated to find out the major problems faced by the business organizations. Major problems faced by the borrowing units are shortage of raw materials, diversion of working capital funds for expansion, modernization, undertaking new project, weak capital structure, inadequate infrastructural facilities like power, transport and other essential inputs, low priority in up gradation of the technology and attention to research and development, delayed implementation of new as well as expansion of the existing projects etc.

Bankers are not considering the genuine problems of these units and not thinking to rehabilitate the unit, but they are serving notices under SARFAESI Act. Business organizations responded that, without having a co-operative approach and without considering the reasons of slippage of account in to NPA category, they want to kill a fly with hammer by taking severe action against the small units.

Table: 6 Present Status of the Borrower's Unit

No.	Particulars	Manf. Industries	Service Industries	Trade	Other	Total	Percent
1	Closed totally	12	4	8	1	25	31.25
2	Not running smoothly	14	5	5	2	26	32.5
3	Running	2	6	7	14	29	36.25
	Total	28	15	20	17	80	100

This table reveals that among selected 80 borrowing units, 31.25 % units are closed totally, and 32.5 % units are fighting with the situation and facing many problems in running their business smoothly. Fortunately, 36.25 % of the selected business organizations are running their business smoothly due to either rehabilitation by bank or on their own competency. This is shocking picture because thousands of people were depending on these industrial units directly or indirectly. As a result of complete close down of these units, the society at large is affected badly due to loss of employment, loss of direct and indirect work etc. Some borrowing units are of the opinion that they are being harassed by the banks under the SARFAESI Act and they are facing a daily battle for survival. Banks are unfairly utilizing the provisions of the SARFAESI Act and the result is closing down of the unit.

Table: 7 Opinion of Business organizations about Provisions of SARFAESI

No.	Opinion about the SARFAESI Act	Frequency	Percent
1	Favors only secured creditor	67	83.75
2	Both have rights under Act	13	16.25
	Total	80	100

SARFAESI Act has also given rights to the borrower, such as raising the objection to the demand notice of borrower, right to appeal in DRT against the faulty procedural adopted by the banks in implementation of the Act. This argument will go on discussion because both the parties will represent themselves as they are correct. In the present study, 83.75 % of the selected respondents of different business organizations are of the opinion that SARFAESI Act favors only secured creditor and not the business organizations. As the SARFAESI Act has strong provisions and give rights to the secured creditor to take sudden action against the defaulters after falling their account into NPA category. Taking advantage of these rights, bankers are sending recovery and possession notices under this Act. They do not make difference between willful and genuine defaulters.

Findings

1. Major business units have a complaint that, their bank has made delay in sanctioning the loan amount to business organizations. This has affected badly on their business and this is one of the reasons to slip their account into NPA list.
2. Majority of defaulters falls in the age category of 30-40 age.
3. Banks are unfairly utilizing the provisions of this Act and the result is closing down of their unit.
4. Only in 36 cases, bank officials have visited the borrowing units before and after sanctioning the loan. In 17 % cases bank has given pre-loan sanction visit and in 18 cases, they have given post loan sanction visit. Unfortunately, out of total borrowing units, in 27 cases bankers have failed to visit the borrower's unit.

5. 31 % of the selected units are closed totally. Some units are running their business due to either rehabilitation by bank or on their own competency. 32 % business organizations are facing problems in running their business smoothly.
6. Major problems faced by the business organizations are diversion of working capital funds for expansion and modernization, undertaking new project, shortage of raw materials, weak capital structure, inadequate infrastructural facilities like power, transport and other essential inputs.
7. 83 % of defaulters are of the opinion that, SARFAESI Act is favoring the secured creditor. This Act has given wide powers in their hands, so they are taking actions under section 13(2) and 13(4) without considering the reasons of non-repayment of loan amount. Bakers are killing the flies with hammer. Small business units can be rehabilitated with refinance or rescheduling the loan structure. They also are of the opinion that bankers should make classification between willful and genuine defaulters before implementing this Act of recovery.

Suggestions

1. The BOD and scrutiny committee should properly make the scrutiny of loan application and advance only for productive purpose.
2. Banks should evaluate the SWOT analysis of the borrowing companies i.e. how they would face the environmental threats and opportunities with the use of their strength and weakness.
3. Bankers should give the sanctioned amount of loan immediately without making unnecessary delay to start up the business.
4. Bankers should give pre and post sanction visit to all the units to avoid the future danger.
5. While utilizing this tool, the bankers should take action against the big and sticky accounts priority. They should make a top twenty, top forty defaulters and then after initiating action against these accounts, they should turn to initiate action against the small units.
6. Once the unit closed down, all the allied businesses will stop, and many people will badly affected. So bank should try to rehabilitate the viable units.
7. There is a need to develop the culture of repayment; unnecessarily raising objection on the demand notice by the business organizations or fighting against the action of the bank will prove trouble to both. Hence defaulters should understandably settle the accounts.

References

Avudajamal B. and Vasanthi G.; 2009. “NPA's of UCB in India” Southern Economist, Vol. 48, No.15.

Dharamlngam V. 2004. “Securitization Act: Lender’s rights and liability” Business /line, Hindu group of Publication.

Kacker S. and Desai V. 2009. “Is secured creditor is really secured?”. Business-Standard.

Umarji M.R. 2004. “Securitization and. reconstruction of Financial Assets and enforcement of Security Interest”-Taxman allied Service Private Ltd. New Delhi.