



OUT OF COURT

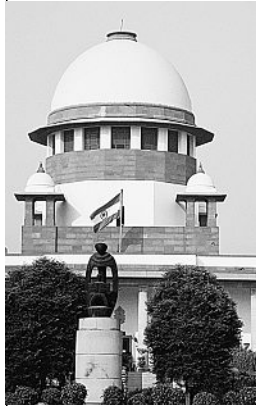
M J ANTONY

Use lean time for innovations

The courts are experiencing an agonisingly lean period due to the coronavirus. Several judges are unable to dispose of long-pending cases due to poor videoconferencing facilities and lack of digital skill. In the Supreme Court, one-third of the judges are not hearing cases at a given time. This idle time could be used for devising in-house solutions afflicting the judiciary, like the notoriously mounting arrears and the impending torrent of new suits once the pandemic subsides. But in the five lockdown months the top legal brains have not devoted time for a brainstorming session. More such barren months are likely to follow, giving ample opportunity to collect data on the pile of dockets, and analyse them to think of solutions within the system like drastic review of procedures and conventions that create logjam.

Though the SC is supposed to be a constitutional court, cases involving the Constitution are fewer in number compared to those involving mundane matters like landlord-tenant disputes, promotions in service or partition of family property. Last year, the then chief justice, Ranjan Gogoi, showed one way to cut the Gordian knot in the Enron-Dabhol corruption case. He just closed it observing that it was 17 years old. No one complained. He knew that time can wipe out any scar from public memory.

According to the Supreme Court website, there are 19,492 cases ready for final hearing, many of them for nearly two decades. While the country is experiencing an economic crisis, the number of such tax disputes is astounding. Among them, direct tax appeals are 2,431 while indirect tax appeals number 2,288. The earliest direct tax appeal dates back to 1992. The disputes in these cases might have started its grinding journey from the tribunal, appellate body, then the high court, at least a decade earlier.



Supreme Court is 6,224 cases involving ₹11,773 crore. The 39,066 cases pending in high courts have trapped ₹196 lakh crore. The chances of the revenue department winning their appeals are very narrow. Economic Survey 2017-18 showed that the authorities lost 87 per cent direct tax cases; 73 per cent in Supreme Court alone. Since they involve taxpayers' time and money, these cases should be selected and terminated at the earliest.

Apart from this cross section of economic cases there are constitutional questions ready for final hearing by larger benches: 90 appeals by nine-judge benches, 12 by seven-judge benches, 113 by five-judge benches and 376 by three-judge benches.

Chief Justices have administrative discretion to choose the cases for disposal, their timing and the combination of judges to hear them. Since virtual courts are here to stay, many old cases can be transferred to them. A major policy decision for the C.J. in the coming days would be the division of cases that will go before the physical and virtual courts. Those which involve substantial questions of law must get priority in view of the critical situation. Hundreds of dog-eared dockets could be delivered the Gogoi-like blow by consigning them to the realm of memory. Many litigants might not mind compromising their claims and bowing to their destiny.

Another related step is to lay down guidelines on listing of cases. Much of the recent criticism against the court could have been averted if certain transparent norms were in place. Judges on the verge of retirement should not be given important cases. In the Kesavananda Bharati case, for instance, Indira Gandhi hurriedly wanted to reverse the earlier ruling on fundamental rights. Her shenanigans at the backstage involving pliable judges were graphically recorded later by several authors. In the Ayodhya case, one of the contentious issues argued by lawyers in the C.J.'s court was when to hear it — before or after the 2019 general elections. If there were well-defined criteria on listing cases, chronologically for instance, there would be no need for wrangles over the timing of the hearing. Unfortunately, successive CJs have avoided developing a trustworthy system. Perhaps they enjoyed the unfettered discretionary power in their hands. Or they were handicapped by short tenures which discouraged them from venturing into long-term solutions at a time when they look forward to their own future. Therefore, the initiative for changes should now come from the bar which is an equal stakeholder.

Mining: Hope in reforms

Investors anticipate potential in liberalised rules for private investment

KUNAL BOSE
New Delhi, 27 August

With the Covid-19 pandemic taking a toll of the economy, the government has been quick to realise that meaningful reforms of the mining sector could be a game changer. Mining companies say the plans to introduce an exploration-cum-production regime that the finance minister announced in May for 500 mineral blocks has not come a moment too soon. "The minerals and resources sector is capable of contributing as much as 8 per cent to gross domestic product (GDP) by 2025," says Sunil Duggal, Vedanta group CEO and chairman of CII national committee of mining.

Mining accounts for 1.63 per cent of GDP, and this is a small drop from 1.93 per cent in 2018-19 (mining here excludes petroleum and natural gas), according to a report by Federation of Indian Mineral Industries. "The sector's size, production and share of GDP are not in sync with our rich mineral endowments," says FIMI Secretary General R K Sharma.

In fact, this is precisely the point that Prime Minister Narendra Modi made while announcing the electronic auction process for 41 coal blocks for commercial mining in June — a major step forward from the previous auction to the private sector for captive use. Reforms allowing commercial mining of coal plus the government's decision to invest ₹50,000 crore in



building infrastructure for coal extraction and its efficient evacuation should, mining companies say, trigger the inflow of large private investment and best-in-class global mining technologies. Ending the distinction between captive and non-captive mining will, according to Duggal, inject competition in auctions of mineral blocks.

After the near paralysis following the Comptroller and Auditor General report on irregularities in allocation of coal blocks that supposedly caused enormous revenue losses, potential bidders of earmarked coal blocks would ask for high levels of transparency. The bane of the coal sector has been the lack of competition with Coal India and its subsidiaries having total control over marketing. Steel and cement companies that own coal mines are barred from selling the mineral, a system that militates against transparency and price discovery.

At the same time, there is much unease in the govern-

ment that India is the second largest importer of coal despite holding the world's fourth-largest geological resources at 326.50 billion tonnes (bt), including 290 bt of non-coking coal. India's coal imports in 2019-20 rose to 248.55 million tonnes (mt) from 235.24 mt the previous year. Metallurgical coal imports, which amounted to nearly 52 mt in 2019-20, are unavoidable. The mineral found here being of inferior quality could be used in steel blast furnaces only on blending with imported material.

Modi sees in commercial mining a facet of his "Atmanirbhar Bharat" and release of the coal sector from "decades of lockdown". These reforms will not necessarily lead to the aspired self-reliance in coal, imports of which cost the nation \$1.7 trillion in 2018-19, and then to a competitive exporter of the mineral. Opening a mine in India is a longer gestation exercise unlike in major mining nations such

as Australia, South Africa and Brazil, with the lease holder here required to secure clearances from multiple offices at the state and central levels. Mining companies hope New Delhi and the mineral-rich states will start working in tandem to remove the irritants that miners invariably face after winning leases but before production starts.

What, however, is universally welcomed is the launch of the national coal index (NCI) so that transactions taking place on all channels are captured for periodic publication of the index. This is proving to be an aid for all potential participants in auctions to bid judiciously. The NCI could well trigger demand for a national mineral index, which will lend depth to the market for all traded minerals and inject liquidity in the market.

What mining majors are eagerly awaiting is how soon the government will start joint auctioning coal and bauxite blocks with the objective of improving the local aluminium industry's cost competitiveness. There is reason for the government to share the concern of three primary producers of the white metal that around 60 per cent of local aluminium demand is met by imports. Coal-fired electricity and bauxite have a more than 50 per cent share of aluminium production cost. Ownership of adequate coal and bauxite deposits will automatically make local aluminium producers more cost-efficient. That will also incentivise them to build new smelting capacity.

Tech giants' big bet on India

YUVRAJ MALIK
New Delhi, 27 August

The agenda of each of the 13 investors in Jio Platforms is amply stated. Facebook will get a piece of Jio Mart's e-commerce on WhatsApp. Google is promised a foothold in the feature phone market. Intel and Qualcomm have a big buyer for their chips. And the financial investors are in for handsome bonuses when Jio IPOs hit the market in some two-three years.

Jio's stake sale, where it pared 32.97 per cent in one of the largest private transactions of its kind globally, promises a paradigm shift in India's technology landscape.

For Google and Facebook, it was about betting on the right stallion. Google India's growth has slowed, and Facebook has had trouble launching new products (such as Free Basics and WhatsApp Pay).

There is also a China angle to this match-making story. Over the past decade, Chinese companies have made strong inroads into India, which has challenged the grip of US firms here. American companies have specifically faced a beating in the smartphone market, in which the Chinese hold 90 per cent share, and in which Apple has been reduced to one per cent.

In the FAANGs — a popular acronym to denote Facebook, Amazon, Apple, Netflix and Google — vs BATs (Baidu/ByteDance, Alibaba and Tencent) narrative, there is one

telling difference. The US firms have grown their business directly in India, while the Chinese have operated through proxies. For instance, Alibaba's biggest investments — Big Basket, Paytm, Snapdeal and Zomato — are up against US competitors like Amazon and Google Pay. Tencent, a steady backer of internet companies like Gaana and Dream 11, has not launched direct businesses either.

Wary of the threats, the FAANGs are chalking out long-term strategies to win in India. The anti-China sentiment and regulations have also tilted the balance in favour of the Americans. Can the FAANGs capitalise?

Commerce ambition

Google and Facebook have long relied on advertising as their major source of earnings. In India, the ₹14,000-odd-crore online ad market is only one-fourth of the entire advertising pie. This is set to shrink further, owing to the pandemic, as marquee advertisers curtail marketing spends. And that's why there is an urgency to diversify.

In May, Facebook launched "Shops", a tool to create online storefronts on Facebook and Instagram and put up catalogues. Facebook, analysts say, is readying WhatsApp and Instagram as commerce platforms, hoping to cash in on their high reach.

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DECODED

SARFAESI Act, IBC gap need to be bridged

SUDIPTO DEY
New Delhi, 27 August

debt resolution laws, are governed by the RBI.

The differences between the Insolvency and Bankruptcy Code (IBC) and the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest (SARFAESI) Act, 2002, are apparent again after the Reserve Bank of India reportedly rejected UV Asset Reconstruction Company's (UVARCL) plan to buy the assets of Aircel, the distressed telecom company.

The RBI reportedly said UVARCL's plan did not conform with the guidelines laid out for Asset Reconstruction Companies (ARCs) and the provisions of the SARFAESI Act. This puts a question mark on participation of ARCs in the bidding process for companies undergoing insolvency resolution. UVARCL has been approved by a committee of creditors to buy Reliance Telecom's distressed assets, including its spectrum.

Here is a look at why it may be legally untenable for ARCs to be part of bidding processes under IBC — at least till regulators like the RBI and the Insolvency and Bankruptcy Board of India clarify the matter.

IBC and the SARFAESI Act: What are the key differences?

Insolvency and Bankruptcy Code, 2016, provides a legal framework for time-bound insolvency resolution process and liquidation. The SARFAESI Act is for secured financial creditors, namely banks and financial institutions.

"Whereas the former focuses on evolving solutions to ensure a collective mechanism for resolving insolvency and preserving the economic value of the corporate entity, the latter deals with securitisation, asset reconstruction, enforcement of security without intervention of the court," says Poornima Advani, partner at The Law Point.

IBC takes into consideration all kinds of creditors: financial and operational; secured and unsecured. The SARFAESI Act empowers secured creditors to enforce their security interest.

Where do IBC, SARFAESI overlap?
The IBC Act did away with overlapping provisions in various laws, like the Sick Industrial Companies (Special Provisions) Act, 1985, the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, and the Companies Act 2013.

Subsequent amendments in the SARFAESI Act have enhanced its scope, changing the definition of debt and secured creditors and giving RBI more powers for making policies.

To do away with inconsistencies, the IBC, under Section 238, stated that its provisions would override any other law that is in force. Experts say that this is not the first time that the ambiguity in the two laws is causing legal challenges. In several cases, the courts have given precedence to IBC over the SARFAESI Act.

Interestingly, the IBC, through Section 29A, allows ARCs to act as a resolution applicant and can submit resolution plans itself or with other investors jointly as a consortium or partnership. However, the SARFAESI Act that governs the activities of ARCs puts certain restrictions on the businesses they can do.

Why are ARCs in the grey while bidding for distressed assets under IBC?

In July, the RBI issued guidelines for ARCs, saying they must follow transparent and non-discriminatory practices in acquisition of assets. They must maintain an arm's length distance from the promoters-stakeholders in the pursuit of transparency, the guidelines add.

Experts say there are fundamental differences between how ARCs were conceived through statutory provisions and in the way bidders of distressed assets under IBC behave. "ARCs are expected to acquire securities and maximise their value, including through reconstruction. This would lead to upside sharing with secured creditors. On the other hand, a resolution applicant is interested in getting the asset with minimum possible payout to creditors," said Satesh Mukherjee, a Delhi-based independent legal counsel.

GAYATRI PROJECTS LIMITED								
CIN: L99999TG1989PLC057289								
Regd. Office: B1, TSR Towers, 6-3-1090, Raj Bhavan Road, Somajiguda, Hyderabad-500082								
Extract of Standalone and Consolidated Unaudited Financial Results for the Quarter ended 30th June, 2020								
Particulars	STANDALONE				CONSOLIDATED			
	Quarter Ended		Year Ended		Quarter Ended		Year Ended	
	30.06.2020	31.03.2020	30.06.2019	31.03.2020	30.06.2020	31.03.2020	30.06.2019	31.03.2020
	(Unaudited)	(Audited)	(Unaudited)	(Audited)	(Unaudited)	(Audited)	(Unaudited)	(Audited)
Total Income from Operations (net)	66,794.73	91,016.12	98,408.32	342,733.36	66,794.73	91,016.12	98,408.32	343,862.30
Net Profit/(Loss) for the period (before tax, Exceptional and/ or extraordinary items)	(1,356.79)	(6,131.29)	7,080.08	5,511.89	(1,517.31)	(7,069.24)	6,461.14	(3,627.36)
Net Profit/(Loss) for the period before tax (after Exceptional and/ or Extraordinary items)	(1,356.79)	(6,131.29)	7,080.08	(39,022.00)	(1,528.21)	(8,663.71)	6,411.69	(6,376.05)
Net Profit/(Loss) for the period after tax (after Exceptional and/ or Extraordinary items)	(1,205.55)	(5,566.51)	5,476.82	(38,457.22)	(1,376.97)	(8,098.93)	4,808.43	(5,811.27)
Total comprehensive income for the period [Comprising Profit / (Loss) for the period (after tax) and Other Comprehensive Income (after tax)]	(1,121.96)	(5,657.12)	5,503.09	(38,730.51)	(1,293.38)	(8,139.63)	4,834.70	(26,311.83)
Equity Share Capital	3,743.97	3,743.97	3,743.97	3,743.97	3,743.97	3,743.97	3,743.97	3,743.97
Reserves Equity (excluding Revaluation Reserve) as shown in the Audited Balance Sheet of the previous year				90,488.56				87,284.62
Earnings per share (of ₹ 2/- each) (for continuing and discontinued operations)-								
Basic & Diluted	(0.64)	(2.97)	2.93	(20.54)	(0.69)	(4.33)	2.57	(3.10)

Notes:
1. The above is an extract of the detailed format of the unaudited Standalone and Consolidated Financial Results for the Quarter ended 30th June, 2020 filed with the Stock Exchanges under Regulation 33 of the SEBI (Listing and Other Disclosure Requirements) Regulations, 2015. The full format of the unaudited Standalone and Consolidated Financial Results for the Quarter ended on 30th June, 2020 are available on the Stock Exchange websites (www.nse-india.com / www.bseindia.com) and company's website www.gayatri.co.in.

By Order of the Board
For Gayatri Projects Limited
T.V.Sandeep Kumar Reddy
Managing Director

NACL Industries Limited								
CIN: L24219TG1989PLC016607								
Regd. Office: Plot No.12-A, "C" Block, Lakshmi Towers, No.8-2-248/1/7/78, Nagarjuna Hills, Punjagutta, Hyderabad-500082, Telangana State, India. Phone : 040-24405100, Fax : 040-23358062, E-mail : info@naclind.com, Website:www.naclind.com								
EXTRACT OF THE STATEMENT OF UNAUDITED STANDALONE & CONSOLIDATED FINANCIAL RESULTS FOR THE QUARTER ENDED JUNE 30, 2020								
Sl. No.	Particulars	Standalone			Consolidated			
		Quarter ended	Quarter ended	Year ended	Quarter ended	Quarter ended	Year ended	
		30.06.2020	30.06.2019	31.03.2020	30.06.2020	30.06.2019	31.03.2020	
		(Unaudited)	(Unaudited)	(Audited)	(Unaudited)	(Unaudited)	(Audited)	
1	Total Income from Operations	25,524	19,829	102,238	25,524	19,829	102,239	
2	Net Profit for the period (before Tax & Exceptional and/or Extraordinary items)	804	143	2,294	827	161	2,391	
3	Net Profit for the period before Tax, (after Exceptional and/or Extraordinary items)	804	143	2,294	827	161	2,391	
4	Net Profit for the period after Tax, (after Exceptional and/or Extraordinary items)	536	124	1,577	559	142	1,674	
5	Total Comprehensive Income for the period [Comprising (Loss)/Profit for the period (after tax) and Other Comprehensive Income (after tax)]	524	69	1,445	546	85	1,540	
6	Paid-up Equity Share Capital	1,926	1,674	1,926	1,926	1,674	1,926	
7	Earnings per Share (of ₹ 1 each)							
a)	Basic	0.28	0.07	0.94	0.29	0.08	1.00	
b)	Diluted	0.28	0.07	0.94	0.29	0.08	1.00	

NOTE :
1. The above Statement of Unaudited Standalone & Consolidated Financial Results were reviewed and recommended by the Audit Committee and approved by the Board of Directors at their respective meetings held on August 26, 2020. The Statutory Auditors have carried out a limited review of these financial results for the Quarter Ended June 30, 2020 and have issued an unmodified report on these results.

2. The above is an extract of the detailed format of Unaudited Standalone and Consolidated Financial Results for the Quarter Ended June 30, 2020 filed with BSE Limited & NSE Limited under Regulation 33 of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015. The full format of Unaudited Standalone and Consolidated Financial Results for the Quarter Ended June 30, 2020 is available on the website of BSE & NSE Limited and Company's website at www.naclind.com

By Order of the Board
Sd/-
M. Pavan Kumar
Managing Director & CEO
(DIN:01514557)

Place : Hyderabad
Date : August 26, 2020