

BIFR AND INDUSTRIAL SICKNESS

An industrial company which has become sick within the meaning of "Sick Industrial Companies" defined under Section 3(1) (o) of the SIC (SP) Act i.e. the company registered for not less than 7 years and with accumulated losses equal to or exceeding entire networth and the company having suffered cash losses in last two consecutive years, is required make a reference to the Board for determination of measures to be adopted with respect to the company. Such reference is required to be made under Section 15 (1) of SIC (SP) Act within 60 days from the date of finalisation of the duly audited accounts of the company for the financial year at the end of which the company as become a sick industrial company. Such references may be made under Section 15 (2) of SIC (SP) Act by the Central Government of Reserve Bank of India or State Government or a Public Financial Institution or a Scheduled Bank. Information on reference could be received from other sources under Section 16 (1) of the Act. Section 23 of SIC (SP) Act also requires a company to make a reference within 60 days from the date of finalisation of duly audited accounts of the company where the accumulated losses of the industrial company as at the end of any financial year resulted in erosion of 50 per cent of or more or its peak networth during the immediately preceding 5 years.

In pursuance of the various provisions of the Act, the Board of Industrial and Financial Reconstruction has been receiving references from various sources for conducting enquiries in to the working of the sick industrial companies. The position of references received under the various Section, the number of cases found not conforming to the provisions of the Act and those cases registered is indicated in the following statement. The position as on 30.6.1991 was as follows:

Section of Act under which References Received	Number References Received	References Rejected	References Registered	References under Scrutiny
15(1)	1200	213	982	5
15(2)	215	147	62	6
16(1)	5	-	5	-
Others	3	-	3	-
	1423	360	1052	11

The position of references received under Section 23 of SIC (SP) Act 1985 on 30.6.1991 industry-wise was as follows:

1. Metallurgical/Mining	72
2. Paper/Cement	64
3. Chemical	92
4. Textile	90
5. Engineering Products	79
6. Electrical/Electronics	46
7. Sugar and Food Processing	51
8. Engineering	34
9. Others	57
	587

The references received in respect of sick industrial companies are subjected to initial scrutiny and if found conforming to the requirement of the Act and where full information as prescribed to enable processing of cases is

available are registered. After further examination and processing the number of cases registered year-wise cases to be processed if maintainable, the cases decided upto 30.6.1991 are detailed in the following statement. The number of cases finalised shown against each year are with reference to the year of their registration but decided before 30.6.1991 i.e., cases shown as decided against 1987 are cases registered during 1987 even though decided in 1988 or 1989 or 1990.

Year	Registered and assigned to Benches	Not maintainable	Balance	Final Action Taken	Balance Under Process
1987	311	43	268	210	58
1988	298	80	218	157	61
1989	202	33	169	81	88
1990	151	20	131	22	109
1991 (upto June 1991)	73	4	69	1	68
	1035	180	855	471	384

Even though the above statement indicates 384 cases under process, the number of cases are at final stages of processing. in 43 cases draft schemes had been circulated for eliciting objections/suggestions and in 65 cases with winding up notices had been issued. In balance of cases Operating agencies had submitted the rehabilitation schemes in 85 per cent of the cases assigned to them.

The Board after hearing all concerned parties takes a final view in cases under various Sections of the SIC (SP) Act, 1985. In cases where the financial institutions/banks etc.

have already taken rehabilitation/revival measures and in case Board considers such measures adequate for revival of the sick industrial company it allows time to the company to impliment the rehabilitation scheme and make its network positive under Section 17(2) of the Act. In cases where a new scheme is prepared under the direction of the Board, the Board considers the scheme in detail and prepares its own scheme and adopts measures under Section 18(4) of the Act for the revival of the sick company. On getting agreement of all concerned parties to the measures the Board sanctions the scheme. In cases however, where rehabilitation/revival is not considered feasible, the Board records its opinion for winding up of the unit under Section 20 of the Act and gives direction for forwarding the opinion to the concerned High Court. The following statement gives details of decisions taken upto 30.6.1991 under various Sections of the Act in respect of the cases registered in various years:

Year	Under Section 17(2)	Under Section 18(4)	Under Section 20	Others	Total
1987	36	109	63	2	210
1988	36	66	55	-	157
1989	40	25	15	1	81
1990	15	3	4	-	22
1991	1	-	-	-	1
Total	128	203	137	3	471

The turn around strategies adopted include, additional investment to bring about economic capacities, provision of Balancing equipment for fuller utilisation of equipment, plant and machinery, provisional of facilities for adoption

of viable product mix, closure of uneconomic division, rationalisation of labour, modernisation, reliefs and concessions etc. Where existing management are not forthcoming to participate in rehabilitation scheme or have forfeited confidence of Bank and Institutions by their past track record change in Management is tried as a strategy so also merger with profitable company is at times the best solution. The scheme sanctioned therefore include 30 cases of merger and 23 cases of management changes including labour cooperatives and 2 cases of leasing.

The cases decided have been further analysed with reference to the location of the operating units in the various States.

The Statewise break up of the cases is indicated below:

No.	Name of the State	No. of cases
1.	Andhra Pradesh	57
2.	Bihar	20
3.	Chandigarh	2
4.	Goa, Daman & Diu	1
5.	Gujarat	48
6.	Haryana	17
7.	Himachal Pradesh	7
8.	Jammu & Kashmir	1
9.	Karnataka	30
10.	Kerala	16
11.	Madhya Pradesh	14
12.	Maharashtra	71
13.	New Delhi	1
14.	Orissa	10
15.	Pondichery	2
16.	Punjab	9
17.	Rajasthan	28
18.	Tamil Nadu	48
19.	Uttar Pradesh	29
20.	West Bengal	60
	Total	471

A further detailed break up of the cases Statewise with reference to the Sections of the Act under which final view was taken (alongwith detailed break up of the companies) is given at Annexure 1.

While the location of an industry in a State has bearing on the industrial development of the State, the nature of the industry itself can be effected by industrial and fiscal policies followed by the Government, availability of power particularly in case of power intensive industry, overall demand for the product of an industry and availability of raw materials etc. Therefore, an analysis has been done about the number of cases relating to each industry that have been decided upto 30.6.1991. The following statement provides this information:

Where is this statement?