

03:21 PM 29 DEC MARKET STATS ▼	SENSEX 26,376 ▲ 165.81	NIFTY 50 8,106 ▲ 70.65	GOLD (MCX) (Rs/10g.) 27,384 ▲ 84.00	USD/INR 68.07 ▼ -0.17	CREATE PORTFOLIO	Download ET MARKETS APP	CHOOSE LANGUAGE ENG
--	----------------------------------	----------------------------------	---	---------------------------------	------------------	-------------------------	------------------------

Kingfisher saga: How banks can still recover Rs 9,000 crore from Vijay Mallya

Updated: Mar 13, 2016, 07:02 AM IST

[Post a Comment](#)

By Deepak Narang

Experience is the name everyone gives to their mistakes, said Oscar Wilde. [Bankers](#) in India today are an experienced lot and need to thank [Vijay Mallya](#) for this learning. They need to ponder, in a consortium meeting, when, how and where they went wrong, how they gave Mallya the opportunity to travel abroad, and how they failed to take drastic action for recovery.

It's not that money can't be recovered or that Mallya can't be made to come back to India, but the issue is of a debacle in terms of bankers' strategy. In this tussle, banks have conceded round one to Mallya.

Lessons for Banks

First and foremost, laws need to be amended to empower the presiding officers (PO) at debt recovery tribunals (DRT) to impound the passports of defaulters, with some safeguard. Wilful default needs to be considered a serious crime. The process of taking possession of secured assets should also be entrusted to the POs of DRTs instead of empowering the district magistrate or chief metropolitan magistrate to do so.

As for the takeaways for banks, there are many: One, forensic audit in one form or the other should be made a part of annual review of accounts. Also, a chartered accountant other than that of the borrower company should certify at quarterly intervals that there is no diversion of funds and the borrower has brought in his contribution for the project as per approved schedule. Two, the end use of funds for loans disbursed should be ensured by the bank. Also, no project loan should be sanctioned unless its cash flow can be monitored.

Debt should be converted to equity only if banks get a controlling stake as is stipulated for strategic debt restructuring schemes. Of course, intangibles such as brands as collateral should not be accepted.

Last but not least, high-value debit operations in the account (outflows) must be verified to see if the payments are related to the business activities of the borrower. Similarly, credit operations (inflows) should be checked to ensure that the sale proceeds are being routed through the account.

Monitor the Gateways

The Reserve Bank of India is managing the payment gateways through which all transactions of RTGS/NEFT (which enable inter-bank fund transfers) are routed. Technically, it is feasible to obtain details of all transactions that can be related to diversion of funds, or transfer to own and connected concerns from the system, and fix the liability on the borrowers and prosecute the directors for money laundering and wilful default.

In addition, banks should obtain a list of debtors of the borrowers to ascertain timely realisation of book debts. Here, we can compare sales realisation with the turnover in the account and enquire into reasons for poor turnover. One such reason may be that the borrower has opened a current account with another bank where the sales proceeds are deposited.

In the case of [Kingfisher Airlines](#) (KFA), the company had opened accounts with two private sector banks outside the consortium. This fact was relied upon by United Bank of India (UBI) to declare Mallya and other directors as [wilful defaulters](#) for the first time.

RELATED VIDEO



Kingfisher saga: How banks can still recover Rs 9,000 crore from Vijay Mallya

RELATED COMPANIES

EXPAND

[Kingfisher...](#)

Similarly, banks should get hold of a list of major suppliers of raw materials to ensure the end use of bank funds. We should be able to detect those cheques that are drawn in favour of parties not related to the borrower's business to prevent diversion of funds.

Recovering from Mallya

KFA is a classic case of closing the stable door after the horse has bolted. Now we face the question of the recovery of public money of nearly Rs 9,000 crore. Here is what can be done. Mallya must have given his personal guarantee in 2010 when the restructuring was done. If that is so, his personal assets can be identified and the DRT can be requested to attach them even before the judgment, if not done already.

Winding up of United Breweries (Holdings) Ltd can yield recovery, as some amount has been ordered to be kept aside by the high court when the petition was admitted; but recovery from his assets that are outside India will be a long haul and his extradition may have interesting legal issues coming up for consideration.

It is also time now to recover Rs 192 crore along with accrued interest from Airbus Industrie against which a case was filed in DRT Bengaluru. The advance payment for purchase of aircraft by KFA was given to Airbus but the purchase order was subsequently cancelled.

Pre-delivery payment (PDP) advance was give by three banks, UBI, Oriental Bank of Commerce (OBC) and Corporation Bank on the basis of an agreement between KFA, Airbus and OBC (OBC was acting as the leader on behalf of three banks). When the aircraft have not been delivered, the advance payment given to Airbus ought to be refunded.

Airbus attempted to wriggle out of this contract by pleading in DRT Bengaluru that it had no jurisdiction in the matter. The PO of DRT attached this sum lying with Airbus by pronouncing that the contract was signed in India between banks, KFA and Airbus for purchase of aircraft, to be delivered in India, and money was paid by banks in India.

Likewise recovery from personal assets of Mallya should be aggressively pursued. It is important that the public should not lose confidence in the capability of public sector banks to recover from the high and mighty.

(The author is a former executive director of United Bank of India. He now teaches at Amity University and National Institute of Bank Management)

Stay on top of business news with The Economic Times App. [Download it Now!](#)

Live Market	News	Portfolio	Mobile	Live TV	Newsletter	Commodities	Speed	QnA	Blogs	Alerts	RSS
Other Times Group news sites Times of India इकोनॉमिक टाइम्स छंदीनामिक टाइम्स Mumbai Mirror Times Now Indiatimes नवभारत टाइम्स महाराष्ट्र टाइम्स ವಿಜಯ ಕರ್ನಾಟಕ Lifehacker Gizmodo Eisamay IGN India NavGujarat Samay	Living and entertainment Timescity iDiva Zoom Luxpresso Gaana Happytrips Cricbuzz Get Smartapp Networking itimes MensXP.com	Hot on the Web Budget 2017 Sensex, Nifty Live Year-End Special 2016 UP & Punjab Assembly Elections 2017 Live: Currency Demonetisation Gold Rate RBI Monetary Policy	Services ads2book Gadgetsnow Free Business Listings Simplymarry Astrospeak Timesjobs Magicbricks Zigwheels Timesdeal dineout Filmipop Remit2India Gaana Greetzap Techradar Alivear Google Play								