Insolvency: Never before have so many of India’s most indebted companies faced this threat

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Never before have so many of India’s most-indebted companies faced the threat of insolvency proceedings.

It is somewhat hard to capture, or even understand, the full import of all that has happened in corporate India over the past two weeks, but this is clearly a new chapter playing out. Events have unfolded very quickly after RBI said on June 13 that it had picked a dozen defaulting companies to which bankers should apply the Insolvency and Bankruptcy Code (IBC). Having failed to recover their dues and unable to find buyers for any of the businesses, lenders have got together and decided that half of these, including the Ruia-owned Essar Steel, should be referred to the National Company Law Tribunal

(NCLT). In the meanwhile, they will continue to look for ways to revive the companies.

Rarely have we seen decisions being taken so swiftly—the central bank gave banks just a fortnight to take a call. One wishes these measures had been initiated a few years back because it might have been possible to save more money and salvage many more assets. Instead, bankers continued to "restructure'" what were essentially sub-standard assets, ever-greening them and essentially throwing good money after bad.

That is partly because many of the companies, especially those from large business houses, used their connections in high places—read the government—to ensure they had their way and didn't lose out. In fact, the last time around when Essar Steel was bankrupt, IDBI and ICICI—financial institutions in those days—took big haircuts. One didn't hear of any of these lenders, though, benefiting from the bumper profits that the Essar Group earned from the sale of its stake in Hutch. One cannot blame the companies alone, banks should have been far more circumspect and not lent rashly as they have—there are instances of bank officials having helped businessmen get a good deal. But, it is a fact that the law in India has helped promoters more than it has banks. The Kigfisher episode is a case in point—lenders have had a hard time trying to recover their loans to the airline. Former RBI Governor Raghuram Rajan had observed how the rich and well-connected in India got away, of how we did not have the administrative capacity to ferret out wrong-doing. India should not be seen as a paper tiger, Rajan had said.

Well, the government has shown us it has teeth and it means business. To be sure, promoters will fight back, they will use every trick in the book to stall proceedings whether in the NCLT or elsewhere to try and save their businesses. There is also the big worry they may try and influence insolvency professionals assigned to look into their companies. But, having proved it is serious about resolving the NPA problem, which is threatening to stall the economy, the government must now make sure the process of finding the best solution is a smooth one and within the contours of the law.

It has already decided not to go soft on promoters, not to let them get away without paying their dues. Bankers will need to take hefty haircuts but, unlike in the past, promoters too will feel the pain. As Rajan had said we need a change in mindset, where the wilful or non-cooperative