

IL&FS moves NCLAT, seeks protection for group Cos from wilful defaulter tag

OUR CORRESPONDENT

NEW DELHI: The newly appointed board of debt-ridden IL&FS has moved an urgent application before the appellate tribunal NCLAT to restrain 11 public sector lenders from initiating proceedings to declare its group companies as “wilful defaulters”.

In its petition, IL&FS said it is aggrieved by the “blatant violation and disregard” of previous NCLAT orders by the banks. IL&FS also charged banks of taking procedural action under the garb of the RBI guidelines, and “harassing the Directors of the IL&FS companies”.

The banks are “issuing show cause notices, calling for a personal hearing before the Wilful Defaulter Identification Committee, threatening initiation of criminal proceedings, including initiating proceedings as well as and for declaring IL&FS companies and their current Directors as Wilful Defaulters, as well as getting issued Look Out Circulars,” it submitted.

“All such coercive actions/steps are attempts by the Respondent Banks to pressurize the IL&FS companies to directly or indirectly meet their debt demands, without having regard to the fact that the resolution/satisfaction of debts of all the creditors of the IL&FS companies is subjudice before this Tribunal,” it submitted.



IL&FS charged banks of taking procedural action under the garb of the RBI guidelines, and ‘harassing the Directors of the IL&FS companies’

IL&FS has prayed to restrain the banks from pursuing proceedings against “other IL&FS companies and/or their Directors and/or officers appointed after October 2018 by the IL&FS New Board.”

Moreover, it has also made the banking sector regulator RBI a party, and requested NCLAT to “pass an order directing Respondent No. 12 (RBI) to direct Respondent No. 1 to 11 (banks) restraining them from taking any coercive action against the Applicants and other IL&FS companies.”

It has also requested the National Company Law Appellate Tribunal (NCLAT) to direct banks “not take any coercive action against the applicant and

other IL&FS companies and/or their Directors and/or officers” during the pendency of the hearing and final disposal of this present application, before it.

The banks are - Central Bank of India, Bank of Baroda, Indian Bank, Canara Bank, Punjab National Bank, Indian Overseas Bank, State Bank of India, Bank of India, Jammu & Kashmir Bank, IDBI Bank and Union Bank of India.

According to IL&FS, the banks are participating in the IL&FS Resolution Process to get their debts addressed and these parallel coercive steps are not only “squarely in the teeth” of the orders passed by NCLAT, but are the likely result of either a selective reading of such orders, or an “uncoordinated mechanical attempt” at purportedly complying with applicable guidelines issued by RBI.

The petition further said this is happening despite, the New Board of IL&FS has already referred the acts and actions of the erstwhile management of IL&FS companies for investigation.

These “have already been investigated as well as continue to be investigated by various Agencies (such as SFIO, ED and CBI), including inspection by Respondent No 12 (RBI) itself of a few IL&FS companies since October 2018,” it said.

On October 1, 2018, NCLAT superseded the existing board of

IL&FS on the recommendation of the centre after the mega-crisis in IL&FS, which shook the finance industry.

A new board for IL&FS, which had a debt burden of Rs 94,000 crore, was appointed to take charge of the affairs and NCLAT conceived a framework for resolution of the crisis-hit group.

It had also granted protection to the IL&FS Companies against recovery of any further dues and immunity to the newly appointed Directors of IL&FS against any proceedings for the past actions of suspended Directors or any of the officers thereof.

“The protection granted under the aforementioned orders is premised on the fact that the newly appointed Directors have been appointed in larger public interest to regulate the affairs of the IL&FS companies and to save the said companies from financial collapse,” it said. However Banks have been violating these protective orders passed by NCLAT, IL&FS said while submitting a list of such violations.

As per the roadmap for IL&FS, its group companies have been categorised into three categories — green, amber and red — based on their respective financial positions.

Companies under the green category are those that continue to meet their payment obligations.