

Power firms versus RBI: SC verdict likely to be delayed

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Immediate relief from insolvency could elude stressed private power generating companies yet again. The hearing in the Supreme Court (SC) on Wednesday was expected to take up all cases filed against the February 12 circular of the Reserve Bank of India (RBI). However, according to persons in the know, most cases are yet to be transferred to the apex court. This could lead to deferment of the matter and a decision or relief is unlikely on Wednesday.

Several companies, including Essar Power, RKM Power, Infrastructure Leasing & Financial Services, GMR Energy, Rattan India, and KSK Mahanadi, had filed cases across the country against the circular. This was after an Allahabad High Court order on August 27 that did not grant any relief on petitions filed by industry associations — Association of Power Producers and Independent Power Producers Association of India on behalf of all 34 stressed power assets. Besides power, shipping and sugar companies have also sought relief from the RBI notification.

The companies had petitioned against the February 12 circular of the RBI asking banks to treat one-day payment failure as default and initiate insolvency proceedings within 180 days. The deadline expired on



THE FACE-OFF

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August 31. However, most companies took the legal route to circumvent the National Company Law Tribunal (NCLT).

The SC in its September order asked banks not to refer any case for insolvency proceedings till further notice from the court. It is learnt that GVK Energy has also filed a separate petition against the February 12 circular in the SC. The apex court is expected to hear the case along with the rest. GVK's Goindwal Sahib Power project was on the list of stressed assets due to coal shortage. It eventually received coal under the Centre's SHAKTI scheme.

Nine power assets were nearing resolution outside the NCLT when the case reached the SC. These would be the ones

that would benefit the most if clarity from the apex court ruling emerges, said an industry expert.

Icra in its latest report said the number of pending corporate insolvency resolution processes under the Insolvency and Bankruptcy Code increased to 816 as on September 30, 2018, from 723 as on June 30, 2018. It also said the lenders for the initial 12 companies on the RBI's list of June 2017 "are estimated to have lost out on about ₹40 billion in additional income due to delays in the resolution process beyond the 270-day period." Further delay could worsen the debt situation of stressed assets and wreak havoc for the banks; greater the delay, chances of a resolution diminish further.