Power games

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Highlights

- The Supreme Court has ordered a stay on the Reserve Bank of India's February 12 circular asking banks to recognise loans as non-performing even if repayment was delayed by just one day, and resolve them within 180 days.
- If banks failed to comply with the RBI's new rules, these stressed assets had to be forced to undergo swift insolvency proceedings under the new Insolvency and Bankruptcy Code (IBC).
- This comes just weeks after the Allahabad High Court refused to grant relief to troubled power companies facing action from the RBI.
- The apex court's decision to overturn RBI rules and transfer all pleas seeking exception from them to itself is clearly the biggest challenge against the IBC yet.
- It is likely to cause significant uncertainty in the resolution of stressed assets and undermine investor confidence in the bankruptcy process.

Why SC has intervened?

- Distressed power companies, and a number of other firms in the shipping, sugar and textile sectors, however, will be relieved as they are spared from bankruptcy proceedings for now.
- According to the Association of Power Producers, the Supreme Court's order will save stressed companies producing 13GW worth of power from being pushed to the doors of bankruptcy courts.
- The Supreme Court's decision to intervene, however, will do very little good in the long run to either stressed power companies or their lenders.

Issues to Power companies and Banks

- The troubles of power companies can be traced to structural issues such as the absence of meaningful price reforms, unreliable fuel supply and the unsustainable finances of public sector power distribution companies.
- Banks, on the other hand, are unlikely to make much money out of these stressed assets until these structural problems are sorted adequately to attract investors.

Why the intervention an Issue?

- Policymakers, not courts, need to take charge and resolve these issues.
- That said, the current insolvency resolution process is not without its flaws.
- According to a report released by the Insolvency and Bankruptcy Board of India earlier this month, lenders could realistically expect to recover less than a tenth of their dues if

stressed assets are to be liquidated.

- This could be attributed to the IBC's overemphasis on the speedy resolution of bad loans over the recovery of maximum value from stressed assets.
- Not surprisingly, several power companies emphasise that their assets could yield better returns if the issues are resolved completely outside the purview of the IBC.

The Supreme Court's decision has now provided lenders the chance to test this argument.

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