

Role of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 in NPAs Recovery

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Abstract: The role of banks in the development of any country cannot be denied, the history of the developed world has witnessed how banks have eased the way for development of developed countries. Banking mainly works on two aspects, obtaining a deposit and secondly securing part of these deposits, giving loan for the remaining part, while giving loan, the bank examines many aspects of the risk scenario, from which loan withdrawal as of the time. And at least the risk to the bank. But despite this, in many cases the bank's loan cannot come back and the account of Borrower becomes unearned, and the loan given by the bank becomes unearned too. These non-performing properties of dacoits today are one of the biggest problems in the world. Today almost all the banks of India are facing this problem, efforts being made by banks and governments are being proven very well.

In order to recover these non-existent assets from banks, the banks and the governments had accelerated efforts in the year 1985, for the identification and recovery of these properties, Health Code System was implemented in Banco, in which non-working assets were divided into eight parts. But results of this system were insignificant later on in the year 1993 DRTs were constituted. The success of DRTs was not desirable as a result Government of had to bring more powerful act which is Securitization and reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 (Scuritization Act-2002). The NPAs recovery teeth of this act are sharper than Lok Adalat and DRTs. This paper evaluate and the NPAs recovery trend of this act and also highlight success and failure of the Act.

Keywords: Banking, Non-Performing Assets (NPAs), Recovery.

I. INTRODUCTION

Nowadays Non-Performing Assets (NPAs) become very popular term which is being discussed by the different people

for different purpose. NPAs are also known as Non-Performing Loans (NPLs), bad loans, unproductive loans, bad debts etc. The term NPAs refers to those loans and advances which are given by the banks and financial institutions they do not produce any kind of income for banks and financial institutions. In other words, such loans on which principal and interest are unpaid.

As far concern of history of NPAs the birth of NPAs is traced with the birth of lending. At the beginning of 1970s problem of NPAs in Indian banking sector was ignorable but till 1980 this problem become very wide because high lending by financial institutions for industrialization then RBI and Government of India paid an attention towards this problem of Indian banking sector. Consequently, a comprehensive and uniform credit monitoring system was introduced by RBI on November 1985, as Health Code System, this system was divided into eight categories (1) Satisfactory (2) Irregular (3) Sick-Viable (4) Sick: Non-Viable / Sticky (5) Advances Recalled (6) Suit Filed Account (7) Decreed Debt (8) Bad and Doubtful Debts. But results of health code system were not highly satisfactory; in order to solve various problems of Indian banking along with NPAs and to bring Indian banking practices on international platform RBI constituted a committee under the chairmanship of M. Narsimhan ex-chairman of RBI in 1991. The committee submitted its report with debt classification, capital adequacy, provisioning etc., recommendations spoiled Health Code System and as per recommendation of Narsimhan Committee loans and advances classified into four categories on the base of record of recovery (1) Standard Assets (2) Sub-standard assets (3) Doubtful Assets (4) Loss Assets. Income recognition norms also introduced in Indian banking system that income must be recorded on accrual basis. When only realized income has recorded in the financial year 1992-93 almost banks showed lesser profit than previous year.

In the present paper, an attempt has been made to measure the effectiveness of SAERFASI Act 2002 towards non-performing assets recovery.

II. BACKGROUND OF SARFAESI ACT 2002

The previous legislations enacted for recovery of the default loans was Recovery of Debt due to banks and Financial Institutions Act 1993. This act was passed after the recommendations of the Narsimham Committee-1 were submitted to the central government. Two forums were created by this act as Debt Recovery Tribunal and Debt Recovery Appellate Tribunals for the speedy settlement of disputes with regard to ever increasing non-recovered dues. But several weaknesses were identified in this act and these weaknesses were misused by the borrower as well as lawyers. This led to the government introspect the provisions of act and as result a new committee was formed under the chairmanship of Andhyarujina to examine banking sector reforms and considerations to change in the existing system. This Committee recommended to enact a new act for the establishment of securitization and reconstruction companies and to empower banks and financial institutions to possession of the non-performing assets. Consequently, SARFAESI Act 2002 (Securitization and reconstruction of Financial Assets and Enforcement of Security Interest Act 2002) came into force and empowered secured creditors to recover their dues without intervention of the Court.

III. FUNDAMENTAL OBJECTIVES OF THE ACT

Following are the fundamental objectives of this act:

- Determining the legal framework for security in India.
- Transfer of NPAs to property reconstruction companies for settlement of assets and receipt of income.
- To enforce the security interest without intervention of Indian court.
- To empower the banks and financial institutions to take over the immovable property that is hypothecated or charged to enforce the recovery of debt by seizing the property.

IV. REVIEW OF LITERATURE

A large number of papers on non-performing assets are published covering various aspects of it like trends of NPAs, Causes, impact of recovery channels adopted by government and banks etc. Some important studies of them are as under:

Tiwari, Ambuj & Garg Vipul (2018) have examined the current trends of NPAs in Indian banking sector, under this paper impact of NPAs on various parameters of economy has also been measured. They found that this problem is mainly existed in developing economies.

Jayakkodi, D and Rengarajan, P., (2016) they have evaluated the affect of NPAs on performance of banks including earning capacity. They found that high level of NPAs always indicates credit defaults which adversely affect profitability and net worth of bank.

Rathore, D. S. *et al* (2016) have examined the impact of non-performing assets on economy. In their study they included economy as whole and its sub parameters. They found that there positive correlation between income of bank and its advances. Development of an economy depends on quality of advances and generation of NPAs out of these advances adversely affects the development of an economy.

Chakrabarti Manas., (2015) this study highlights the role of ARCs in NPAs. Many hurdles in front of ARCs have been highlighted under this study.

Das, Sulagna Dutta Abhijit, (2014) This is a comparative type of study under which non-performing assets of various banks have been assessed, which has a study of approximately 6 years, along with the reasons for these non-performing assets have also been reviewed, on the other hand, non-performing assets efforts have also been made to know evil effect and guidance has also been given on proper management.

Singh, Asha (2013) she has highlighted in this study that NPAs is major parameter for banking health measurement study found that public sector banks performance is better than private sector banks. Many suggestions have been given under this study majorly beyond a certain level NPAs is always dangerous.

Rani, Chanchal., (2012) examined the impact of Securitisation Legislation on the Management of Non-Performing Assets and she concluded that decline in gross and net NPAs has been observed at all levels of banking operations but degree may not be same for gross and net decline of NPAs to advances.

Roy Nibedita., (2011) under this study it is decided to ensure that the safety process impacts the Indian banking industry and securitisation plays very crucial role in NPAs management, good management of it can affect the increase in credit portfolio management level of risks of these institutions and their loans This paper really shows impact of good management in terms of improvement in property quality, performance in security, and ultimately management.

Danyal (2010) In this study, the researcher has studied private banks in the context of NPAs, and has also tried to know the reasons for the rapid speed progress of private banks, the study has shown that the NPA is the head of the bank's progress can be used as a paradigm because the financial condition of any bank can be evaluated through NPA. Higher NPA level indicates low financial health of a bank. In the study, NPA has been considered as the main agent of the bank's financial position

M. Karunakar Research (2008) under this study, attempts have been made to know the problems of losses in the banks and to find out the benefits of low profit components, as well as focus on how to manage the risk. Studies have found that Non-Performing Assets (NPAs) are a major component behind these two reasons, this study also focusing on the management of Non-Executed Assets (NPAs) in this paper.

V. OBJECTIVES

This paper focuses on the following objectives:

- To study role of SARFAESI Act 2002 in Non-performing assets recovery.
- To analyze the trend of NPAs recovery under SARFAESI Act 2002.

VI. RESEARCH METHODOLOGY

The research methodology is a systematical way through which a researcher has to go, for addition a new knowledge in existing knowledge of the subject. In other words, it is an attempt to solve the problem systematically. With a view to achieving the objectives of the proposed paper following research methodology has been adopted.

VII. DATA COLLECTION

In order to find significant results time series data has been collected.

Main Sources of Data:

- RBI Publications: Annual Reports and Trends and Progress of Indian Banking.
- IBA Journal.

VIII. METHOD OF SAMPLING

- Data from 2003-17 has been included in the study.
- Out of various channels of NPAs recovery only one channel SARFAESI Act 2002 has been included in the study.

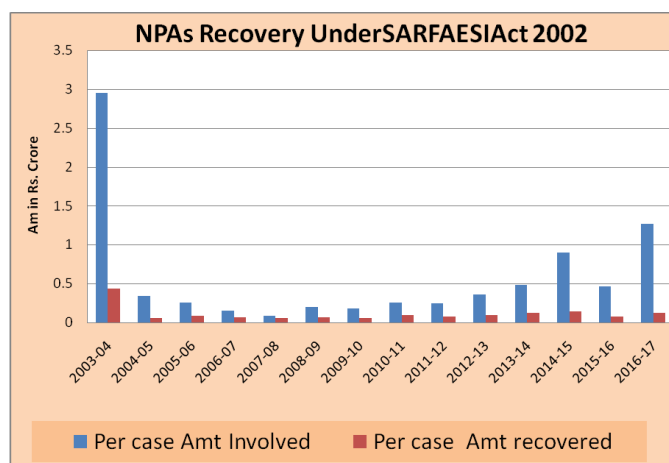
IX. TOOLS AND TECHNIQUES FOR DATA ANALYSIS

To find inferences various statistical tools have been used such as mean, standard deviation, graphical method, ratio analysis, graphs, tables are used to analyze the data and also to predict the future trends so as to get a particular inference from it.

TABLE I: EFFECTIVENESS OF SARFAESI ACT-2002

NPAs Recovery Under SARFAESI Act-2002 (Amount in Rs. Crore)					
Years	No. of Cases Referred	Amt. Involved	Amt. Recovered	Per case Amt. Involved	Per case Amt. Recovered
2003-04	2661	7847	1156	2.948891394	0.434423149
2004-05	39288	13224	2391	0.336591326	0.060858277
2005-06	38969	9831	3423	0.252277451	0.087839052
2006-07	60178	9058	3749	0.150520124	0.062298514
2007-08	83942	7263	4429	0.086524028	0.052762622
2008-09	61760	12067	3982	0.195385363	0.064475389
2009-10	78366	14249	4269	0.181826302	0.054475155
2010-11	118642	30600	11600	0.257918781	0.097773133
2011-12	140991	35300	10100	0.250370591	0.071635778
2012-13	190537	68100	18500	0.357410897	0.097094003
2013-14	194707	94600	24400	0.485858238	0.125316501
2014-15	175355	156778	25600	0.89406062	0.145989564
2015-16	173582	80100	13179	0.461453377	0.075923771
2016-17	226187	286000	28000	1.264440485	0.123791376

Source: Trend and Progress of Indian Banking and IBA Bulletin



Graph 1

TABLE II: SARFAESI ACT 2002 NPAs RECOVERY DESCRIPTIVE STATISTICS

	N	Minimum	Maximum	Mean	Std. Deviation
No. of Cases Referred	14	2661.00	226187	113226.0714	70394.80974
Amount Involved	14	7263.00	286000	58929.78571	78817.72518
Amount Recovered	14	1156.00	28000	11055.57143	9456.738255
Per case Amount Involved	14	.09	2.948891394	0.58025207	0.752671356
Per case Amount Recovered	14	.05	0.434423149	0.111046877	0.097474735
Valid N (list wise)	14				

A momentous gap has been existed from the beginning in total amount of NPAs involved and amount removed out of it. In the year 2007-08 this gap was considered as minimum i.e. in this financial year Indian banks have been able to recover maximum involved in 83992 cases referred to SARFAESI Act 2002. In the year 2012-13 total amount of NPAs involved for recovery through SARFAESI Act 2002 was amount 68100 crores only 27.17% was recovered majority of is still unrecovered. Under SARFAESI Act 2002 banks and financial institutions are not able to recover average 70% in last fourteen years. Situation in the year 2016-17 is totally adverse, analysis shows big difference between average value of amount involved and recovered.

X. CONCLUSIONS

Recovery of non-performing become a great challenge in front of Indian banking sector as well as government of India. Increasing level of NPAs in a banking system adversely affect the various operations like lending, liquidity, solvency, profitability, goodwill, innovations etc. soundness of all these factors contribute in growth of economy of a country. A large number of steps towards recovery of NPAs have been taken by banks, Reserve Bank of India and Government of India in the form of one time settlement, Technical write off, Lok Adalat, DRTs and SARFAESI Act. Before enactment SARFAESI Act 2002 it was being considered by every one that this act

Fourteen years performance of SARFAESI Act 2002 has been analyzed from 2003-04 to 2016-17. Graph 1 depicts the trends of number of cases referred to SARFAESI Act-2002 along with amount involved and amount recovered. Graph shows that numbers of cases referred are very large in number and increasing year by year. In the financial year 2003-04 total numbers of cases referred were 2661 whereas in 2012-13 total cases referred are recorded 190537. Amount of NPAs recovered under this act has not been considered very significant in the year 2003-04 only 43.44% had been recovered. In the year 2016-17 226127 cases were referred for recovery with amount of Rs. 286000 crores but only 2800 crores could recover that totally insignificant. Under SARFAESI Act 2002 banks and financial institutions are not able to recover average 70% in last fourteen years.

will be very powerful tool in the direction of NPAs Recovery. Performance of fourteen years of this act is not up to the mark as expected before its enactment. On average less than 30% NPAs has been recovered through this act and 70% amount under SARFAESI Act 2002 is still unrecovered. Majority of NPAs referred under this act are still unrecoverable. These unrecovered NPAs become a great challenge before existence of Banking. Government of India and RBI should take borrower wise more actions towards recovery of NPAs existed in Indian banking.

REFERENCES

- [1] A. Tiwari, and V. Garg, "A study of non-performing assets of Indian banking system and its impact on economy," *IJMB*, vol. 8, no. 2, April-June 2018.
- [2] D. S. Rathore, S. Malpani, and S. Sharma, "Non performing assets of Indian banking system and its impact on economy," *IOSR Journal of Economics and Finance (IOSR-JEF)*, vol. 7, no. 6, ver. III, November-December 2016.
- [3] D. Jayakkodi, and P. Rengarajan, "Impact of non-performing assets on return on assets of public and private sector banks in India," *International Journal of Applied Research*, vol. 2, no. 9, 2016.
- [4] M. Chakrabarti, "The role of Asset Reconstruction Companies (ARCs) in Non-Performing Assets

- (NPAs) management in Indian banking sector: An empirical study,” *Abhinav International Monthly Refereed Journal of Research in Management & Technology*, vol. 4, no. 5, May 2015.
- [5] A. L. Joseph, and M. Prakash, “A study on analyzing the trend of NPA level in private sector banks and public sector bank,” *International Journal of Scientific and Research Publications*, vol. 4, no. 7, July 2014.
- [6] S. Das, and A. Dutta, “A study on NPA of public sector banks in India,” *IOSR Journal of Business and Management (IOSR-JBM)*, vol. 16, no. 11, pp. 75-83, ver. I, Nov. 2014.
- [7] A. Singh, “Performance of Non-Performing Assets (NPAs) In Indian commercial banks,” *International Journal of Marketing, Financial Services & Management Research*, vol. 2, no. 9, Sep. 2013.
- [8] C. Rani, “Status of Non Performing Assets (NPAs) after the enactment of securitisation (SARFAESI) act,” *International Journal of Research in Finance & Marketing (IJRFM)*, vol. 2, no. 11, December 2012.
- [9] N. Roy, “Securitisation - A risk management tool in Indian banking industry,” *Business Spectrum*, vol. 1, no. 2, July-December 2011.
- [10] Trend and Progress of Indian Banking in India (Various Issues).
- [11] S. N. Bidani, *Managing Non-Performing Assets in Banks*, Vision Books, New Delhi, p. 39, 2002.
- [12] D. P. Sarda, *Hand Book on Prudential Norms for Banks*, Govind Parkashan, Natraj Nagar, Jaipur, p. 8, 2003.
- [13] N. S. Toor, *Non-Performing Advances in Banks*, 2nd ed., Sky Lark Publication, New Delhi, p. 49, 1997.
- [14] <http://www.igidr.ac.in/pdf/publication/WP-2017-019.pdf>
- [15] <https://www.pwc.in/assets/pdfs/publications/2014/growing-npas-in-banks.pdf>
- [16] <http://www.ijmbs.com/Vol8/issue2/2-ambuj-tiwari.pdf>
- [17] <http://www.iosrjournals.org/iosr-jef/papers/Vol17-Issue6/Version-3/D0706032126.pdf>
- [18] http://globalbizresearch.org/New_York_Conferences_2017_April1/docs/doc/2.%20Finance,%20Accounting%20&%20Banking/N719.pdf
- [19] <http://www.careratings.com/upload/NewsFiles/SplAnalysis/Bank%20NPAs%20June%202017.pdf>
- [20] <https://www.scmsspune.ac.in/chapter/2016/Chapter%209.pdf>
- [21] <https://acadpubl.eu/hub/2018-118-21/articles/21f/2.pdf>
- [22] <http://www.wbnsou.ac.in/openjournals/Issue/2nd-Issue/Surojit.pdf>
- [23] <http://data.conferenceworld.in/Newton/43.pdf>
- [24] <http://academicscience.co.in/admin/resources/project/paper/f201803281522226286.pdf>
- [25] <http://www.allresearchjournal.com/archives/2016/vol2issue9/PartJ/2-9-124-583.pdf>