

## CASE WATCH COAL IMPORT

# DRI challenges quashing of letter rogatories by HC

**KHUSHBOONARAYAN**  
MUMBAI, NOVEMBER 21

THE DIRECTORATE of Revenue Intelligence (DRI), on November 19, filed a special leave petition (SLP) in the Supreme Court challenging a Bombay High Court order that has quashed all letter rogatories (LRs) sent by the agency to foreign countries in connection with the alleged overvaluation of Indonesian coal imports from 2011 to 2015 by two Adani Group companies.

An LR is a formal request between two nations party to a mutual legal assistance treaty (MLAT), seeking judicial assistance in accessing information on an offshore entity in connection with an ongoing probe. The DRI has contended that the Customs Act, 1962 is a self-contained law to deal with smuggling of goods and even the legislature has made it evident that magisterial intervention is not required for initiating a probe under the customs rules.

According to the DRI, an investigation by officers of the Customs, Enforcement Directorate, Wildlife Crime Control Bureau, Narcotics Control Bureau and Serious Fraud Investigation Office under the Customs Act, Prevention of Money Laundering Act, Wildlife (Protection) Act, NDPS Act and the Companies Act, respectively, does not start by registering FIRs or by seeking an order from a Magistrate unlike police officers. Therefore, the DRI feels that under the Customs Act, an FIR under the Code of Criminal Procedure or magisterial intervention is not required for initiation of Customs investigation.

On October 17, the Bombay HC had allowed the writ petition filed by Adani Enterprises Ltd, claiming that LRs were issued "without any notice and hearing the companies" and "no cognizance of any offence" under the Customs Act, 1962 has been registered till now by the DRI against the Adani firms in the coal imports case. The agency said that the HC order has not only halted its investigations into the coal case against 40 companies, including the

**On October 17, the Bombay High Court had allowed the writ petition filed by Adani Enterprises Ltd, claiming that LRs were issued "without any notice and hearing the companies"**

Adani firms, but also has the potential to impact the LRs sent by other enforcement agencies in different cases.

So far, the DRI had issued 14 LRs to multiple foreign jurisdictions, such as Singapore, Hong Kong, Switzerland, UAE among others, seeking information in the alleged over-valuation in Indonesian coal imports. It has specifically sought import documents negotiated by the Singapore and Dubai branch of Indian banks with Indonesian coal suppliers.

These documents contain the actual price of coal before it was allegedly inflated. While private banks have submitted the data to DRI, public sector banks have declined to submit the information citing confidentiality clauses of the foreign country.

The DRI probe against these 40 companies began after it issued a general alert to its field formations across India in March 2016, outlining the modus operandi of over-invoicing of coal imports from Indonesia. The DRI alleged that money was being "siphoned" outside India and electricity-generating firms were availing of "higher tariff compensation based on artificially inflated cost of the imported coal".

It also alleged that Indonesian coal was directly imported from ports in Indonesia to India while import invoices were routed through one or more intermediaries based in Singapore, Hong Kong, Dubai and British Virgin Islands to artificially inflate its value.

The agency, as per sources, found that inflated invoices received in India were issued by intermediaries, allegedly subsidiary firms of Indian importers or their fronts.

## HOPE IBC TIMELINES ARE ADHERED TO, SAYS SBI CHAIRMAN

# Bankers expect many suitors for DHFL; stock climbs 5%

**ENSE ECONOMIC BUREAU**  
MUMBAI, NOVEMBER 21

A DAY after the Reserve Bank of India (RBI) superseded the board of Dewan Housing Finance Corporation Ltd (DHFL) and initiated bankruptcy proceedings, bankers said the firm is likely to attract many suitors for the takeover of the debt-ridden firm.

DHFL shares, which had plunged 92 per cent over the last year, rose 5 per cent to Rs 21.15 on Thursday, with markets speculating on the interest of some big corporate houses to take control of the company through the bankruptcy process.

State Bank of India (SBI) Chairman Rajnish Kumar told reporters that many suitors are expected for DHFL as "it's a good franchise". However, he did not name any particular corporate house. "There is a 330-day timeline that is also extended timeline. Otherwise, normally it should happen in 180 days that is the intent of the (Insolvency and Bankruptcy Code) process. So, let us hope that those timelines are adhered to and let us hope for the best," he said. SBI has an exposure of Rs 7,000 crore in DHFL.

However, bankers said a clear picture will emerge only when the financial position of the housing finance firm emerges through the IBC process in the coming days.

**EXPLAINED**

## Lenders hope for 'white knight' to recover dues

WITH CLOSE to Rs 38,000 crore stuck in DHFL, bankers are hoping that a 'white knight' will appear to salvage their money. Besides, funds of mutual funds and retail investors are stuck in the company.

DHFL owes Rs 26,324 crore to banks as term loans, Rs 1,203 crore as short-term loans and Rs 10,815 crore as non-convertible debentures. It also owes Rs 2,747 crore as ECBs, Rs 2,350 crore to NHB, Rs 6,188 crore as public deposits and Rs 2,267 crore as subordinate debt, among others, as of July 2019. The total liabilities were around Rs 84,000 crore.

"The liabilities of DHFL are huge. It is to be seen whether suitors will come forward with a proposal which is suitable to the lenders. How much haircut the lenders will accept is also to be seen," said a banking source. "There was speculation in the market that the Adanis, Piramals and Apollo would be interested in DHFL," said a dealer with a brokerage house.

Sebi Chairman Ajay Tyagi had said mutual funds would also join the resolution process of DHFL, which would be done under the framework of the insolvency law. DHFL owes more than Rs 38,000 crore to banks towards long-term, short-term loans and NCDs. What is worrying bankers are reports

about fund diversion by DHFL. Audit firm KPMG, which carried out the forensic audit of DHFL, has reportedly found instances of fund diversion of over Rs 19,000 crore of bank loans to DHFL's related entities. While DHFL promoters, the Wadhawans, hold 39.21 per cent stake in the company, foreign investors hold 9.48 per cent stake.

RBI on Wednesday said it would take the company to the National Company Law Tribunal to chalk out a rescue package or liquidation for DHFL which defaulted on repayments to banks, mutual funds and retail investors.

"The Reserve Bank also intends to shortly initiate the

## 'India Inc's M&A deal value slips 45% in Oct'

Corporate India saw merger and acquisition (M&A) deals worth \$1.5 billion through 28 transactions in October, registering a 45 per cent decline over the same month last year, according to Grant Thornton's M&A Dealtracker

SECTORS THAT ATTRACTED MAJOR DEALS DURING OCTOBER



SECTORS ARE EXPECTED TO CONTRIBUTE TO M&A TRANSACTIONS



**350**

The number of transactions worth \$25,162 million in the first 10 months of this year, while in the year ago period, there were 414 such deals worth \$80,640 million

**28**

The number of M&A deals worth \$1.5 billion in October this year, while in the same period last year 47 such deals were announced worth \$2.8 billion

**ENERGY** sector dominated October's M&A in terms of values with 64 per cent contribution to total M&A deals

**DEAL VOLUMES** was fairly spread across pharma, automotive, banking and financial services, energy and natural resources, IT and ITes, and media and entertainment sectors

**JANUARY-OCTOBER** deal activity continued to witness weak performance in terms of both deal values and volumes compared to the year-ago period

## FinMin: ₹2.5 lakh-cr of loans disbursed by PSBs in October

**ENSE ECONOMIC BUREAU**  
NEW DELHI, NOVEMBER 21

PUBLIC SECTOR banks (PSBs) disbursed a record Rs 2,52 lakh crore of loans during the festive month of October, as the Centre had asked PSBs to conduct special credit deployment programmes in 400 districts in two phases. State-owned lenders disbursed Rs 2,52,589 crore of loans during the month through special camps in 374 districts and through all other branches, the Finance Ministry said Thursday.

As much as Rs 1,05,599 crore was given towards new term loans, while Rs 46,800 crore was disbursed as new working capital loans. So, fresh lending, including new term loans, was 60 per cent of the total disbursement, it said.

In order to boost credit availability in the economy, Finance Minister Nirmala Sitharaman had in September asked banks to reach out to customers and hold special credit disbursal camps while keeping in mind prudential norms. Under her direction, outreach camps or loan melas were conducted across 374 districts across the country during October.

Credit to NBFCs during the month was Rs 19,627.26 crore, the statement said. Credit deployment programmes were conducted by banks in participation with private banks and NBFCs in 226 districts from October 1-9 in Phase-I and 148 districts from October 21-25 in Phase-II.

"PSBs actively reached out to their customers in these camps and made concerted efforts towards activities such as sanctioning of loans as per prudential norms, opening of accounts along with Aadhaar and mobile seeding of accounts, and popularising BHIM app. The drive also simultaneously galvanised similar outreach efforts in individual branches of PSBs i.e. outside the camps," the Ministry said.

As per the data released, corporates availed the maximum of Rs 1.22 lakh crore of loans during October 2019, followed by agriculture loans (Rs 40,504 crore) and MSMEs (Rs 37,210 crore). Home loans worth Rs 12,166 crore were given by banks while vehicle loans stood at Rs 7,058 crore. Out of the total credit, Rs 19,627.26 crore was given to NBFCs, the co-origination alone was to the tune of Rs 15,297.18 crore and pool buyout was Rs 1,453.13 crore.

While corporates took the most loans in October from PSU banks, separate data by the Reserve Bank shows that growth in bank credit to industries slowed to 2.7 per cent in September—the lowest in the last 12 months. This is after having recovered earlier this year to hit a four-and-a-half year high of 6.9 per cent in April. The RBI data showed that gross bank credit, too, grew by just 8.2 per cent in September—the lowest in 22 months. Gross bank credit saw double digit year-on-year growth in each of the months between April 2018 and July 2019.

## Proactive monitoring, traceability of original sender to be in IT rules

**KARISHMA MEHROTRA**  
NEW DELHI, NOVEMBER 21

THE IT Ministry, in Rajya Sabha on Thursday, said it will amend the Information Technology (Intermediaries Guidelines) Rules, 2011 notified under Section 79 of the IT Act, including mandates for intermediaries to trace the original sender of messages and proactive monitoring. The Ministry received 171 comments and 80 counter comments on the draft of the amendments, according to the Ministry's response to a question by Congress MP P Bhattacharya.

"Key features of proposed amendments in the due diligence are: (i) periodically informing the users for compliance of rules & regulations, users agreement & privacy policy, (ii) traceability of the originator of the information, (iii) significant intermediaries having more than 50 lakh users to have an office in India and to appoint a nodal officer for liaisoning with law enforcement agencies, (iv) removal of malicious content in 24 hours upon receiving a court order or when notified by appropriate government, (v) deployment of technology based automated tools or appropriate mechanisms for proactively identifying and removing or disabling public access to unlawful information or content, etc." the IT Ministry response stated.

Responding to a calling attention notice in Rajya Sabha last year on the "misuse of social media

**The IT Ministry received 171 comments and 80 counter comments on the draft of the amendments, as per the Ministry's response to a query by Congress MP P Bhattacharya**

platforms and spreading of fake news", the Ministry, in December last, released a draft of its intermediary guidelines amendments.

The draft stated that the intermediary must provide information requested by the government within 72 hours, and "enable tracing out of such originator of information on its platform as may be required by government agencies who are legally authorised".

"The Intermediary shall deploy technology based automated tools or appropriate mechanisms, with appropriate controls, for proactively identifying and removing or disabling public access to unlawful information or content," it further stated.

In an ongoing Supreme Court case involving WhatsApp and Facebook, the IT Ministry has submitted that they will update these laws by January 15.

When the draft law was released, WhatsApp said publicly that, if notified, they would require a complete re-design of the platform, threatening their highly-coveted encrypted features.

## Day after BPCL privatisation plan, Pradhan: Govt has no business to be in business

**PRESS TRUST OF INDIA**  
NEW DELHI, NOVEMBER 21

OIL MINISTER Dharmendra Pradhan on Thursday hinted that public sector firms such as Indian Oil Corporation (IOC) may not be allowed to bid for buying government stake in Bharat Petroleum Corporation Ltd (BPCL), for which a buyer may have to shell out as much as Rs 90,000 crore.

The Cabinet Committee on Economic Affairs had on Wednesday decided to sell the government's entire stake in the country's second-largest state re-

finer BPCL and Shipping Corporation of India (SCIL). It also approved privatisation of Container Corporation of India while also giving nod to paring stake below 51 per cent in select PSUs but without losing control.

"Since 2014, we have a clear vision that the government has no business to be in business," Pradhan told reporters here.

"We have examples of 2-3 sectors such as telecom and aviation where ushering in private participation has led to customers benefiting from price cuts, efficiency, and better service. And yesterday (on

**"We have examples of 2-3 sectors such as telecom and aviation where ushering in private participation has led to customers benefiting from price cuts, efficiency, and better service"**

**DHARMENDRA PRADHAN**  
UNION PETROLEUM MINISTER

Wednesday), several reformist decisions were taken."

BPCL will give buyers ready access to 14 per cent of India's oil

refining capacity and about one-fourth of the fuel marketing infrastructure in the world's fastest-growing energy market.

It, however, will be sold after carving out Numaligarh Refinery from its portfolio and given to a public sector unit. "Numaligarh refinery was set up as per Assam Accord and it will remain a public sector unit. Assam Chief Minister had requested Prime Minister to retain public sector character of Numaligarh Refinery and that has been accepted," he said.

Pradhan, however, did not say if IOC or Oil India Ltd, which already has a stake in the refinery

and also supplies crude oil to it, will take over the unit.

"The details have to be worked out," he said. "Finance Minister (Nirmala Sitharaman) has stated that the privatisation of BPCL will happen this fiscal and we hope to adhere to the timeline."

Asked if public sector units will be allowed to bid for the government's 53.29 per cent stake, he said: "Nitty gritty and details of the disinvestment process will have to be worked out but when I say the government has no business to be in business, it is indicative of possible future course of action."

## PSU stake sale to strengthen firms, says Ficci

**New Delhi:** Industry body Ficci on Thursday hailed the government's go-ahead to the sale of its stake in PSU's BPCL, SCIL and Concor stating that the move would strengthen the performance of these firms and bring in fresh investments for both modernisation and expansion. **PTI**

**PRESS TRUST OF INDIA**  
MUMBAI, NOVEMBER 21

STATE BANK OF India (SBI) does not "mind" its lower stock valuation compared to a leaner private sector players due to state ownership and social sector focus, but admitted that it needs to improve on commercial decisions.

Speaking at an event organised by former Sebi chief M Damodaran here on Thursday, Arijit Basu, a managing director at SBI, also conceded that the bank has erred on some business decisions and cannot attribute those to social compulsions.

SBI's market capitalisation on Friday stood at a low Rs 2.95 lakh crore, which is just about 42 per cent of private sector HDFC Bank's Rs 70.2 lakh crore, while SBI's loan-

## US-CHINA TRADE WAR

# Will try hard to reach a 'phase one' deal, says China

**STELLA QIU & RYAN WOO**  
BEIJING, NOVEMBER 21

CHINA WILL strive to reach an initial trade agreement with the US as both sides keep communication channels open, the Chinese Commerce Ministry said Thursday, in an attempt to allay fears talks might be unravelling.

China is willing to work with the United States to resolve each other's core concerns on the basis of equality and mutual respect, and will try hard to reach a "phase one" deal, Gao Feng, spokesman at the ministry, told reporters.

"This is in line with the interests of both China and the United States, and of the world," Gao said. Economists warn that the pro-

longed trade dispute between China and the United States is escalating risks to the global economy by disrupting supply chains, discouraging investment and dampening business confidence.

Completion of a phase one deal could slide into next year, trade experts and people close to the White House told Reuters previously, as Beijing presses for more extensive tariff rollbacks and the US administration counters with heightened demands of its own.

China has invited top US trade negotiators for a new round of face-to-face talks in Beijing, the Wall Street Journal reported on Thursday. China has invited top US trade negotiators for a new round of face-to-face talks in Beijing, the Wall Street Journal reported on Thursday, citing unnamed sources, adding Beijing hopes the round of talks can take place before next Thursday's Thanksgiving

## 3 KEY POINTS

**1** China is willing to work with the US to resolve core concerns, Commerce Ministry said

**2** China has invited top US trade negotiators for a new round of face-to-face talks in Beijing, the Wall Street Journal reported on Thursday

**3** US officials have indicated they would be willing to meet in person but have not committed to a date

holiday in the United States.

US officials have indicated they would be willing to meet in person but have not committed to a date, the report said, and they would be reluctant to travel for the talks unless China makes it clear it would make commitments on intellectual property protection, forced technology transfers and agricultural purchases.

Global equities retreated on Thursday due to concerns that the 'phase one' deal would be delayed. The trade jitters also sent the 10-year US Treasury yield down to near its lowest levels in three weeks. The Chinese yuan also softened against the dollar.

Officials from Beijing had suggested that Chinese President Xi Jinping and US counterpart