

ALL INDIA TRADE UNION CONGRESS
CENTRAL OFFICE
NEW DELHI

5

1993-94

File No. ~~SECRETARIAT 1973~~

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Documents on Braithwaite & Co Limited

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भारतीय औद्योगिक पुनर्निर्माण बैंक

BY COURIER

पूर्वी क्षेत्रीय कार्यालय : ए० जी० टावर्स (4वीं मंजिल) 125/1, पार्क स्ट्रीट कलकत्ता-700 017

INDUSTRIAL RECONSTRUCTION BANK OF INDIA

EASTERN REGIONAL OFFICE : A. G. TOWERS (4th Floor)

125/1, PARK STREET, CALCUTTA-700 017

फोन/Phone : 29 7260, 29 2895 टेलिक्स/Telex : 21-4910 IRBI IN

संदर्भ/Ref. IRBI: EZO:WIL: 2100 :93

30.04.1993

List of addresses annexed.

Dear Sir,

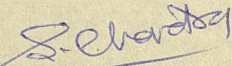
Re : Braithwaite & Co. Ltd. (BCL) -
Case No. PSU(C)528/92 - Bench II

Please refer to the BIFR hearing held on 11.03.93 in respect of the captioned company, wherein IRBI was appointed as the Operating Agent to examine the techno-economic viability of the company and to prepare a scheme for revival/rehabilitation of BCL, in line with the measures and guidelines stipulated by the Hon'ble Bench at the aforesaid hearing. IRBI has been directed to submit its scheme/report by 30.06.93 as per the BIFR Order.

In this connexion your kind attention is drawn to BIFR's directive of examining the possibility of a workers' or employees' Co-operative being entrusted to run the unit by transferring shares of the management of the company to it.

We would request you to kindly communicate your views on the above directive of BIFR at an early date in order to enable us to proceed further in the matter.

Yours faithfully,


Subhash Chandra
STAFF OFFICER

1. The Special Secretary
Industrial Reconstruction Deptt.
Govt. of West Bengal
Writers' Buildings
Calcutta-700001
2. The President
Braithwaite Mazdoor Karmachari Union
41/1 Bhukailash Road
Calcutta-700023
3. The President
Braithwaite Employees' Union
P-61 A/1, Circular Garden Reach Road
Calcutta-700043
4. The President
Braithwaite Shramik Karmachari
27B, Karl Marx Sarani
Calcutta-700023
5. The President
BBJ Working Men's Union
28 Karl Marx Sarani
Calcutta-700023
6. Braithwaite Officers' Association
48, Pearl Pkhan Sur Garden Lane
Calcutta-700085

23125

From :

INDUSTRIAL RECONSTRUCTION BANK OF INDIA
EASTERN ZONAL OFFICE
A. G. TOWERS (4TH FLOOR)
125/1, PARK STREET
CALCUTTA-700017

ACTIVITY 1

Group 1

The Environment and Trade Unions

AIMS

- Note the new definitions of and relationship between environment and development.
- Identify key issues on environment protections.
- Examine trade union views on the environment.

TASKS

In your group consider the following statements and prepare a group report:

1. The environment is currently a "hot topic", sooner or later another "hot topic" will take its place.
2. There does not seem to be any relationship between poor environmental management and development in our country.
3. We are fighting for economic survival, all this discussion about the environment is sending jobs to where they are less concerned with environmental issues. The membership are not interested in the environment and will not thank us if we are involved in jobs chasing away.
4. Trade unions should concentrate on pay and conditions of work and leave wider questions like environment to Government.
5. List the key environmental issues on the flip chart provided.

Elect a spokesman to give your group's report in the plenary session.

5, Hide Road,
CALCUTTA-700 043

23rd May, 1993

To
The Staff Officer,
I.R.B.I.,
125/1, Park Street,
CALCUTTA-700 017

Dear Sir,

Sub: Braithwaite & Co. Ltd. (BCL) -
Code No. PSU(C)/528/92-Bench-II

With reference to your letter dated 30-4-93 addressed to our President on the above subject, we make the following submission :

1. We understand that the 1st hearing was held on 11-3-93 in Delhi before BIFR, where no workers' representative was called and we were denied any opportunity to place our views. However, a copy of record notes of discussions was handed over to us just on 13-5-93 by the Management.
2. From the preliminary study of the above record notes we find that BIFR has directed number of measures and guide lines for the revival packages. We are waiting for the opportunity to discuss the revival package in totality, rather than being restricted only to the concept of workers' co-operative for such a big capital goods industry.
3. In this connection it may be noted that we had prepared a revival plan with Govt. as promoter on 26-4-92. This was submitted to the BCL Management and the Special Parliamentary Sub-Committee on revival of sick PSUs, headed by the then Dy. Minister of Labour, Shri P.K. Ghatwar. We are enclosing a copy of the same for your kind information. (Annexure-I). It may be mentioned that in last financial year 1992-93 the performance of BCL was better than that was projected in this report (Annexure-II). In this connection we are enclosing herewith a copy of Press Statement issued by the Management highlighting the performance achieved by the BCL in 1992-93 showing that the Company has achieved a cash profit of Rs 10 lakhs as well as a Press cutting of sample study of top 10 achievers in Heavy Industries in PSUs (Annexures III & IIIA).
4. We propose to send you an up dated revival report based on the above within June'93. For the purpose of preparation of such a report it is necessary to have the relevant extract on BCL from the Atkins Report, referred time and again in record notes of discussion. We are sure, you will kindly agree that an important document like this which is linked up with the future of 4,600 employees, should be made available at the earliest.

Cont'd.

We sincerely hope that you would give us ample opportunity to discuss and to put forth our views on the revival plan of BCL before finalising the same.

Thanking you,

Encl: As above

Braithwaite Officers' Association

Yours faithfully,

BRAITHWAITE MAZDOOR
KARMACHARI UNION
(CITU)

BRAITHWAITE EMPLOYEES'
UNION (INTUC)

BRAITHWAITE SHRAMIK
KARMACHARI UNION
(AITUC)

BRAITHWAITE
OFFICERS'
ASSOCIATION

GENERAL SECRETARY

JT. GENL. SECY.

JT. GENL. SECY.

GENL. SECRETARY

Jt. Gen. Secretaries.

Braithwaite (M.W.) Employees' Union



Copy to:

- 1) Hon'ble Shri M. Dandapani
&
Hon'ble Shri Badal Roy } Member, BEER N BENDU II, New Delhi
- 2) The Managing Director,
Braithwaite & Co. Limited,
Calcutta-700 043.
- 3) The General Manager, State Bank of India,
Central Office, Post Box No. 12, Madame Cama Road,
Bombay-400 021.
- 4) The Secretary, Ministry of Industry,
Deptt. of Heavy Industry, Udyog Bhavan, New Delhi-110 001.
- 5) The Secretary, Industrial Reconstruction Department,
Govt. of West Bengal, Calcutta.
- 6) The Chairman, Securities & Exchange Board of India,
Hittal Court, 'B' Wing, 224, Nariman Point, Bombay-400 021.
- 7) The Adl. Chief Officer, Reserve Bank of India,
Central Office, Industrial Export & Credit Deptt.,
Central Office Building, 12th Floor, P.B. No. 10030,
Bombay-400 023.
- 8) The Chairman & Managing Director,
Industrial Reconstruction Bank of India,
19, Netaji Subhas Road,
Calcutta-700 001.
- 9) Shri Prabir Sen,
A/517, Salt Lake,
Sector-1,
Calcutta-700 064.

Annexure - 1

BRAITHWAITE MAZDOOR KARMACHARI UNION
BRAITHWAITE EMPLOYEES' UNION
BRAITHWAITE SRAMIK KARMACHARI UNION
BRAITHWAITE OFFICERS' ASSOCIATION

CALCUTTA
The 26th April 1992

The Chairman,
Sub-committee of the
Parliamentary Consultative Committee,
Ministry of Labour,
NEW DELHI

Dear Sir,

Sub: Revival Plan for Braithwaite & Co. Ltd.

It is a matter of great shock to the employees and their families of Braithwaite to know that the Govt. of India has detected the Company as a chronically sick, as a result of which the fate of the employees have become unstable.

It will be very unfortunate and painful to us if this company is referred to BIFR whereas the labour productivity has already been tremendously improved in all its units, losses are also declining steadily.

In this regard we like to highlight that the very purpose of formation of Bharat Bhari Udyog Nigam Limited has become meaningless. It was formed some years back to improve the performance of different units under its control, to abolish unnecessary competition among its subsidiaries and other financial constraints and to stream line the production of different units as per the infrastructural facilities. But we think, BBUNL has miserably failed in doing so and itself has become a burden for its subsidiaries causing a considerable increase in administrative cost.

As decided in the first meeting of the sub-committee held at Rotunda of Writers' Buildings, Calcutta on 28.03.92, we take the privilege to submit a revival plan prepared jointly by all the three recognised Trade Unions and Officers' Association of the Company for your kind consideration.

In this context, we would request to your goodself to ensure participation in the Management from all the recognised Trade Unions

Cont'd.

and Officers' Association at all levels from policy making to implementation with a view to effective and justified utilisation of the public exchequer.

We strongly feel in Braithwaite neither VRS to be imposed nor the Company to be referred to BIFR, if the Government continues its support in regard to orders, materials, and pricing preference and at the same time the Management takes appropriate steps to arrest exorbitant non-productive administrative cost like shifting back office of its Project Office at 5, Hide Road, the Braithwaite will definitely survive as proposed in our revival plan.

We trust our proposed revival plan will be looked into with proper perspective with a view to make the Company viable.

With regards,

Yours faithfully,

BRAITHWAITE MAZDOOR
KARMACHARI UNION
(C.I.T.U)

BRAITHWAITE
EMPLOYEES UNION
(I.N.T.U.C)

BRAITHWAITE SRAMIK
KARMACHARI UNION
(A.I.T.U.C)

BRAITHWAITE
OFFICERS'
ASSOCIATION

[Signature]
Jt. Secretaries

[Signature]
Jt. Gen. Secy.

[Signature]
Jt. Gen. Secy.

[Signature]
Gen. Secy.

Encl: Revival Plan

Braithwaite Sramik Karmachari Union
A. I. T. U. C
Road, No. 2200

Braithwaite Mazdoor Karmachari Union
Road No 2200
4/1, B. K. Road, Calcutta

Jt. General Secretary
Braithwaite Employees Union

General Secretary
BRAITHWAITE OFFICERS' ASSOCIATION

Proposed Revival Plan prepared by
three recognised Trade Unions and
Officers Association
Of BRAITHWAITE & CO. LTD.

1. INTRODUCTION :

Braithwaite has been in operation in India since 1930 as an Indian Company although since 1913 it was a Branch Office of Braithwaite; U.K, in March 1971, the Management was taken over by the Government of India under the Industrial (Development and Regulation) Act. Effective from 1-4-1975 the Company was nationalised by taking over the assets of erstwhile Braithwaite & Co.(India) Ltd. and a new Company under the present title was incorporated on 1-12-1976 to whom the assets taken over were transferred.

After formation of the Holding Company, Bharat Bhari Udyog Nigam Ltd. in 1987 the shares originally held by the President of India were transferred to the Holding Company.

The Equity Capital as on 31-3-1991 is Rs.1664.67 lakhs.

2. PRESENT ACTIVITIES :

The Company has three manufacturing units and Project/Spl. Project Division viz -

- 1) Clive Works (Calcutta, West Bengal) engaged primarily in manufacture of Indian Railway Wagons, Special Wagons for carrying LPG, other Special and Export Wagons and fabrication of Structural Steel-work including Complex Girders for Bridges, Power House buildings and Aluminium fabrications etc. and Pressed Steel Tanks.
- ii) Angus Works (Hooghly, West Bengal) engaged Primarily in the manufacture of wide varieties of General and Special purpose Cranes including Container Handling Cranes, Rail Mounted Diesel Loco & Break-down Cranes, general purposes and steel Mill duty EOT Cranes and Dock-side Level Luffing Cranes, Jute Carding Machines, Roll Formers and Feeders for Jute Industries, Grey Iron Castings & Forgings etc. The Company also manufactures Container, Semi-Trailers and Steel Plant Equipments of limited range.
- iii) Victoria Works (Calcutta, West Bengal) engaged in structural fabrication work. This unit was acquired with effect from 1-4-1989 from EBJ Construction Co. Ltd., another subsidiary of the Holding Company.
- iv) Projects/Special Projects undertakes turnkey contracts from concept to commissioning in core sectors like coal, power, steel and oil.

3. PERFORMANCE :

Performance of the Company between the period 1985-86 to 1991-92 is enclosed at Annexure - 1.

It would be observed from the data that there has been substantial and consistent growth in production, except during the year 1987-88 when the Engineering PSUs in West Bengal had a strike for 47 days. The value added has also correspondingly increased but has been largely off-set by inflationary costs. The Company, therefore, continues to incur cash losses although these have shown progressively declining trend.

4. PROBLEMS AND ASSISTANCE NECESSARY :

4.1 The working capital available with the Company has depleted considerably since the cash losses have not been fully reimbursed by the Government. As on 31-3-92, the unbridged cash loss amounts to Rs.5 crores approximately.

So far we know that the Management has submitted proposals for financial restructuring for making good the unbridged cash loss, setting off of cumulative cash losses against Govt. loans, grant of further interest holiday and moratorium on payment of the principal amount of the loans upto 1994-95.

Favourable and early decision of the Government on this proposal would help in making good the working capital, since present limit of credit available from the Banks and from suppliers has reached unmanagable proportions.

4.2 With the trend of improvement in production owing to our joint effort at Clive Works, this unit has already broken even and surely would earn profit in future.

The Angus Works of the Company for last few years has been facing problem due to tremendous shortage of working capital and unbalanced orders.

The main product of this unit are different types of Tailor-made cranes. Since almost all the cranes are non-repetitive in nature the components could hardly be standardised. Substantial Working Capital is required during the manufacturing process. Due to lack of working capital, semi-processed inventory becomes very high and delivery are delayed. Moreover, material consumption part is so high in these tailor-made jobs, inspite of continuous increase in the labour productivity, value added has not increased to a desired level. Recent BPE's decision of withdrawal of price preference has further aggravated the situation. For the completion of the orders within the scheduled period, funding for Working Capital is very much needed. Funding for completion for conversion of Iron Foundry to Steel Foundry is also to be provided by the Govt. to achieve break-even by this unit by 1995-96 and to earn profit there after.

5. MODERNISATION/DIVERSIFICATION :

The Company is operating with plant and machinery which is several years old and in some cases obsolete. Plan fund support received from the Government has not been properly utilised for enhancing production. Modernisation/diversification is a key priority area.

It is also considered necessary to diversify the product range through introduction of new products with high value added content to achieve viability particularly at Angus Works and also conversion of the Iron Foundry to Steel Foundry.

Such modernisation/diversification programme would require to be financed through Budgetary support Plan funds from the Government. Diversification Programme suggested for Angus Works e.g. (a) Manufacture of Diesel & Electric Loco Shunter, (b) Manufacture of Heat Exchanger (c) Non-ferrous structures (d) Steel Plant Rolling Machines for which Angus Works is having ample Design and manufacturing support and capabilities.

6. VIABILITY EXERCISE - ASSUMPTIONS :

An exercise on viability of the Company has been worked out with projections of performance over a period of 5 years i.e., 1992-93 till 1996-97. The following assumptions have been made :

6.1 Capital restructuring proposal submitted in August '90, updated till 31st March '92 will be accepted by Government.

6.2 Capital investment in next 3 years amounting to Rs.15.50 crores will be funded by the Government (50% as equity and 50% as loan) with interest holiday till 1994-95 and interest and refund of loan commencing from 1995-96 onwards spread over a period of 10 years.

6.3 Provision of non-plan loan of Rs.3 crores in 1992-93 with interest holiday upto 1994-95 and interest and refund of loan commencing 1995-96.

6.4 Capital investment for repairing and replacement of the Wagon Shop and increase in capacity of Steel Foundry to 6000-T per year.

6.5 A grant of Rs.5 crores is to be provided for funding diversification programme at Angus Works as suggested in Clause No.5 above by 1994-95.

6.6 Reduction of manpower from the existing level of 5160 to 4660 in next 5 years through normal retirement of 835 or more and induction of 335 skilled and essential personnel.

7. RELIEFS CLAIM/ASSISTANCE :

M/s. Braithwaite & Co., is a sick industrial undertaking as per Sick Industrial Companies (Special Provisions) Act 1985 and amendment thereto. As such following reliefs and assistance can be made available to the Company. The financial impact of such reliefs have been taken into account in preparation of operating results and Net Profit/Loss has been shown in Annexure-4.

7.1 For the past one year bank interest against cash credits and quasi credits have been hiked considerably. As admitted for a sick company, Braithwaite should have these interests restricted to 1.5% below the minimum lending rate of 20%.

7.2 In the year 1986 when the Holding Company was formed, the Government very clearly indicated that the working capital should be obtained from the Banking channel and if necessary, the Government Guarantee will be provided. In recent months, Companies are finding difficulty in obtaining the Government Guarantees. The Government Guarantees should be continued or else the Bank should be directed not to insist for the same for this unit.

7.3 Government should waive commission (charge at 1%) for the guarantee it issues.

7.4 Excise duty concession as admissible to sick industrial units should be made available to Braithwaite & Co. Ltd.

7.5 State Government normally permit conversion of sales tax arrears into loan at a concessional rate of interest of 7.5% to Sick Industrial Undertakings. This has not so far been applicable to Public Sector. Viability plan assumes this concession to be available to Braithwaite & Co. Ltd. and the amount of Rs.1 crore of sales tax arrears to be converted to a term loan at a concessional rate of interest, to be paid back in instalments over a period of 5 years.

7.6 As per VIIIth 5 year plan outlay few thousand crores of rupees are going to be invested for the purpose of modernisation of Coal, Steel, Power and Oil Sectors & Ports also. Huge quantum of steel plant equipments, higher capacity cranes and structural works will be required for the forth coming projects.

It is our previous experience that inspite of being placed lowest in the tenders Braithwaite has failed to secure the jobs from DSP, NTPC, OPGC, CMDA etc. etc. due to reasons not known to us.

Braithwaite having sound infrastructure and past experience are capable enough to /these equipments/execute these projects. /manufacture

Government of India shall issue suitable directive to the appropriate authority so that Braithwaite may get direct orders from different Public Sector in near future to utilise its installed capacities.

EXPLANATIONS FOR ANNEXURES

ANNEXURE - 1

Indicates Performance of the Company from 1985-86 to 1990-91 as per audited accounts and 1991-92 at Estimated actuals.

ANNEXURE - 2

Performance of Clive Works (CW) and Angus Works (AW) indicated separately from 1986-87 to 1990-91 audited and Estimated actuals 1991-92.

ANNEXURE - 3

Improvement in Production Performance of Clive Works in Wagon Production between 1985-86 and 1991-92.

ANNEXURE - 4

Financial results of the Company as a whole combining performance of all Units.

BRAITHWAITE & CO LTD

PERFORMANCE

(APPENDIX-1)

(RS LAKH)

	1985-86	1986-87	1987-88	1988-89	1989-90	1990-91	1991-92 (P.U.)
GROSS PRODUCTION	3603	5373	4496	7690	8380	9154	10819
SALES	2977	3749	3549	5546	5652	5337	6560
NET PROFIT/(LOSS)	(1293)	(678)	(892)	(629)	(567)	(538)	(257)
CASH PROFIT/(LOSS)	(1246)	(631)	(843)	(575)	(508)	(475)	(181)
VALUE ADDED	833	1403	805	1761	1940	2413	2600
VALUE ADDED/EMPLOYEE (RS)	13880	23447	15248	30914	33020	44000	42000
EMPLOYMENT COST	1357	1563	1402	1890	2028	2395	2817
WRS AMORTISATION						96	88

CMDV

BRAITHWAITE & CO. LTD.

FINANCIAL RESULTS/VIABILITY PLAN

YEAR:	1986-87 (ACT)		1987-88 (ACT)		1988-89 (ACT)		1989-90 (ACT)		1990-91 (ACT)		1991-92 (ACT)	
	CW	AW	CW	AW	CW	AW	CW	AW	CW	AW	CW	AW
SALES	1674.16	917.45	1444.32	664.50	2850.19	959.45	3397.68	1234.03	2699.62	1512.92	3467.56	1419.92
BILLABLE PRDN.	1649.08	849.86	924.87	510.47	2390.51	807.12	2706.30	1001.89	2453.12	1512.69	2884.15	1293.32
OPERATING COST												
CONSUMPTION	400.19	663.07	286.35	435.64	972.92	575.54	1234.12	898.23	626.37	1234.41	891.92	947.92
EMPL. COST (Incl. VRS Amortisation)	1036.65	498.26	892.00	462.87	1297.55	543.41	1300.86	578.96	1515.81	679.51	1547.40	663.50
OTHER COST (Including ADM Overhead)	286.45	270.80	326.82	189.32	604.99	231.14	590.29	189.25	525.76	234.78	648.95	270.40
FINANCIAL CHARGES	97.69	71.59	54.07	35.84	70.45	51.76	82.82	59.61	124.54	67.14	134.59	117.21
DEPRECIATION	19.32	28.05	20.31	29.04	24.90	28.60	31.48	26.27	28.49	29.16	30.00	34.00
NET P/L	-3.89	-526.70	-539.60	-367.36	-198.96	-382.50	-24.60	-460.09	127.31	-499.30	250.35	-469.84
CASH P/L	15.43	-498.65	-519.29	-338.32	-174.06	-353.90	6.88	-433.82	155.80	-470.14	280.35	-435.34
REPAYMENT TO GOVT.												
RETAINED PROFIT/SURPLUS (Carried Over)												

JTA2/CT-PC2

(ANNEXURE-3)

BRADWHITE & CO LTD

(RS LAKHS)

	1985-86	1986-87	1987-88	1988-89	1989-90	1990-91	1991-92 (PROJ)
WAGON PRODUCTION (PHY) IN FOUR WHEELER UNITS	1295.00	1670.00	1108.00	2377.50	2595.50	2662.50	3007.50

BRAITHWAITE & CO. LIMITED

PROJECTED FINANCIAL RESULTS/VIABILITY PLAN (SUMMARY)

(Rs. in lakhs) Annexure

<u>Total for the Company as a whole</u>	<u>92-93</u>	<u>93-94</u>	<u>94-95</u>	<u>95-96</u>	<u>96-97</u>
Gross outturn	6982.64	7742.56	7965.96	8624.96	9167.96
Inter Unit Income/Cap.	<u>585.26</u>	<u>146.60</u>	<u>158.60</u>	<u>164.00</u>	<u>170.50</u>
TOTAL INCOME ;	<u>7567.90</u>	<u>7889.16</u>	<u>8124.56</u>	<u>8788.96</u>	<u>9338.46</u>
Materials/components/stores/ODC	3802.30	3679.24	3528.46	3920.53	4262.45
Employment Cost	2331.46	2435.26	2512.90	2572.20	2622.50
Other Overhead Cost	1101.29	1298.71	1397.02	1496.32	1579.74
Financing charges	280.50	251.49	241.04	241.04	241.04
Depreciation	<u>109.60</u>	<u>175.50</u>	<u>184.50</u>	<u>192.50</u>	<u>199.50</u>
TOTAL COST :	<u>7625.15</u>	<u>7840.20</u>	<u>7863.92</u>	<u>8422.59</u>	<u>8905.23</u>
Net Profit/Loss (-)	(-) 57.25	48.96	260.64	366.37	433.23
No. of Employees (Nos.)	5060	4960	4860	4760	4660
Value added (Rs. lakhs)	2975.45	3234.66	3515.32	3710.81	3857.79
Value added per Employee (Rs.)	58803.36	65214.92	72331.69	77958.19	82785.19
Employment cost per Employee (Rs.)	45720.55	49097.98	51705.76	54037.82	56276.82
<u>Value added</u> Employment cost (%)	128.61	132.83	139.89	144.27	147.10

Annexure - II

BRAITHWAITE & CO. LIMITED

ESTIMATED ACTUAL FINANCIAL RESULTS, 1992-93

(Rs. in lakhs)

		<u>92-93</u>
<u>Total for the Company as a whole</u>		
Gross outturn	..	7308.49
Inter Unit Income/Cap.	..	401.58
	TOTAL INCOME :	<u>7710.07</u>
Materials/components/stores/ODC	..	3695.15
Employment Cost	..	2518.33
Other Overhead Cost	..	1165.89
Financing charges	..	284.61
Depreciation	..	76.48
	TOTAL COST :	<u>7740.46</u>
Net Profit/Loss	..	(-) 30.39
Cash Profit/Loss	..	(+) 46.09
No. of Employees (Nos.)	..	4575
Value added (Rs. lakhs)	..	3215.93
Value added per Employee (Rs.)	..	70293.55
Employment cost per Employee (Rs.)	..	50768.96
<u>Value added</u>		
Employment cost (%)	..	138.45

...duction reports... until in the strip on the day has
ISCO with enthusiasm. The given rise to optimism that

Stalin
at 6/4

BRAITHWAITE & COMPANY

Break-even after 25 years

By a Staff Correspondent

THE public sector Braithwaite & Company — a Board for Industrial & Financial Reconstruction unit — claims to have achieved a cash break-even in 1992-93, after two and a half decades.

The company has submitted a revival proposal to be BIFR, which provides for investments for expansion of its steel foundry to 6,000 tons per annum.

Company spokesmen told the Press last week that manpower rationalization was a key factor in its plans and the Angus Works at Bhadrashwar (taken over in 1960) would have to operate on a reduced strength of 900 employees (present strength about 1,300).

The Government has assured adequate availability of funds for voluntary retirement for the unit, which manufactures cranes and steel plant equipment.

Braithwaite, it may be noted, was incorporated in Bengal in 1930. Wagon manufacture, one of the major products of today, started at the Clive Works (Hide Road) in 1934. Today it has three main operating divisions: Clive Works, Angus Works and the Project division. Its main pro-

ducts are wagons, cranes, structurals and material handling turnkey projects.

The company started incurring losses since 1967 — one of the main reasons being poor wagon orders — and its management was taken over by the Government in 1971 principally to save employment of the 6,742 employees. It was nationalized on April 1, 1975 and became a subsidiary of Bharat Bhari Udyog Nigam Limited in 1987.

But losses continued. In 1985-86 the net loss reached Rs 12.93 crores on a gross turnover of Rs 39 crores. Things improved thereafter and in 1992-93 the company reported a cash profit of Rs 10.75 lakhs with a gross turnover of Rs 158 crores.

The Victoria Works, another sick unit of company, taken over from BBJ in April, 1989 reported a small profit in 1992-93, sources said.

The company has mainly focused on rationalizing manpower, reducing it to 4,600. It has also utilized the "latent potential of the Clive Works to produce more structurals and wagons". In 1992-93 the Clive Works pro-

duced 3,707 wagons in four wheeler units against its installed capacity of 2,600 FWUs.

Company sources claimed that during the last three months the C. W. produced at double its installed capacity rolling out 1,582.5 wagons. The financial contribution of the Clive Works more than compensated for the loss by Angus Works, they said.

The Angus foundry, it may be noted, had a major accident on July 20, 1992 and is still out of operation. The losses on the account is about a crore of rupees, sources said.

The company's recent orders include the second Hooghly Bridge, the Brahmaputra Bridge now under erection at Jogigopa Assam, supplying and commissioning of three rubber-tyred gantry cranes at the container terminal of Calcutta Port Trust, the country's largest screw, luff, L. L. crane at Cochin Shipyard, a turnkey project of hot metal ladle repair shop at Durgapur Steel Plant and others.

With wagon orders coming its way, the management expects the Clive Works to be profitable.

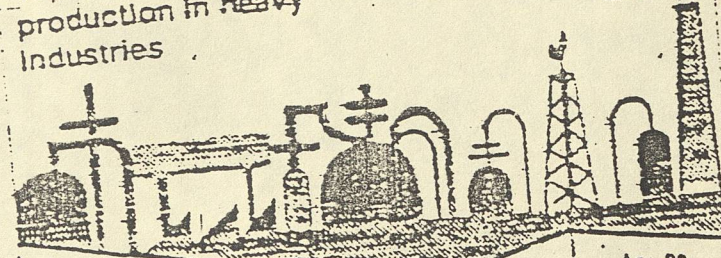
Business Express

SATURDAY APRIL 10 1993

Annexure - IIIA

PUBLIC SECTOR UNDERTAKINGS

Top ten achievers in production in heavy industries



Name of the undertaking	Apr. 91- Jan. 92	Apr. 92- Jan. 93
Bharat Heavy Electricals Ltd.	2107.21	2195.93
Hindustan Cables Ltd.	203.67	340.33
Heavy Engineering Corpn.	203.37	251.06
Burn Standard Co. Ltd.	158.57	205.09
Hindustan Photofilms	182.58	191.21
Hindustan Paper Corp. Ltd.	146.36	168.51
Andrew Yule & Co. Ltd.	132.52	139.79
Hindustan Newsprint Ltd.	119.75	138.80
Braithwaite & Co. Ltd.	81.04	113.39
Instrumentation Ltd.	63.71	101.20

All figures are in Rs. crore according to the production...

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GA

03166492+

3166492 BIFR IN

21 2242 BWTE IN

FOR:- THER REGISTRAR BIFR BENCH-11

FROM:- BRAITHWAITE MAZDOOR KARMACHARI UNION

BRAITHWAITE SRAMIK KARMACHARI UNION

BRAITHWAITE EMPLOYEES UNION

BRAITHWAITE OFFICERS ASSOCIATION

REFERENCE BIFR HEARING HELD ON 11-3-93. IS + IT IS FOUND FROM THE RECORD NOTES THAT THE OE+ OPERATING AGENCY(IRBI) WILL SUBMIT ITS REPORT TO THE WORKERS 'S UNIONS ALSO BUT TILL DATE WE LHAVE NOT RECEIVED ANY REPORT FROM THE OPERATING AGENCY AND THE NEXT HEARING OF BIFR IS GOING TO BE HELD ON 11.11.93. SO THE UNOIN+ UNIONS WILL ATTEND THE HEARING ON 11.11.93 WITHOUT ANY REPORT THIS IS FOR LYOUR INFORMATION PLEASE. OVER

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3166492 BIFR IN

21 2242 BWTE IN

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GA

03166294+

3166294 INDY IN

21 2242 BWTE IN

FOR:- SMT KRISHN SHAHI MINISTER OF INDUSTRIES
DEPT OF HEAVY INDUSTIRY

FROM :- BRAITHWAITE MAZDOOR KARMACHARI UNION
BRAITHWAITE SRAMIK KARACHARI UNION
BRAITHWATIE EMPLOYEES UNIUVON
BRAITHWATIE OFFICERS ASSOCIATION

REFERENCE BIFR HEARING HELD ON 11-3-93. IT IS FOUND FROM THE
RECORD NOTES THAT THE OPERATING AGENCY(IRBI) WILL SUBMITITS
REPORT TO THE WORKER'S UNIONS ALSO BUT TILL DATE WE HAVE
NOT RECEIVED ANY REPORT FROM THE OPERATING AGENCY AND THE NEXT
HEARING OF BIFR IS GOING TO BE HELD ON 11.11.93. SO THE UNIONS
WILL ATTEND THE HEARING ON 11.11.93 WITHOUT ANY REPORT THIS IS
FOR YOUR INFORMATION PLEASE . OVER REGARDS

FOR:- SMT KRISHNA SHAHI MINISTER OF INDSTRIES

*

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PL ACK.????????????????

OK RCD PL 13 00 HT HRS 8/1193

RECORD NOTES OF MEETING HELD ON

21 JUNE, 1993 (2.00 P.M.)

Date : 12-07-93

U.O. No. 7922(26)-CMS(1)

SUBJECT

BRAITHWAITE COMPANY LTD. (BCL)

PARTICIPANTS:

Serial No.	Name	Designation	Signature.
1.	P. K. RATH	MD	He
2.	S. K. Bose	DF	-Dish
3.	K. K. Chatterjee	DGM (CPL & HRD)	Z. Chatterjee
4.	B. K. Nayudu	MANAGER	SKN
5.	S. N. Ghosh	DGM I (P.S.A)	Sgh
6.	Dhruvijyoti Mishra	Jt. Secretary	B. M. K. M.
7.	Bijay Krishna Sinha	Jt. Secretary	BKV
8.	P. K. Shrivastava	Jt. Gen. Secretary	B. K. S.
9.	Banu Devi Ghosh	B.O.A.	B. D. Ghosh
10.	DR. S. K. Sanyal	B.O.A.	M. S.
11.	B. K. B. - 1st	I. N. T. U. C.	B. K. B.
12.	K. Lahiri	BOA	K. Lahiri
13.	B. N. Chatterjee	BOA	B. N. C.
14.	P. R. Pal	Jt. Gen. Secy, BSKU (A.T.U.C)	P. R. P.
15.	A. K. B. - 2nd	Vice President	A. K. B.
16.	Amit K.	A. I. T. U. C.	A. K.
17.	N. G. Sengupta	Jt. Secy. (C.S.T.U)	N. G. S.
18.	Soumen Chatterjee	Genl. Secretary (CIT)	S. Chatterjee
19.	U. Datta	Special Officer, IP Dept	U. D.
20.			

At its meeting held on 11 March, 1993, BIFR had declared the company sick and appointed IRBI the operating agency. The management was also asked to update its rehabilitation proposal taking into account the provisional financial results of 1992-93. The updated proposal was reported to have reached IRBI on 11 June, 1993.

CMD:BCL stated that copies of the proposal had already been furnished to the unions. He explained that the proposal was based on the following :

- i) Expansion of the existing foundry at the Angus Works from 3000 MT per annum to 6000 MT per annum.
- ii) Reduction of manpower from 4372 as at present to 4000.
- iii) The total cost of Rs.19.40 crores, inclusive of capital investment and working capital, can be provided by Government of India.
- iv) Internal cash generation of Rs.4 crores depending on availability of adequate orders.

CMD also mentioned that about 400 indirect workmen had already been trained by the management. However, as a result of the application of VRS an imbalance had been created in the staff pattern because of greater response of the skilled manpower to the company's VRS. He indicated that retraining of staff would be necessary to correct this imbalance.

The representative of IRBI stated that A.H. Ferguson had been appointed a Consultant to study the viability of BCL and the cooperation of the management was essential for the study as it would involve visit to the factories of the company and furnishing of relevant data by the management. CMD:BCL mentioned in this context that the vetting of Government of India had since been received and all help would be provided to the Study Team for inspection of the factories and the required data would also be furnished to facilitate study.

Shri Sailen Chatterjee, representing Braithwaite Mazdoor Union (CITU), stated that the operating agency had already been informed that the idea of forming a Cooperative Society to run BCL was not at all feasible. He asserted that with proper supports the Company could be

transformed into a viable organisation. He also mentioned the fact that in July '92, 9 workers had died in accident in Angus works but the had still to be recommissioned. During the last 20 years; no recruitment of productive hands had been made; on the contrary, the management had only pursued implementation of VRS. On the other hand, the managerial staff had increased by at least 10 times. He suggested that the overhead expenditure on managerial staff would need to be considerably reduced, in the interest of the company. In Clive Works, the production had increased because of the workers' cooperation. Angus works, he mentioned, was in need of working capital assistance for maintaining production of Cranes. If the time-schedule to supply materials according to orders could be maintained, the position of Clive works was likely to improve. He suggested that the management staff would require rationalisation and wasteful expenditure should be curtailed.

Shri N.J.Sengupta (CITU) mentioned that the unions and the Officers Association together had prepared a revival plan and submitted it to the Parliamentary Sub-Committee. However, the unions/association had not so far been given the opportunity of representing their case to BIER. He indicated that the unions were opposed to continuance of VRS.

Shri Bijay Sinha of the Braithwaite Employees' Union (INTUC) mentioned that the Angus works had been continuously operating on losses. Previous cash losses were being financed appropriately. Even then, losses had continued because the cost of raw materials accounted for 120 percent of the selling prices. The trend of reduction of workforce and increase of strength of the management cadre had inevitably led to an increased overhead cost. He was of the view that the Angus works was badly suffering for want of adequate planning. His union was opposed to the formation of a Cooperative Society to run the Company.

Shri Anil Das (AITUC) stated that the unions had not been represented at the first meeting of the BIER. He mentioned in this context that WHATkins had been engaged by the World Bank to make a study on Bharat Bhari Udyog Nigam Limited (BBUNL) and all its subsidiary Companies including BCL. The unions had been kept in the dark about the findings of WHATkins. In his view, Clive works was capable of producing 200 wagons but the railway Board would not allow production to exceed 82. He stated that since the nationalisation, the management had resorted to indiscriminate

appointments of the managerial staff. BBUNL was a redundant superstructure which was unnecessarily straining on Braithwaite's Budget. Continuance of higher level appointments simultaneously with the operation of VRS of the workmen was detrimental to BCL's interest. He was of the view that facilities of credit and working capital were essential for the turnaround of the company. The Project Division of BCL operating at Chowringhee, in his view, should be shifted to the existing works.

Shri Benu Dasgupta representing the Officers' Association mentioned that the Joint Secretary of the Ministry had stated at the BIFR's meeting that Rs.200 crores were planned to be spent on BBUNL and its subsidiaries in terms of the recommendations of W H Atkins. Shri Dasgupta also pointed out that in Angus works contribution of the product mix was not very high and higher contribution was likely to be achieved there with an increase of the production of Steel. He pointed out that there was absolutely no problem on account of labour and productivity in BCL.

It is thus evident from the foregoing discussion that the Unions are strongly opposed to the formation of a Workers' Cooperative for the operation and rehabilitation of BCL and there is a need for working out a revised package with suitable provisions for elimination of wasteful expenditure and reduction of overhead expenses. Efforts are also needed to create sufficient jobs for the company and for making suitable arrangements for flow of working capital to enable the company to execute orders ensuring optimum utilisation of the production capacities.



(S. N. Menon)

Secretary to Chief Minister

Endorsed to :

1. Private Secretary to Minister in Charge : Land & Land Reforms
2. Private Secretary to Minister in Charge : Information & Cultural Affairs
3. Private Secretary to Minister in Charge : Finance
4. Private Secretary to Minister in Charge : Labour
5. Private Secretary to Minister in Charge : Cottage & Small Scale Ind.
6. Private Secretary to Minister in Charge : Industrial Reconstruction
7. Private Secretary to Minister in Charge : Power
8. Private Secretary to Minister of State : Commerce & Industries
9. Chief Secretary
10. Member : Board of Revenue

- Chairman: West Bengal Industrial Development Corporation
- Secretary: Labour
- Secretary: Commerce & Industries
- Secretary: Finance
- Secretary: Cottage & Small Scale Industries
- Secretary: Power
- Secretary: Industrial Reconstruction
- Director of Industries
- Director : Cottage & Small Scale Industries
- The Chairman & Mg. Director, Braithwaite & Co Ltd.,
Clive Works, 5 Hide Road, Calcutta-700043.
- The General Manager, IRBI; Eastern Regional Office,
AG Tower (4th floor), 121/1 Park Street, Calcutta-700017.
- The President, Braithwaite Mazdoor Karmachari Union,
41/1 Bhukailash Road, Calcutta-23.
- The President, Braithwaite Employees' Union, P-61, A/1 Circular
Garden Reach Road, Calcutta-700043.
- The President, Braithwaite Shramik Karmachari, 27B, Karl Marx Sarani,
Calcutta-700023.
- The President, BBJ Working Men's Union, 28 Karl Marx Sarani,
Calcutta-700023.
- Braithwaite Officers' Association, 48, Pearl Mohan Sur Garden Lane,
Calcutta-700085.

BACKGROUND:

1913	ESTABLISHED IN INDIA AS A BRANCH OF BWT & CO. ENGRS LTD. (U.K) FOR UNDERTAKING FABRICATION OF STRUCTURAL STEELWORK.
1926	COMMENCEMENT OF MANUFACTURE AT CW.
28.2.30	INCORPORATED IN BENGAL AS "BWT & CO (INDIA) LTD."
1934	COMMENCEMENT OF WAGON MANUFACTURE AT CW.
1960	ANGUS WORKS PREVIOUSLY KNOWN AS ANGUS ENGINEERING CO. WAS TAKEN OVER FOR MANUFACTURING: <ul style="list-style-type: none">• CRANES •• FOUNDRY PRODUCTS •• MACHINERY COMPONENTS• BLAST FURNACE EQUIPMENTS •• WAGON COMPONENTS
6.3.71	MANAGEMENT TAKEOVER BY GOVT. (I.D.R. ACT).
1.4.75	NATIONALISATION OF COMPANY (NOTIFICATION DATED 6.9.1976)
1.12.76	BRAITHWAITE & CO. REGISTERED & INCORPORATED WITH AUTHORISED CAPITAL OF RS. 15 CRORES.
1978	FORMATION OF PROJECT DIVISION.
1987	FORMATION OF HOLDING CO (WITH BWT AS ONE OF THE SUBSIDIARY).

PROFIT & LOSS OF CO. (AFTER TAX) RS. LAKHS

<u>YEAR</u>	<u>PROFIT & LOSS</u>	<u>SALES</u>
1965	+ 58	781
1966	+ 26	435
1967	+ 7	944
1968	- 54	542
1969	- 125	921
1970-71 (15 months)	- 409	860
1971-72	- 340	241
1972-73	- 357	973
1973-74	- 562	768
1974-75	- 550	835
1.4.75 - 30.11.76 (20 months)	- 744	1770
<hr style="border-top: 1px dashed black;"/>		
1985-86	- 1293	2977
1986-87	- 678	3749
1987-88	- 892	3549
1988-89	- 629	5546
1989-90	- 567	5652
1990-91	- 538	5337
1991-92	- 226	6897

MAIN PRODUCTS (CURRENT)

<u>CLASS</u>	<u>UNIT</u>	<u>LICENSED CAPACITY</u>	<u>INSTALLED CAPACITY</u>
WAGONS:	FWU	3000	2600
STRUCTURALS:			
CW	TONNES		6500
VW	TONNES	5400	4920
JUTE CARDG M/CS	NOS	100	48
CRANES	TONNES	Rs 894 LAKHS EQUIV TO 3100 T.	
ROLL F & F	NOS	250	100
FORGING & M/C SHOP	TONNES	840	Rs. 70 LAKHS INCL. 400 T OF FORGING.
STEEL FOUNDRY	TONNES		900

SOURCE : ANNUAL REPORT 90-91

ACTUAL PRODUCTION

CLIVE WORKS

	<u>1978-79</u>	<u>1987-88</u>	<u>1988-89</u>	<u>1989-90</u>	<u>1990-91</u>	<u>1991-92</u>
WAGON - FWU	1599.00	1107.50	2359.00	2595.50	2682 & 30 Bogies	2937
STRL. - M/T	2410.00	11063.00	4059.11	6157.86	4738.72	9081.13
TANK PLT. NOS.	4126.00	-	-	-	-	-

ANGUS WORKS

CRANE / SPARES - M/T	-	1429.00	2201.00	2914.00	3058.00	1272.00 (Act)
CARDG. M/C - NOS.	17.00	12.00	12.00	8.00	4.00	2.00
FORMERS - NOS.	-	} 12.00	14.00	3.00	11.00	3.00
FEEDERS - NOS.	19.00					

MAIN REASONS FOR SICKNESS

1. HIGHLY COMPETITIVE MARKET FOR CRANES AND OTHER INDUSTRIAL EQUIPMENTS.
2. SHORTAGE OF WAGON ORDERS.
3. OLD AND OBSOLETE PLANT AND MACHINERY.
- x 4. SURPLUS AND UNBALANCED MANPOWER.
5. ACUTE SHORTAGE OF WORKING CAPITAL BECAUSE OF CONTINUED LOSSES.

STRATEGY FOR REVIVAL

1. RATIONALISING PRODUCTS IN HIGH TECHNOLOGY AREA.
2. RATIONALISATION OF MANPOWER THROUGH VRS AND WITHOUT FILLING UP VACANCIES EXCEPT IN FEW SPECIALISED JOBS.
3. DIVERSIFY IN AREAS OF PROMISING MARKET KEEPING FINANCIAL INVESTMENT AT MINIMUM.
4. CONCENTRATE ON SPECIALISED PROJECT JOBS ONLY.

ASSUMPTIONS

1. REASONABLE DEMAND OF WAGONS IN
8TH. AND 9TH FIVE YEAR PLANS.
2. EXPANSION OF STEEL FOUNDRY TO 6000
TONS PER ANNUM.
3. CAPITAL RESTRUCTURING OF THE COMPANY
UPDATED TO 31.03.93 AS IN ANNEXURE.
4. REDUCTION OF MANPOWER TO 4039 BY
31.3.95.

RELIEFS NECESSARY :

1. BANK INTEREST AS APPLICABLE TO SICK CO. FOR A PERIOD OF 4 YEARS.
2. ADMISSIBLE EXCISE DUTY CONCESSION.
3. SALES TAX LOAN AT CONCESSIONAL RATE OF INTEREST @ 7.5% FOR AFORESAID PERIOD.

PROPOSALSPRODUCTION PLANS

	<u>1992-93</u>	<u>1993-94</u>	<u>1994-95</u>	<u>1995-96</u>	<u>1996-97</u>
<u>CLIVE</u>					
WAGONS (FWU)	3320	3000	3287	3325	3625
STRUCTURAL (TONNES)	3500	3500	3500	3500	3500

ANGUS

CRANES (TONNE)	906	1047	1134	1121	1309
MISC (TONNE)	140				140
STEEL CASTINGS (TONNE)	300	1200	3000	4000	5600

PROPOSALPROJECTED FINANCIAL PERFORMANCE (RS. CRORE)

	<u>1992-93</u>	<u>1993-94</u>	<u>1994-95</u>	<u>1995-96</u>	<u>1996-97</u>
	<u>AW</u>	<u>AW</u>	<u>AW</u>	<u>AW</u>	<u>AW</u>
<u>SALES</u>	13.89	18.80	24.13	28.01	33.53
<u>GR. MARGIN</u>	-2.17	-1.34	0.52	1.73	3.92
<u>CASH P/L</u>	-3.10	-2.16	-0.33	0.86	2.85
<u>NET P/L</u>	-3.48	-2.57	-0.90	0.09	2.20
<u>NO OF EMP</u>	1258	960	960	968	961
<u>VA/Re.WG</u>	0.90	1.06	1.41	1.61	1.99
<u>VA/EMP</u>	0.40	0.61	0.82	0.97	1.21

PROPOSALPROJECTED FINANCIAL PERFORMANCE (RS. CRORE)

	<u>1992-93</u>	<u>1993-94</u>	<u>1994-95</u>	<u>1995-96</u>	<u>1996-97</u>
	<u>BWT</u>	<u>BWT</u>	<u>BWT</u>	<u>BWT</u>	<u>BWT</u>
<u>SALES</u>	6624	74.86 68.07	77.10 71.61	83.57 77.91	88.92 82.85
<u>GR MARGIN</u>	0.84	2.72	4.80	6.42	10.44
<u>CASH P/L</u>	1.71	0.12	2.25	3.85	7.51
<u>NET P/L</u>	-2.51	-0.87	0.89	2.21	6.07
<u>NO OF EMP</u>	4757	4087	4039	4027	4000
<u>VA/RE. WG</u>	1.33	1.41	1.51	1.58	1.75
<u>VA/EMP</u>	0.60	0.74	0.80	0.80	0.98

PROPOSALPROJECTED FINANCIAL PERFORMANCE (RS. CRORE)

	<u>1992-93</u>	<u>1993-94</u>	<u>1994-95</u>	<u>1995-96</u>	<u>1996-97</u>
	<u>CW</u>	<u>CW</u>	<u>CW</u>	<u>CW</u>	<u>CW</u>
<u>SALES</u>	35.61	37.05	37.48	37.91	41.32
<u>GR MARGIN</u>	2.95	3.59	3.87	3.98.	5.29
<u>CASH P/L</u>	1.57	1.96	2.22	2.33	3.49
<u>NET P/L</u>	1.19	1.44	1.49	1.52	2.75
<u>NO OF EMP</u>	3161	2816	2787	2768	2740
<u>VA/RE.WG</u>	1.45	1.49	1.50	1.52	1.59
<u>VA/EMP</u>	0.65	0.76	0.77	0.79	0.86

BWT-PROJECTED FINANCIAL RESULTS/VIABILITY PLAN (SUMMARY)

T O T A L					ITEM NO.	
92-93	93-94	94-95	95-96	96-97		
INCOME						
6623.98	6807.39	7161.04	7791.28	8884.66	1	SALES (including CED)
649.54	713.39	763.59	805.38	905.16	2	CED (including 3A)
25.90					3	ACC/(DEC)-CIP
				0.00	3A	CED on part dely
6649.88	6664.22	7161.04	7791.28	8884.66	4	OUTTURN (1+3)
252.96	240.96	255.96	267.96	275.96	5	OTHER INCOME
410.17	289.77	158.60	164.00	170.50	6	INTER-UNIT INCOME/CAP
					7	INTER-UNIT CIP
7046.01	6905.18	7417.00	8059.24	9160.62	8	GROSS OUTTURN (4+5+7)
EXPENDITURE						
899.47	680.34	753.10	862.09	1022.15	9	RAW MATERIALS
1701.77	1626.81	1685.04	1805.50	2054.85	10	BOUGHT OUT, STORES ETC.
502.32	636.61	557.18	683.14	757.08	11	SUB-CONTRACT
194.45	108.29	162.84	186.13	211.81	12	OTHER DIRECT EXPENSES
3298.01	3052.06	3158.16	3536.86	4045.89	13	Sub-total (9 to 12)
497.50	190.00	190.00	190.00	190.00	14	INTER-UNIT COST
3795.51	3242.06	3348.16	3726.86	4235.89	15	GROSS CONS. (13+14)
1690.00	1688.50	1688.00	1709.00	1738.00	16	SALARIES & WAGES
345.60	355.86	360.35	366.79	396.25	17	INCENTIVE
97.79	97.24	98.47	101.70	107.53	18	OVERTIME
243.50	226.50	212.50	217.50	217.50	19	SOCIAL OVERHEADS
0.00	0.00	0.00	0.00	0.00	20	VRS AMTN.(90+92-1)
0.00	0.00	0.00	0.00	0.00	21	VRS AMTN.(92-II,93,94)
2376.88	2368.10	2359.31	2394.99	2459.28	22	EMPLOY. COSTS(16to21)
166.58	209.68	230.67	252.50	276.62	23	POWER & FUEL
33.31	37.58	40.97	45.82	50.67	24	REPAIRS & MAINTENANCE
350.70	352.63	352.77	356.07	359.46	25	ADMINSTRATIVE OVERHEADS
649.54	713.39	763.99	805.38	905.16	26	CED LESS MODVAT ADJ.
1200.13	1313.28	1388.39	1459.77	1591.90	26A.	OTHER COSTS (23 to 26)
153.09	153.09	156.09	158.09	158.09	27	BANK INTEREST
26.15	0.00	0.00	0.00	0.00	28	CAPT INTEREST
15.00	10.00	0.00	0.00	0.00	29	E.P.C. INTEREST
60.76	96.80	98.80	98.80	134.80	30	OTHER INTEREST
255.00	259.89	254.89	256.89	292.89	31	FIN.CHARGES (27to30)
80.50	98.80	135.80	163.80	143.80	32	DEPRECIATION
					33	PROVISIONS/LOAN INT.
					34	PRIOR PERIOD ADJ.
7708.03	7282.13	7486.56	8002.30	8723.76	35	TOTAL (15+22+26+31to34)
-251.84	-87.18	89.04	220.94	607.35	36	NET P/(L) (6+8-35)
-171.34	11.62	224.84	384.74	751.15	37	CASH P/(L) (36+32)
83.66	271.51	479.73	641.63	1044.04	38	GROSS MARGIN (37+31)
6039.44	5950.83	6397.45	6985.90	7979.50	39	BILL. PROD.(4-2)
8814.00	9083.00	9595.00	9595.00	9595.00	40	FREE SUPPLY
14766.11	15133.60	15961.05	16554.90	17555.00	41	GR.PROD (39+40+6+7-14)
2844.55	3029.82	3232.78	3438.51	3913.45	42	VAL. ADD (6+8-15-23-26)
4757.00	4087.00	4039.00	4027.00	4000.00	43	NO. OF EMPLOYEES
2133.38	2141.60	2146.81	2177.49	2241.78	44	WAGE BILL (22-19)
0.60	0.74	0.80	0.85	0.98	45	VAL.ADD./EMPL.(42/43)
1.33	1.41	1.51	1.58	1.75	46	VAL.ADD./RE.WAGE(42/44)
116.00	95.00	77.00	24.00	19.00	47	VRS AMTN.(90+92-1)
0.00	91.00	266.00	319.00	275.00	48	VRS AMTN.(92-II,93,94)
0.00	41.00	71.00	165.00	160.00	49	GOVT. LOAN INTEREST
-367.84	-314.18	-324.96	-287.06	153.35	50	NET P/L WITH E.O.I
-251.84	-128.18	18.04	55.94	447.35	51	NET P/L WITH VRS AS GRANT (50+47+48)

BRAITHWAITE - PROJECTIONS FOR BIER PRODUCTION PLANS (92-93,93-94,94-95)

PRODUCT	UNIT	92-93				93-94				94-95				95-96				96-97				UNIT VALUE	
		QTY	PROD	CONS	%CONS	QTY	PROD	CONS	%CONS	QTY	PROD	CONS	%CONS	QTY	PROD	CONS	%CONS	QTY	PROD	CONS	%CONS		
CW- BCN	NOS	116.00	237.80	69.60	29.27																	2.05	
BCN A	NOS	960.00	1872.00	576.00	30.77	1150.00	2242.50	690.00	30.77	1150.00	2242.50	690.00	30.77	1150.00	2242.50	690.00	30.77	1150.00	2242.50	690.00	30.77	1.95	
BTPN OR EQUIV.	NOS	252.00	612.36	196.56	32.10	150.00	364.50	117.00	32.10	165.00	400.95	128.70	32.10	180.00	437.40	140.40	32.10	300.00	729.00	234.00	32.10	2.43	
STRUCTURALS	TONNE	3500.00	560.00	122.50	21.88	3500.00	560.00	122.50	21.88	3500.00	560.00	122.50	21.88	3500.00	560.00	122.50	21.88	3500.00	560.00	122.50	21.88	0.16	
STORES & INTERUNIT COST				184.34				190.00				190.00			0.00	190.00				190.00			
Sub-Total			3044.36	1079.40	35.46		3167.00	1119.50	35.35		3203.45	1131.20	35.31		3239.90	1142.90	35.28		3531.50	1236.50	35.01		
AW - CRANES		906.52	1039.08	1068.38	102.82		1200.00	840.00	70.00		1300.00	910.00	70.00		1400.00	980.00	70.00		1500.00	1050.00	70.00		
C.I. CASTINGS	TONNE		0.00	0.00			0.00	0.00			0.00	0.00			0.00	0.00			0.00	0.00			
STEEL CASTINGS	TONNE	300.00	75.00	37.50	50.00	1200.00	300.00	150.00	50.00	3000.00	750.00	375.00	50.00	4000.00	1000.00	500.00	50.00	5600.00	1400.00	700.00	50.00		
FORGINGS	TONNE	100.00	20.00	10.00	50.00	100.00	20.00	10.00	50.00	120.00	24.00	12.00	50.00	130.00	26.00	13.00	50.00	140.00	28.00	14.00	50.00		
MISC			12.00	1.20	10.00		15.00	1.50	10.00		20.00	2.00	10.00		20.00	2.00	10.00		20.00	2.00	10.00		
OTHER ITEMS			176.00	73.92	42.00		170.00	71.40	42.00		100.00	55.00	55.00		100.00	55.00	55.00		100.00	55.00	55.00		
STORES ETC.				12.62																			
Sub-Total			1322.08	1203.62	91.04	*	1705.00	1072.90	62.93	*	2194.00	1354.00	61.71	*	2546.00	1550.00	60.88	*	3048.00	1821.00	59.74		
SPECIAL PROJECTS			710.00	639.00	90.00																		
PROJECTS DIV. INCL. I.U COST			963.00	862.53	89.57		1222.00	1038.70	85.00		1000.00	850.00	85.00		1200.00	1020.00	85.00		1400.00	1190.00	85.00		
VW - STRUCTURALS	TONNE		0.00	10.96			0.00	10.96			0.00	12.96			0.00	13.96			0.00	14.95			
TOTAL BILLABLE			6039.44	3795.51	62.85		6094.00	3242.06	53.20		6725.50	3348.16	49.78		7277.50	3726.86	51.21		7979.50	4262.45	53.42		
FREE SUPPLY:				742.40																			
	BCN			742.40																			
	BCN A			6144.00			7360.00				7360.00				7360.00				7360.00			6.40	
	BTPN			1612.80			960.00				1056.00				1152.00				1920.00			6.40	
	STRUCT			315.00			315.00				315.00				315.00				315.00			0.09	
Sub-Total				8814.20			8635.00				8731.00				8827.00				9595.00				
GROSS PRODUCTION				14853.64			14729.00				15456.50				16104.50				17574.50				
PLAN OUTLAY:				70.00			200.00				250.00				280.00							800.00	
	WAGON SHOP			70.00			200.00				250.00				280.00								
	STEEL FOUNDRY			50.00			100.00				350.00												500.00
	ANGUS (OTHERS)			30.00			50.00				50.00				120.00								250.00
	TOTAL			150.00			350.00				650.00				400.00								1550.00

Note: 1) COST IS AT 92-93 PRICES.
 2) I.U CRANE PRODUCTION OF RS.437.92 (92-93) NOT INCLUDED IN BILLABLE PRDN.

Union's VIABILITY PROPOSAL OF
BRAITHWAITE & CO. LTD., CALCUTTA

AITUC
CITY
IN THE
Officers Assn

1. INTRODUCTION :

Braithwaite has been in operation in India since 1930 as an Indian Company although since 1913 it was a Branch Office of Braithwaite, U.K. In March 1971, the Management was taken over by the Government of India under the Industrial (Development and Regulation) Act. Effective from 1-4-1975 the Company was nationalised by taking over the assets of erstwhile Braithwaite & Co. (India) Ltd. and a new Company under the present title was incorporated on 1-12-1976 to whom the assets taken over were transferred.

After formation of the Holding Company, Bharat Bhari Udyog Nigam Ltd. in 1987 the shares originally held by the President of India were transferred to the Holding Company.

The Equity Capital as on 31-3-1991 is Rs.1664.67 lakhs.

2. PRESENT ACTIVITIES :

The Company has three manufacturing units and Project/Spl. Project Division viz -

- 1) Clive Works (Calcutta, West Bengal) engaged primarily in manufacture of Indian Railway Wagons, Special Wagons for carrying LPG, other Special and Export Wagons and fabrication of Structural Steel-work including Complex Girders for Bridges, Power House buildings and Aluminium fabrications etc. and Pressed Steel Tanks.
- 11) Angus Works (Hooghly, West Bengal) engaged Primarily in the manufacture of wide varieties of General and Special purpose Cranes including Container Handling Cranes, Rail Mounted Diesel Loco & Break-down Cranes, general purposes and steel Mill duty EOT Cranes and Dock-side Level Luffing Cranes, Jute Carding Machines, Roll Formers and Feeders for Jute Industries, Grey Iron Castings & Forgings etc. The Company also manufactures Containers, Semi-Trailers and Steel Plant Equipments of limited range.
- 111) Victoria Works (Calcutta, West Bengal) engaged in structural fabrication work. This unit was acquired with effect from 1-4-1989 from BBJ Construction Co. Ltd., another subsidiary of the Holding Company.
- iv) Projects/Special Projects undertakes turnkey contracts from concept to commissioning in core sectors like coal, power, steel and oil.

3. PERFORMANCE :

Performance of the Company between the period 1985-86 to 1991-92 is enclosed at Annexure - 1.

ANNEXURE - 1 ENCLOSED

It would be observed from the data that there has been substantial and consistent growth in production, except during the year 1987-88 when the Engineering PSUs in West Bengal had a strike for 47 days. The value added has also correspondingly increased but has been largely off-set by inflationary costs. The Company, therefore, continues to incur cash losses although these have shown progressively declining trend.

4. PROBLEMS AND ASSISTANCE NECESSARY :

4.1 The working capital available with the Company has depleted considerably since the cash losses have not been fully reimbursed by the Government. As on 31-3-92, the unbridged cash loss amounts to Rs.5 crores approximately.

So far we know that the Management has submitted proposals for financial restructuring for making good the unbridged cash loss, setting off of cumulative cash losses against Govt. loans, grant of further interest holiday and moratorium on payment of the principal amount of the loans upto 1994-95.

Favourable and early decision of the Government on this proposal would help in making good the working capital, since present limit of credit available from the Banks and from suppliers has reached unmanagable proportions.

4.2 With the trend of improvement in production owing to our joint effort at Clive Works, this unit has already broken even and surely would earn profit in future.

The Angus Works of the Company for last few years has been facing problem due to tremendous shortage of working capital and unbalanced orders.

Production Cost Higher than Selling Price

The main product of this unit are different types of Tailor-made cranes. Since almost all the cranes are non-repetitive in nature the components could hardly be standardised. Substantial Working Capital is required during the manufacturing process. Due to lack of working capital, semi-processed inventory becomes very high and delivery are delayed. Moreover, material consumption part is so high in these tailor-made jobs, inspite of continuous increase in the labour productivity, value added has not increased to a desired level. Recent BPE's decision of withdrawal of price preference has further aggravated the situation. For the completion of the orders within the scheduled period, funding for Working Capital is very much needed. Funding for completion for conversion of Iron Foundry to Steel Foundry is also to be provided by the Govt. to achieve break-even by this unit by 1995-96 and to earn profit there after.

5. MODERNISATION/DIVERSIFICATION :

The Company is operating with plant and machinery which is several years old and in some cases obsolete. Plan fund support received from the Government has not been properly utilised for enhancing production. Modernisation/diversification is a key priority area.

It is also considered necessary to diversify the product range through introduction of new products with high value added content to achieve viability particularly at Angus Works and also conversion of the Iron Foundry to Steel Foundry.

Such modernisation/diversification programme would require to be financed through Budgetary support Plan funds from the Government. Diversification Programme suggested for Angus Works e.g. (a) Manufacture of Diesel & Electric Loco Shunter, (b) Manufacture of Heat Exchanger (c) Non-ferrous structures (d) Steel Plant Rolling Machines for which Angus Works is having ample Design and manufacturing support and capabilities.

6. ✓ VIABILITY EXERCISE - ASSUMPTIONS :

An exercise on viability of the Company has been worked out with projections of performance over a period of 5 years i.e., 1992-93 till 1996-97. The following assumptions have been made :

6.1 Capital restructuring proposal submitted in August '90, updated till 31st March '92 will be accepted by Government.

6.2 Capital investment in next 3 years amounting to Rs.15.50 crores will be funded by the Government (50% as equity and 50% as loan) with interest holiday till 1994-95 and interest and refund of loan commencing from 1995-96 onwards spread over a period of 10 years.

6.3 Provision of non-plan loan of Rs.3 crores in 1992-93 with interest holiday upto 1994-95 and interest and refund of loan commencing 1995-96.

6.4 Capital investment for repairing and replacement of the Wagon Shop and increase in capacity of Steel Foundry to 6000-T per year.

6.5 A grant of Rs.5 crores is to be provided for funding diversification programme at Angus Works as suggested in Clause No.5 above by 1994-95.

6.6 Reduction of manpower from the existing level of 5160 to 4660 in next 5 years through normal retirement of 835 or more and induction of 335 skilled and essential personnel.

7. RELIEFS CLAIM/ASSISTANCE :

M/s. Braithwaite & Co., is a sick industrial undertaking as per Sick Industrial Companies (Special Provisions) Act 1985 and amendment thereto. As such following reliefs and assistance can be made available to the Company. The financial impact of such reliefs have been taken into account in preparation of operating results and Net Profit/Loss has been shown in Annexure-4.

7.1 For the past one year bank interest against cash credits and quasi credits have been hiked considerably. As admitted for a sick company, Braithwaite should have these interests restricted to 1.5% below the minimum lending rate of 20%.

7.2 In the year 1986 when the Holding Company was formed, the Government very clearly indicated that the working capital should be obtained from the Banking channel and if necessary, the Government Guarantee will be provided. In recent months, Companies are finding difficulty in obtaining the Government Guarantees. The Government Guarantees should be continued or else the Bank should be directed not to insist for the same for this unit.

7.3 Government should waive commission (charge at 1%) for the guarantee it issues.

7.4 Excise duty concession as admissible to sick industrial units should be made available to Braithwaite & Co. Ltd.

7.5 State Government normally permit conversion of sales tax arrears into loan at a concessional rate of interest of 7.5% to Sick Industrial Undertakings. This has not so far been applicable to Public Sector. Viability plan assumes this concession to be available to Braithwaite & Co. Ltd. and the amount of Rs.1 crore of sales tax arrears to be converted to a term loan at a concessional rate of interest, to be paid back in instalments over a period of 5 years.

7.6 As per VIIIth 5 year plan outlay few thousand crores of rupees are going to be invested for the purpose of modernisation of Coal, Steel, Power and Oil Sectors & Ports also. Huge quantum of steel plant equipments, higher capacity cranes and structural works will be required for the forth coming projects.

It is our previous experience that inspite of being placed lowest in the tenders Braithwaite has failed to secure the jobs from DSP, NTPC, OPGC, CMDA etc. etc. due to reasons not known to us.

Braithwaite having sound infrastructure and past experience are capable enough to these equipments/execute these projects. /manufacture

Government of India shall issue suitable directive to the appropriate authority so that Braithwaite may get direct orders from different Public Sector in near future to utilise its installed capacities.

EXPLANATIONS FOR ANNEXURES

ANNEXURE - 1

Indicates Performance of the Company from 1985-86 to 1990-91 as per audited accounts and 1991-92 at Estimated actuals.

ANNEXURE - 2

Performance of Clive Works (CW) and Angus Works (AW) indicated separately from 1986-87 to 1990-91 audited and Estimated actuals 1991-92.

ANNEXURE - 3

Improvement in Production Performance of Clive Works in Wagon Production between 1985-86 and 1991-92.

ANNEXURE - 4

Financial results of the Company as a whole combining performance of all Units.

BRAITHWAITE & CO LTD

PERFORMANCE

(ANNEXURE-1)

(RS IN LAKHS)

	1985-86	1986-87	1987-88	1988-89	1989-90	1990-91	1991-92 (PROV)
GROSS PRODUCTION	3603	5373	4496	7690	8380	9154	10019
SALES	2977	3749	3549	5546	5652	5337	6580
NET PROFIT/(LOSS)	(1293)	(678)	(892)	(629)	(567)	(538)	(250)
CASH PROFIT/(LOSS)	(1246)	(681)	(843)	(575)	(508)	(479)	(181)
VALUE ADDED	833	1403	885	1761	1940	2413	2758
VALUE ADDED/EMPLOYEE (RS)	13680	23447	15248	30914	33028	44000	52070
EMPLOYMENT COST	1357	1563	1402	1890	2028	2375	2339
URS AMORTISATION						96	88

C:MDV

BRAITHWAITE & CO. LTD.

FINANCIAL RESULTS/VIABILITY PLAN

YEAR:	1986-87 (ACT)		1987-88 (ACT)		1988-89 (ACT)		1989-90 (ACT)		1990-91 (ACT)		1991-92 (PROV)	
	CW	AW	CW	AW	CW	AW	CW	AW	CW	AW	CW	AW
SALES	1674.16	917.45	1444.32	664.50	2850.14	959.45	3397.68	1234.00	2699.62	1512.92	3467.56	1419.92
BILLABLE PRDN.	1649.08	849.86	924.87	510.47	2390.51	807.12	2706.30	1001.25	2453.12	1512.69	2884.15	1293.32
OPERATING COST												
CONSUMPTION	400.19	663.07	266.35	435.64	972.92	575.54	1234.12	898.23	626.37	1234.41	891.91	947.93
EMPL. COST (Incl. VRS Amortisation)	1036.65	498.26	892.00	462.87	1297.55	543.41	1300.86	578.96	1515.61	679.51	1547.40	687.50
OTHER COST (Including ADM Overhead)	286.45	270.80	326.82	189.32	604.99	231.14	590.29	189.25	525.76	234.78	648.95	270.40
FINANCIAL CHARGES	97.69	71.59	54.07	35.84	70.45	51.76	82.82	59.61	124.54	67.14	134.59	117.21
DEPRECIATION	19.32	28.05	20.31	29.04	24.90	28.60	31.48	26.27	28.49	29.16	30.00	34.00
NET P/L	-3.89	-526.70	-539.60	-367.36	-198.96	-382.50	-24.60	-460.09	127.31	-499.30	250.35	-469.34
CASH P/L	15.43	-498.65	-519.29	-338.32	-174.06	-353.90	6.88	-423.82	155.80	-470.14	280.35	-435.34
INT. REPAYMENT TO GOVT.												
RETAINED PROFIT/SURPLUS (Carried Over)												

(ANNEXURE-31)

BRAITHWAITE & CO LTD

(RS LAKHS)

WOOL PRODUCTION (PHY)
IN FOUR WHEELER UNITS

1985-86	1986-87	1987-88	1988-89	1989-90	1990-91	1991-92 (PROV)
1295.00	1670.00	1108.00	2359.50	2595.50	2662.50	3007.50

BRAITHWAITE & CO. LIMITED

PROJECTED FINANCIAL RESULTS/VIABILITY PLAN (SUMMARY)

(Rs. in lakhs) Annexure-A

<u>Total for the Company as a whole</u>	<u>92-93</u>	<u>93-94</u>	<u>94-95</u>	<u>95-96</u>	<u>96-97</u>
Gross outturn	6982.64	7742.56	7965.96	8624.96	9167.96
Inter Unit Income/Cap.	<u>585.26</u>	<u>146.60</u>	<u>158.60</u>	<u>164.00</u>	<u>170.50</u>
TOTAL INCOME :	<u>7567.90</u>	<u>7889.16</u>	<u>8124.56</u>	<u>8788.96</u>	<u>9338.46</u>
Materials/components/stores/ODC	3802.30	3679.24	3528.46	3920.53	4262.45
Employment Cost	2331.46	2435.26	2512.90	2572.20	2622.50
Other Overhead Cost	1101.29	1298.71	1397.02	1496.32	1579.74
Financing charges	280.50	251.49	241.04	241.04	241.04
Depreciation	<u>109.60</u>	<u>175.50</u>	<u>184.50</u>	<u>192.50</u>	<u>199.50</u>
TOTAL COST :	<u>7625.15</u>	<u>7840.20</u>	<u>7863.92</u>	<u>8422.59</u>	<u>8905.23</u>
Net Profit/Loss (-)	(-) 57.25	48.96	260.64	366.37	433.23
No. of Employees (Nos.)	5060	4960	4860	4760	4660
Value added (Rs. lakhs)	2975.45	3234.66	3515.32	3710.81	3857.79
Value added per Employee (Rs.)	58803.36	65214.92	72331.69	77958.19	82785.19
Employment cost per Employee (Rs.)	45720.55	49097.98	51705.76	54037.82	56276.82
<u>Value added</u> Employment cost (%)	128.61	132.83	139.89	144.27	147.10

BRAITHWAITE & CO LIMITED.
PROJECTED FINANCIAL RESULTS/VIABILITY PLAN (SUMMARY)

(Rs. in Lakhs) ANNEXURE - IV

	92-93	93-94	94-95	95-96	96-97
##Total for the Company	92-93	93-94	94-95	95-96	96-97
##as a whole.					
##-----##	-----	-----	-----	-----	-----
##					
## Gross Outturn	7308.49	6996.21	7025.67	7542.44	8230.46
##					
## Inter Unit Income/Cap.	401.58	289.77	158.60	164.00	170.50
##	-----	-----	-----	-----	-----
## TOTAL INCOME :-	7710.07	7285.98	7184.27	7706.44	8400.96
##					
## Materials/components/stores/ODC	3695.15	3652.06	3363.35	3648.59	4000.46
##					
## Employment Cost :	2518.33	2510.03	2465.49	2402.98	2361.91
##					
## Other overhead cost	527.59	570.85	620.29	647.82	668.04
##					
## Central Exise Duty (Less MODVAT)	638.30	232.12	286.60	317.50	317.50
##					
## Financial charges	284.61	264.62	264.62	264.62	491.73
##					
## Depreciation	76.48	100.27	130.19	131.50	126.04
##					
##	-----	-----	-----	-----	-----
## TOTAL COST :-	7740.46	7329.95	7130.54	7413.01	7965.68
##					
## Net Profit(+)/Loss(-)	-30.39	-43.97	53.73	293.43	435.28
##					
## Cash profit (+)/Loss(-)	46.09	56.30	183.92	424.93	561.32
##					
## No. of employees.	4575	4480	4308	4108	3918
##					
## Value Added(Rs. lakh)	3215.93	3198.09	3305.70	3489.05	3816.33
##					
## Value added per employee(Rs.)	170293.55	171385.94	176733.98	184933.06	197405.05
##					
## Employment cost per employee(Rs.)	155045.46	156027.45	157230.50	158495.15	160283.50
##					
## Value added	127.70	127.41	134.08	145.20	161.58
##-----##	-----	-----	-----	-----	-----
##					
## Employment cost(%)					
##	-----	-----	-----	-----	-----

Prepared by :-

Braithwaite Mazdur Karmachari Union.
Braithwaite Employees Union.
Braithwaite Sramik Karmachari Union.
Braithwaite Officers Association.

BRAITHWAITE & CO LTD.

PROJECTED PRODUCTION PROGRAMME (REVIVAL) , (FIN-Rs.Lacs)

UNIT	ITEMS OF PRODUCTION	PHYSICAL UNIT	INSTALLED CAPACITY	1993 - 1994	1994 - 1995	1995 - 1996	1996 - 1997
				FIN PHYSICAL	FIN PHYSICAL	FIN PHYSICAL	FIN PHYSICAL
	RAILWAY WAGON	F W U	2600	11330.10 3225	110767.20 3200	110832.00 3200	111834.00 3500
	CLIVE WORKS STRUCTURAL	TONNES	6500	11017.14 3710	11875.00 3500	11875.00 3500	11875.00 8500
	P. S. TANKS.	N D S	25000				
	CRANES	MT.Rs.LAC	3100RS.894LC	11166.56 1048	111300.00 1168	111300.00 1168	111300.00 1168
	ANGUS WORKS						
	JUTE CARDS	N D S.	48	1132.00			
	JUTE SPREADERS	N D S.		1132.00			
	ROLLFORMERS & ROLLFEEDER	N D S.	100				
	CASTINGS	TONES	3600				
	STEEL CASTINGS	TONES		11500.00 2000	11950.00 3800	111100.00 4400	111350.00 5400
	FORGE & MECHINING	TONES	Rs.70 LACS	1169.48 180	1144.00 120	1153.00 140	1153.00 140
			Inclu 400t of Forgings				
	PROJECT OTHER DIVISION				11100.00	11100.00	11100.00
	TURNKEY PROJECTS	Rs.Lacs		111196.01	111000.00	111200.00	111400.00
	TOTAL GROSS PRODUCTION			1115343.29	1115036.20	1115460.00	1116912.00
	LESS : FREE SUPPLY. Rs.Lacs.			118847.06	118507.00	118507.00	119275.00
	BILLABLE PRODUCTION. Rs.Lacs			116496.23	116529.20	116953.00	117637.00
	Add : CENTRAL EXCISE			11232.12	11286.56	11317.50	11317.50
	Add : OTHER INCOME			11267.86	11209.91	11271.94	11275.96
	GROSS OUTTURN. Rs.Lacs			116996.21	117025.67	117542.44	118230.46

Actual Position of Manpower
in Braithwaite

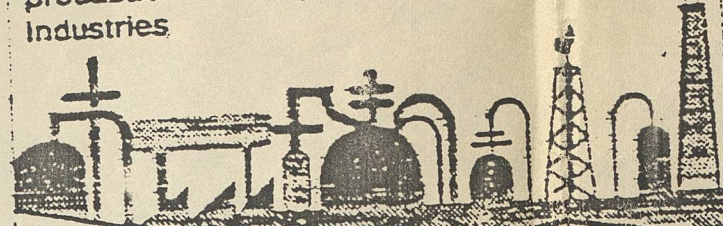
	<u>Clive Works</u>	<u>Angus Works</u>	<u>Victoria Works</u>
<u>As on 31-12-90 : Total: 5645</u>			
Officer	207	106	8
Staff	315	239	23
Sub-Staff	280	207	26
Workmen	2916	1084	234
<u>As on 31-12-91 : Total: 5318</u>			
Officer	198	105	8
Staff	293	226	25
Sub-Staff	262	194	19
Workmen	2731	1029	228
<u>As on 31-12-92 : Total: 4625</u>			
Officer	181	102	9
Staff	327	198	24
Sub-Staff	222	169	19
Workmen	2310	1334	199
<u>As on 30-09-93 : Total: 4228</u>			
Officer	182	101	8
Staff	298	167	25
Sub-Staff	205	153	17
Workmen	2200	678	194

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PUBLIC SECTOR UNDERTAKINGS

Top ten achievers in production in heavy industries



Name of the undertaking	Apr. 91- Jan. 92	Apr. 92- Jan. 93
Bharat Heavy Electricals Ltd.	2107.21	2195.93
Hindustan Cables Ltd.	203.67	340.33
Heavy Engineering Corpn.	203.37	251.06
Burn Standard Co. Ltd.	158.57	205.09
Hindustan Photofilms	182.58	191.21
Hindustan Paper Corp. Ltd.	146.36	168.51
Andrew Yule & Co. Ltd.	132.62	139.79
Hindustan Newsprint Ltd.	119.75	138.80
Braithwaite & Co. Ltd.	81.04	113.39
Instrumentation Ltd.	53.71	101.20

Figures are in Rs. crore according to the production...

Statesman
6/14/93

BRAITHWAITE & COMPANY

Break-even after 25 years

By a Staff Correspondent

THE public sector Braithwaite & Company — a Board for Industrial & Financial Reconstruction unit — claims to have achieved a cash break-even in 1992-93, after two and a half decades.

The company has submitted a revival proposal to be BIFR, which provides for investments for expansion of its steel foundry to 6,000 tons per annum.

Company spokesmen told the Press last week that manpower rationalization was a key factor in its plans and the Angus Works at Bhadrashwar (taken over in 1960) would have to operate on a reduced strength of 900 employees (present strength about 1,300).

The Government has assured adequate availability of funds for voluntary retirement for the unit, which manufactures cranes and steel plant equipment.

Braithwaite, it may be noted, was incorporated in Bengal in 1930. Wagon manufacture, one of the major products of today, started at the Clive Works (Hide Road) in 1934. Today it has three main operating divisions: Clive Works, Angus Works and the project division. Its main pro-

ducts are wagons, cranes, structurals and material handling turnkey projects.

The company started incurring losses since 1967 — one of the main reasons being poor wagon orders — and its management was taken over by the Government in 1971 principally to save employment of the 6,742 employees. It was nationalized on April 1, 1975 and became a subsidiary of Bharat Bhari Udyog Nigam Limited in 1987.

But losses continued. In 1985-86 the net loss reached Rs 12.93 crores on a gross turnover of Rs 39 crores. Things improved thereafter and in 1992-93 the company reported a cash profit of Rs 10.75 lakhs with a gross turnover of Rs 158 crores.

The Victoria Works, another sick unit of company, taken over from BBJ in April, 1989 reported a small profit in 1992-93, sources said.

The company has mainly focused on rationalizing manpower, reducing it to 4,600. It has also utilized the "latent potential of the Clive Works to produce more structurals and wagons". In 1992-93 the Clive Works pro-

duced 3,707 wagons in four wheeler units against its installed capacity of 2,600 FWUs.

Company sources claimed that during the last three months the C. W. produced at double its installed capacity rolling out 1,582.5 wagons. The financial contribution of the Clive Works more than compensated for the loss by Angus Works, they said.

The Angus foundry, it may be noted, had a major accident on July 20, 1992 and is still out of operation. The losses on the account is about a crore of rupees, sources said.

The company's recent orders include the second Hooghly Bridge, the Brahmaputra Bridge now under erection at Jogigopa Assam, supplying and commissioning of three rubber-tyred gantry cranes at the container terminal of Calcutta Port Trust, the country's largest screw luff L. L. crane at Cochin Shipyard, a turnkey project of hot metal ladle repair shop at Durgapur Steel Plant and others.

With wagon orders coming its way, the management expects the Clive Works to be profitable.

5, Hide Road,
Calcutta -700043

18.10.93

Mrs Krishna Shahi
Hon'ble Minister of Industries
Deptt of Heavy Industry
Govt of India, Udyog Bhavan
New Delhi

Respected Madam,

Sub: Revival Proposals of Braithwaite & Co Ltd, Calcutta.

With reference to our joint representations to your Ministry dt 21st June 1993 as well as memorandum sent to the Prime Minister on 23rd Sept 93, we once again like to take your valuable time for consideration to the following facts for taking appropriate measures to revive the company, for which we have come to your office at Delhi:-

1. Present Position

The company has made a cash profit of Rs. 46 lakhs (approx) in 92-93 financial year and 44.39% increased in gross value of production in comparison with the previous year. In spite of the fact that the Angus Works of the company was not in a position to achieve the targetted production in Foundry due to tragic accident which took 9 valuable lives on 20.7.92. In this connection it is to be mentioned that various authorities of both central and State Government did not allow to resume production in Foundry for last 1 year for enquiry. In current financial year it is to be mentioned that clive works has produced upto Sept 93 1237.5 Nos Fwu and it is informed by the management that the wagon allocation for the next three months (upto Dec '93) will be around only 500 Fwu, it is further informed that the Railway Board may curtail wagon allocation for last quarter of this year (Jan-Mar 94). So total No of wagons will be far less in comparison with the last financial year, unless the Railway board is directed to increase wagon order as per our capacity.

In Angus works the present order position is about 18 crores but due to the acute shortage of working capital the production could not take momentum though the works has got its technological protentiality.

2. Roll of Employees

The employees are sincerely trying to make the company viable by improving the productivity. The employees did not only increase the production but also accepted reduction in their incentive sheme. Moreover the strength of employees has already been reduced drastically and the figure has come down at 4228 Nos as on 30.9.93, whereas in our viability proposals we estimated the figure at 4480 nos in 93-94. This has caused mainly due to mass exodus against V.R.S. (Viability plans enclosed).

.....2

3. Administrative Overhead :

In comparison with the reduction in workers strength, the administrative overhead has not been controlled considerably.

a) BBUNL :

The concept of formation of Bharat Bhari Udyog Nigam Ltd has miserably failed rather it has become a burden for the subsidiary like Braithwaite & Co Ltd.

b) Project Division :

The unions made a number of representation to the various authorities against separate establishment at chowranghee area, Calcutta. We think now time has come to reconsider whether such huge separate unnecessary overhead can be borne by the company in such a crucial stage.

c) Other wasteful expences

In our previous representations we have thourghly pointed out so many nonproductive wasteful expences, which should be curtailed.

4. Proposals

a) Government of India appointed some M/s. Atkins to review the entire affairs of Bharat Bhari Udyog Nigam Ltd. (BBUNL). But it has been kept most confidential. So, this Atkins report to be given to the Trade Unions for discussion before taking any action by the Authorities.

b) Immediate Arrangement should be made for adequate Wagon Order as per last year from Railway Board for utilisation of productive capacities.

c) Modernisation programmes of various projects throughout the country under Govt of India should be provided with ^{to} Braithwaite & Co Ltd.

d) To provide financial assistance for working capital to execute existing orders at Angus Works.

e) Govt should waive commission for the guarantee it issues to Bank.

f) Excise duty concession as admissible to Sick Industries unit should be made available to Braithwaite & Co Ltd.

g) Proper steps to be taken for modernisation of the company with a view to diversify the product line.

h) Effective measures to be taken to control exorbitant wasteful administrative overhead/financial irregularities etc.

We would, therefore urged before your good self that the company's affairs should be thoroughly thrashed out by the special tripartite committee under the Ministry of Labour outside the purview of BIFR so that the company can stand on his own feet for which the workers will leave no stone unturned for making the company in a viable position.

Hope it will receive your attention for the interest of Braithwaite and its 4000 employees.

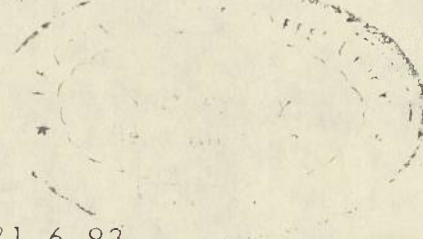
Thanking you once again.

Yours faithfully,

BRAITHWAITE MAZDOOR BRAITHWAITE EMPLOYEES' BRAITHWAITE SRAMIK
KARMACHARI UNION (CITU) UNION (INTUC) KARMACHARI UNION
(AITUC)

JT. SECRETARY
Braithwaite Mazdoor Karmachari Union

JT. GENL. SECRETARY



JT. GENL. SECRETARY



Encl:-

- 1) Revival Plans
- 2) Representation dt 21.6.93
- 3) Representation to the Hon'ble Prime Minister dt 23.9.93.
- 4) Minutes of the meeting held on 21 June 1993 before Secretary to Chief Minister, W.Bangal

5, Hide Road,
Calcutta - 43.

19-10-1993.

To

The Chairman, Railway Board,
Rail Bhavan, New Delhi.

Dear Sir,

Sub :- Urge for increase in allocation of wagon orders to Braithwaite & Co. Ltd., Calcutta, a leading wagon manufacturing Public Sector Unit.

On behalf of 4000 employees of Braithwaite & Co. Ltd., Calcutta, the three trade unions would like to bring to your attention on the following facts, for which we have come to your office at Delhi:-

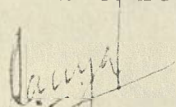
- a) That Braithwaite & Co. has been referred to BIFR in 1992.
- b) That the Company has made a cash profit in 92-93 after in since long by producing a record number of wagons. The number of wagon was 3648.45 FWU. But in this current financial year the Railway Board has imposed stricture upon the wagon builders and Braithwaite has been allowed to produce only 1237.5 FWU upto Sept. 93, and in next 3 months (upto Dec. '93) around 500 FWU will be produced only as per stricture. It is further informed by the management that the allocation may be reduced in last three months of 1993-94. So, this year our wagon production will be far less in comparison with the last financial year (92-93) due to Railway Board's stricture.

Obviously the question of viability of the Company depends upon the wagon production mainly. In such a condition if Railway Board does not provide adequate wagon orders at least on the basis of last year performance, the Company will not be in a position to revive.

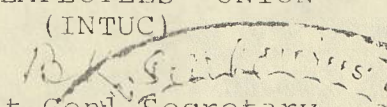
Hope your personal intervention in this regard may save Braithwaite and its 4000 employees and a good number of their family members.

Yours faithfully,

BRAITHWAITE MAZDUR
KARMACHARI UNION
(CITU)


Jt. Secretary
Braithwaite Mazdur Karmachari Union
20, B. T. Road, Gourhati, P.O. Bhadreswar, Hooghly

BRAITHWAITE
EMPLOYEES' UNION
(INTUC)


Jt. Genl. Secretary
SECRETARY
Regd No. 9726

BRAITHWAITE
SRAMIK KARMACHARI UNION
(AETUC)


Jt. Genl. Secretary

Dimpley

Page No.

पिन :
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528/92 अंश - II
वित्त मंत्रालय
औद्योगिक और वित्तीय
पुनर्निर्माण बोर्ड

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। टेलमहाद्य मार्ग
नई दिल्ली - 110001
दिनांक - 21-3-93

सेवा में,

संलग्न तृती के अनुसार

विषय :
.....
..... के मामले ।

मानता सं. 528/92.....

महोदय,

मुझे दिनांक ... 11-3-1993 की कार्रवाई/आदेशों की
प्रति आपकी तृपता तथा आवश्यक कार्रवाई के लिए धन्यवाद का
निर्देश हुआ है ।

भवदीय
.....
.....
बैंक अधिकारी
.....

संलग्न : उपरोक्त

6/9/97
BRAINWALK & ...
.....

BOARD FOR INDUSTRIAL AND FINANCIAL RECONSTRUCTION
Case No. PSU(Central)528/92 In re: Braithwaite and Co.Ltd.

11.3.1993

BENCH - II

Present: Shri Badal Roy, Member

Shri M. Dandapani, Member

The following are present at the hearing:-

	Name and designation of the representative S/Shri
1. M/s Braithwaite and Co.Ltd.	1. S.R. Choudhury, CMD 2. P.K. Rath, MD 3. S.K. Bose, DF
2. State Bank of India	1. S.W. Tanksale, Chief Mgr. 2. D. Mozumder, Chief Mgr.
3. Ministry of Industry Deptt. of Heavy Industry	1. A.K. Mohapatra, Jt. Secy 2. Satish Kumar, Director

The informant company named above has filed the present reference under Section 15(1) of the Sick Industrial Companies (Special Provisions) Act, 1985 hereinafter referred to as the 'Act'.

2. On a perusal of Form 'AA' filed by the company and other papers on record, we propose to make an enquiry under Section 16(1) of the Act. In terms of provisions of Section 16(4) of the Act, we hereby appoint Shri Prabir Sen, AE-517, Salt Lake Sector I, Calcutta - 700 064 as Special Director of the company to look after its financial and other interests. Let an intimation to that effect be sent to him with a copy to the company for necessary action. The company is hereby directed to cooperate with the Special Director by seeking his presence at the meetings of its Board as also furnishing necessary information sought by him.

3. On being called upon in that regard, Shri Rath, Managing Director of the company, explained the facts and circumstances leading to the making of the present reference.

4. Referring to the relevant Balance Sheet(s) etc. Shri Rath stated that financial position discussed therein is factually correct. In terms thereof, at the end of

the financial year ending 31.3.1992, accumulated losses suffered by the company amount to Rs.4673.90 lacs which had completely eroded the net worth of the company consisting of Rs.1729.20 lacs with free reserves. The company suffered cash loss of Rs.136.00 lacs during 1991-92 and cash loss of Rs.475.04 lacs during the preceding year ended on 31.3.1991.

5. None else present disputed the said financial position. Accordingly, we are satisfied that the company has become a sick industrial company in terms of the provisions of Section 3(1)(c) of the Act.

6. Then the Bench called upon Shri Mohapatra, representing the promoter, i.e. Department of Heavy Industry to indicate its views regarding the revival plan of the company. He responded by saying that Bharat Bhari Udyog Nigam Ltd.(BBUNL) group of companies, of which Braithwaite and Co. Ltd.(Braithwaite) is a subsidiary, was studied at great length by a reputed firm of Consultants viz. W.G. Atkins recently. The recommendations of Atkins report are under consideration of Government and once a decision is taken by the Government on the larger question involving an investment of around Rs.200 crores, Braithwaite would also get the benefit of measures as contemplated for the revival of BBUNL and its group of companies. In terms of the recommendations of Atkins, BBUNL would emerge as a unitary organisation, in which the present constituent companies (with regrouping of common lines of activities) would be reconstituted into five working divisions of which the Wagon and Engineering Division would be two prominent divisions. BBUNL would have an integrated marketing strategy and would also have the benefit of over all reduction in manpower with elimination of functions presently duplicated in the individual companies. He is optimistic of the Government taking a favourable view in implementing Atkins recommendations.

7. The Bench observed that the promoter Ministry/ Government of India will no doubt take time to firm up its views on the integration of the company's Divisions and make commitments on investments in the light of the Atkins report, as the issues involved and the resources to be mobilised are substantial. The question, therefore, is what should be done to put the working of the Braithwaite on a sound footing during the interregnum.

8. Shri Mohapatra submitted that it would take another two to three months for the Department of Heavy Industry/ Government to arrive at a decision in regard to the future of RBUNL group of companies including that of Braithwaite. Though the report contains an ambitious programme, pending a decision on such a major revamping/expansion of the heavy engineering activity in the eastern region, Government is aware that in the meanwhile it has to be ensured that the operations of the Braithwaite should not suffer. The turnaround strategy submitted by Braithwaite at the time of hearing, which is an improvement over the earlier one of June, 1992, would have to be in consonance with the recommendations contained in the Atkins report. As an interim measure, he requested that an operating agency be appointed, who should scrutinize the turnaround strategy of Braithwaite, to whom Atkin's Report can be made available for reference. The examination by OA would strengthen the hands of the Department of Heavy Industry in taking a firm view on the part of the investment relating to Braithwaite.

9. The Bench pointed out that the entire viability is based on the assumption that the funds for the rehabilitation of the company, amounting to Rs.22.45 crores will be in the form of interest free funds provided by the Department of Heavy Industry, as the promoter. Hence, at this juncture, it is important to know whether the promoter is in a position to bring in funds of this order to revive the company.

10. Analysing the elements of Braithwaite's proposal, Shri Mohapatra submitted that the money required for VRS would be forthcoming. Also the proposal for financial restructuring would be pursued with the highest levels in Government. But regarding the required funds for investments of meeting cash losses, no firm commitment could be given at this stage, as there is no budgetary provision in 1993-94. But the Government is considering investment on the basis of Atkin's Report. The position in this regard would crystalize soon. He would expect that the OA in their study would also examine whether a part of the funds for investment could not be found from the financial institutions. The Bench, however, cautioned that apart from the fact that no financial institutions have so far been involved in the investments in Braithwaite, the viability and profitability projections will be critically affected if funds are to be inducted by FIs on interest bearing basis. Given the financial picture of Braithwaite, it is clear that it cannot bear to service any further capital, whether from FIs or any other source.

11. Shri Rath, for the company, submitted that irrespective of the status of Braithwaite in terms of Atkin's Report, the present revival proposal is for turning around Braithwaite on a stand alone basis. Further, confidence in the revival of Braithwaite gets reinforced in the light of the current year's results, in which the trend of high cash loss in the past has been arrested. It is estimated that the company would have only a marginal cash loss of Rs.40 lakhs in 1992-93 (on the assumption that the VRS money would be available as grant). Shri Choudhary, Chairman, BBUNL submitted that the Angus Division has more potential and, in fact an asset for the company, contrary to what has been stated or implied in the Form 'AA' and other papers submitted by the company. So there is no need to contemplate the closure of Angus

Division. In this respect it has an edge over the Clive Division which is greatly dependent on Railway for wagons supply. The Clive Division would have a future if ordering of wagons is satisfactory. It has all the potential of becoming a cash cow if wagon orders are sustained. For Braithwaite, the holding company (BBUNL), has virtually no role to play as far as financial assistance is concerned. The revival plan submitted for Braithwaite would not be contrary to the broad dimensions of Atkin's Report. Government is committed already for investment of Rs.10.50 crores (VRS grant of Rs.7.50 crores and cash loss financing to the extent of Rs.3 crores) for Braithwaite and only the non-plan loan of Rs.3 crore would be interest bearing. Further, negotiations are on with the Railways for mopping up Rs.2 crores. The residual balance can be considered for a term loan from the all-India financial institutions. He submitted that with the implementation of the Steel Foundry Project (at Angus Division) for a capacity of 6000 tonnes, the prospects for viability of Angus unit would be very bright. With the mopping up of proposed funds from Railways of Rs.2 crores, installation of shot balasting machine, and addition and replacement of some equipment at Clive works, overall^{ly} would there be improvement in the productivity and good profitability in wagon manufacture. By separation of surplus manpower (through VRS as grant) and by not filling the vacancies caused by natural wastage, the manpower strength will come down to 4000 from the existing level of 4628. The manpower at Clive Works in 1996-97 will finally come down to 2740 and in Angus works to 960. These manning strength are commensurate with optimum production costs, and would ensure profitability and productivity to engineering industry norms.

12. Shri Tanksale for State Bank of India (SBI) submitted that the bank has financed the company for its ongoing activity, and also for the project activity. For the

former, the fund based exposure is to the tune of 954 lakhs while towards non-fund based facilities the amount is for Rs.2000 lakh and for the latter activity the total exposure is for Rs.440 lakh (fund based) (for NIPC and Calcutta Port, Trust (CPT) projects, Rs.407 lakhs for non-fund based. The irregularity in the Cash Credit A/c is of the order of Rs.250 lakhs. The turnaround strategy submitted by the company at the hearing is yet to be received by the bank. However, regarding the earlier plan submitted by the company, the bank has crystallized its views. Accordingly, without Government firmly committing to provide the necessary funds, any diversification/major expansion will create problems. Further, bank is apprehensive that marketability of products may become a problem area in future. Hitherto, the bank's exposure was backed up by guarantee(s) from the Central Government. These guarantees have expired, and are yet to be renewed. Only the exposure in regard to CPT project is guaranteed. The bank has given 31st March 1993 as deadline for the renewal of guarantee. If this is not forthcoming, the bank may contemplate freezing operations on the Cash Credit A/c of the company.

13. The Bench appreciated the position of the bank in insisting on continued Government guarantee more specifically in a cash loss situation through which the company is passing. In the interest of smooth relationship with the bank, it is desirable that the matter relating to the renewal of guarantee to the bank should be sorted out without further delay by the Department of Heavy Industry (as the promoter)/Government.

14. The Bench then enquired of the status of various winding up petitions against the company. It was confirmed by the company's representative that no Receiver/Liquidator has been appointed in these cases. However, the company would need protection against such litigation till such time the matter relating to its revival is decided upon. The Bench drew up the attention of the company to the

protection conferred on the company by Section 22 of the Act and accordingly suitable defence should be taken in the pending case before the courts.

15. On being asked as to whether without the aid and assistance of BIFR the company would be in a position to make its net worth positive. Shri Rath replied in the negative.

16. On the basis of submissions made and the material on record, we are satisfied that it is necessary in public interest to take measures specified under Section 18 of the Act in relation to the company. Accordingly, in exercise of the powers conferred under Section 17(3) of the Act, we hereby appoint Industrial Reconstruction Bank of India (IRBI) the Operating Agency(OA) to examine the viability of the company and prepare a viability study report. The OA shall keep in view the provisions of Section 18 of the Act for examining the viability and prepare a viability study report for revival of the company, as also the W.G. Atkins' Report. (This latter report would be made available to IRBI by the Department Heavy Industry, but would be treated as confidential by IRBI).

MEASURES

- a) Restructuring of capital as required in view of the total erosion of net worth and heavy losses suffered by the company. It may be examined if for enabling/empowering the company to take all crucial decisions necessary for rehabilitation of the company on long term basis speedily and at its own highest level, what should be the share-holding pattern of the company.
- b) Proper management of the sick industrial company by change/takeover or strengthening of management. In case of change/takeover, the new promoters should have adequate capabilities to bring in sufficient capital.

- c) Possibility of sale of surplus assets of the company including machinery, land and buildings, if any.
- d) Merger/amalgamation of the company in any other healthy company in public sector itself or outside the public sector family.
- e) Sale/lease of the unit to any other company, person or body of persons who can bring in sufficient funds to revive the company.
- f) Examine the possibility of a workers' or employees' cooperative being entrusted to run the unit by transferring shares of the management of the company to it.

GUIDELINES

- a) Undertake a thorough analysis of the reasons for sickness of the company alongwith deficiencies in its functional areas of working and suggest remedial measures which are feasible of being implemented in a short time frame. The assumptions of turnaround strategy worked out by the company/intending promoters should be studied in detail keeping in view all the relevant details and the industry trends.
- b) Undertake a complete survey of the company's infrastructure, along with a technical audit of the plant. Any arrears of maintenance and /or normal capital expenditure be particularly studied and the costs arising, considering the proposed plan of action for revival and the future product mix assumed. For the assumed product mix, the technical capabilities of the plant be fully assessed, together with costs of necessary revamping.
- c) The detailed techno-economic study conducted by the company should be fully vetted through in house expertise or by engaging consultants.

Considering the age factor of the machinery, the study should take into account the need for well operated production facilities which should take care of proposed product mix, efficiency norms at industry level and the changing market scenario and constraints faced in availability of raw material and power and marketing. The power scenario prevailing in the State-wise locations be studied in depth an outlook for future. The need for additional power should be critically analysed in the context of availability thereof. Feasibility of appropriate sanctions required for having additional power would be critically examined. Based on the technical feasibility and the achievable technical output further need for capital outlays to reach the technical output should be established. The should be firmed up cost-wise, along with means of financing. Then the commercial and financial viability study be conducted keeping in view the current industry profile, as well as perspective for 5-7 years with appropriate demand forecasting, along with vagaries of demand based on past trends and taking into account the competition faced from other units in the private sector and the future scenario of the company's products. The study should aim at treating the company's operations on a stand alone basis obviating the need for financial inputs for capital expenditure in future from Government. For giving effect to the results of proposed modernisation/ diversification etc., the delivery schedule of machinery and time frames involved in setting up of the same be fully analysed.

/capital
outlays
involved

d) Focussed attention be paid to the product mix and its market(s) and the marketing of the product. For the purpose, conduct a detailed study of the market and marketing of the product, with a view to assess the marketing strengths or weaknesses of the company, state the strategies it should adopt, with least capital outlay for effective marketing. Also the flexibility of infrastructure and imbalances therein to take care of the proposed product mix be fully analysed and vetted. Market potential for the company's existing and proposed products should be studied in depth. Also, examine the company's capabilities to convert potential demand into effective demand and probable market share.

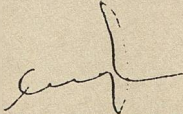
The profitable areas and loss-making areas in the operation of the company should be identified with a view to eliminate loss making activities. Other areas of costs which can be rationalised or eliminated to be critically studied and recommendations made. Indicate and compare the efficiency and other norms, specifically manpower deployment and labour costs. In case of variations noticed therein, indicate how the same would be eliminated and built in into the profitability projections.

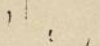
e) The company should discuss and enter into an agreement with the workers in regard to sacrifices expected of them, a copy whereof be made available to the OA, who would dovetail the monetary implications and impact thereof.

- f) After ascertaining whether the company on its own would be able to service debts from the value of sale output and if the cash generations are not adequate enough, to work out the kind of reliefs/concessions required. The reliefs/concessions to be within RBI norms. Nothing should be assumed on this score which has already been turned down or refused earlier and is not within the policy frame work of the respective agencies like ESI/PE, State and Central Government etc. The extent of interest-free funds required to meet the shortfall, if any, the DSCR despite such reliefs/concessions should also be quantified. For DSCR, 1.33 may be considered the minimum acceptable level. For meeting the aforesaid shortfall, the time frame be indicated for induction of financial inputs and the mode thereof.
- g) The promoters(i.e. Department of Heavy Industry) should indicate in definite terms the availability of required financial inputs, alongwith definite time frame. The OA should examine the impact of the time frame on the implementation of the scheme and viability.
- h) The report should indicate the reliefs/ concessions required from the banks, State Government, Central Government and other Individually and separately, and the same may be quantified, detailing the extent of sacrifices by each.
- i) The period of rehabilitation should not be too long; preferably, it should be confined to 7-10 years' time frame.

- j) Working capital needs to be arrived at in consultation with the lead bank; the consensus be arrived at on the method of lending, quantification of irregular component and other connected issues, like margin requirement, level of inventory holding, level of finance as per latest policy of RBI. Focused attention be paid to the unusable/usable inventory, stores and spares.
- k) On different parameters/assumptions, a sensitivity analysis be carried out, keeping in view the past trends of variations noticed in the activity of the company and those to which the industry line is most susceptible.
- l) Efforts should be made to hold meetings or discussions with all concerned parties including promoters, State Government, banks and major creditors and debtors etc., so as to know their suggestions/reactions and arrive at some sort of a consensus, if possible, in order to avoid delay in the matter. The submission of the report should be preceded by the usual joint meeting.
- m) Special attention be paid to the aspect of adequate managerial inputs at all levels, in all the functional areas of its operations. Suggest improvements therein or any other related remedial measures. These should clearly be spelt out.
- n) Any other supplemental/incidental or consequential matter in order to secure the needed revival of the company may be considered.

17. As discussed above, the company should submit its final proposal alongwith provisional results for 1992-93 (which should be firmed up) for turnaround strategy to the Department of Heavy Industry which would firm up its views in regard to the financial inputs and the extent of sacrifices involved therein. This exercise alongwith the turnaround plan so crystalized should be completed and reach the OA latest by 30.4.1993. The said proposal should deal at length with the remedial measures for weaknesses identified in functional areas and the reasons for sickness. It should also contain details regarding the present product mix and the market therefor alongwith product mix and the market for future. The means of finance should be fully tied up. Such a report be also submitted to all concerned, who would also communciate their views to the OA. The OA shall submit its report to the Board latest by 30th June 1993 and send advance copies thereof to the company and all concerned including workers union(s) etc. Those who may wish to do so may forward to the Board their comments, if any, in relation to the OA's report within 30 days of receipt of the same. No extension of time shall be granted either to the company/promoters or to the OA. A copy of this order shall also be forwarded to all concerned.


(M. DANDAPANI)
MEMBER


(BADAL ROY)
MEMBER

To

1. The Chairman & MD.
Droithawaite & Co. Ltd.,
Clive Works, 5, Hide Road,
Calcutta-700 043.
2. The General Manager,
State Bank of India,
Central Office,
Post Box No. 12,
Madame Cama Road,
Bombay-400 021.
3. The Secretary,
Ministry of Industry,
Deptt. of Heavy Industry,
Udyog Bhawan,
New Delhi-110011.
4. The Secretary,
Industrial Reconstruction
Department,
Govt. of West Bengal,
Calcutta.
5. The Chairman,
Securities & Exchange Board
of India, Mittal Court,
'B' Wing, 224, Nariman Point,
Bombay-400 021.
6. The Addl. Chief Officer,
Reserve Bank of India,
Central Office,
Industrial Export & Credit Deptt.
Central Office Building,
12th Floor, F.B.No.10030,
Bombay-400 023.
7. The Chairman and Managing Director,
Industrial Reconstruction Bank of India,
19, Netaji Subhash Road,
Calcutta-700001.
8. Shri Prabir Sen
AE-517, Salt Lake
Sector-1
Calcutta-700 064.
for information only

ABB deal: panel pulls up Rly. Ministry

From Our Correspondent
NEW DELHI, Feb. 23.

The Railway Convention Committee (RCC) comprising parliamentarians has taken the Railway Ministry to task for ignoring or unsatisfactorily replying to most of its recommendations on purchase of electric locomotives from the Swiss multinational Asea Brown Boveri (ABB). In its earlier report tabled in Parliament in November 1992, the RCC pointed out several lacunas in the deal and asked the Ministry to rectify them.

Charging the Ministry with not giving adequate consideration to even valid objections raised in the earlier report, the RCC has termed this "highly objectionable and repugnant to the tenets of Parliamentary democracy".

The RCC, in its report presented to the Lok Sabha today, called upon the Government to promptly implement its recommendations and report to it cases where it is not possible to implement them in

letter and spirit.

Besides holding that the decision to purchase 30 high power locomotives was ill-justified, the RCC has also taken serious exception at the manner in which the deal was pushed through. For instance, it felt that no convincing reasons were given for "arbitrarily" overruling objections raised by the then Financial Commissioner, two successive chairmen of Railway Board and the then general manager of Chittaranjan Locomotive Works, where the locomotives of the same design are proposed to be manufactured.

"There must be some valid reasons for overruling such objections (raised) by officials, who had acquired vast experience over the decades in running the railways, and were better to make evaluations of both technological factors and financial implications," the RCC commented in this context.

The RCC has asked the Railways to specifically reply, whether the sources of finance were "seri-

ously examined", before entering into a formal contract with ABB and finalising the loan from the Asian Development Bank (ADB).

In this connection, the committee noted the "candid admission" by the then financial commissioner to Railway Board that the Railways has no funds to accept the liability of about Rs. 1,000 crores, without raising revenues through public issue of bonds, or by raising the railway tariff. It also wanted to know the source from which the Railway Ministry would meet the extra foreign exchange obligation for payment of the contracted amount.

However, the RCC reserved its scathing best for technological issues. The committee said it was at a loss to understand as to how the induction of state-of-the-art locomotives from ABB would be beneficial when the Ministry of Railways by its own admission has stated that it is not in a position to ensure the requisite track renewal and fencing.

Rly. Amendment Bill moved

From Our Correspondent
NEW DELHI, Feb. 23.

The Government today moved a bill in Parliament for widening the scope of compensation and insurance cover to passengers who become victims of incidents other than train accidents. The present provision of Railway Act, 1989, entitles compensation only in cases of injuries or death in accidents. The scheme had been announced in the last Railway Budget by the Union Minister for Railways, Mr. C. K. Jaffer Sharief.

Presenting the Railways (Amendment) Bill, 1994, in Rajya Sabha today, the Minister of State for Railways, Mr. K. C. Lenka, said, keeping in view the, pressing demand in both Houses of Parliament and also the changed socioeconomic environment, it is proposed to provide insurance cover to such passengers who become victims of incidents in trains or in station premises.

Mr. Lenka, however clarified that no compensation will be paid in case of death or injuries due to suicide, attempted suicide, self-inflicted injuries, acts committed by the passenger in a state of inebriation, or natural causes of disease unless the treatment is undertaken due to any accident involving the Railways.

In order to provide insurance cover some amendments would also have to be made in the Railway Claims Tribunal Act of 1987.

— PTI

Noisy scenes in LS over 'assault' on BC woman

NEW DELHI, Feb. 23.

The Lok Sabha, today witnessed noisy scenes over the recent criminal assault on a Backward community woman, in a village of Hamipur district in Uttar Pradesh, with the agitated BJP members seeking a statement from the government.

Raising the issue during zero hour, Ms. Uma Bharti said that the atrocity on women of weaker sections in U.P. had been increasing, and cited the Chandaui, Basti and Ismailpur incidents of stripping and parading of Scheduled Caste women.

Ms. Bharti said that the Hamipur incident had surpassed all the "shameful" incidents, and told the House that the culprits were freely moving about in the town.

The BJP member said that she had met the President, Dr. Shankar Dayal Sharma, and the U.P. Governor, Mr. Moti Lal Vora, in this connection, but no action had been taken against those responsible.

Even though the woman had named the local Bahujan Samaj Party MLA in the FIR, the U.P. Government had not taken any action against him, she said.

The Leader of the Opposition, Mr. Atal Bihari Vajpayee, supported his party colleague, and urged the Government to seriously consider the matter.

Rlys plan to import ABB locos flayed

Our Special Correspondent

NEW DELHI 23 FEBRUARY

THE RAILWAY Convention Committee (1991) has passed strictures against the Railways decision to go ahead with import of 30 electric locos, with 6000 HP capacity from Asea Brown Boveri (ABB), Switzerland.

The report was presented to both houses of Parliament on Wednesday. The committee has described the import not only "unwarranted but also uneconomic". The report deals with action taken by the Railways on committee's earlier report, which was submitted to Parliament on August 3, 1993. Mr M Baga Reddy (Lok Sabha) was the chairman of the 18-member committee.

The report notes that the Railways decision "had completely relegated to background the indigenous advancements made in the loco-technology, besides throwing Railway finances out of gear."

action area would be on enhancing the effectiveness of the tax administration. The Chelliah committee's recommendations on beefing up tax administration and the Rekhi committee's suggestions for

It feels that the heavy cost of procuring the latest loco-technology, especially when the Railways are not even prepared to absorb it, will have to be borne by the rail users.

According to the committee, the Railways do not have the required infrastructure, including the line network, to take optimal advantage of these locos.

The report expresses concern over the Railways' decision of going against the advise of the Planning Commission and its own experts, to enter into an agreement with ABB.

The committee has sought details of the agreement and clauses suggested and accepted by the Railways.

The report states that the technology transfer claim is not convincing. It will take at least eight years for such a transfer. What is more, the Railways will need Rs 1,200 crore for inducting these locos.

valuable on the trade account. Since then, the rupee has maintained its stability against the dollar, the Reserve Bank of India has purchased over \$8 billion from the market to avoid further

Iisco to be referred to B

Continued from Page 1
ther delay in deciding of the ailing company. The Mukand's offer for IISCO on February 28. The offer further extended as has been.

IISCO's modernisation has been hanging fire for time now. After the Santh committee report favoured for taking over and reviving company, a proposal for IISCO was put to Cabinet Committee on Economic Affairs (CCEA) for clearance. Cabinet cleared the proposal on November last year.

The steel minister then forwarded the Bill for allowing of IISCO shares from SAI private party to the Parliament for approval. However, due to tests from the Opposition, the time of introduction of the Bill was referred to the Standing Committee on Industry for its consideration. The Standing Committee now asked for one more report to submit its report, which will be due on February 10. The process from the submi-

capital account, except in a few specific areas of trade. A major announcement in the budget is likely to be the up of the insurance sector.



अशोक गहलोत

वस्त्र राज्य मंत्री (स्वतंत्र प्रभार)
उद्योग भवन
नई दिल्ली-११० ०११
MINISTER OF STATE FOR TEXTILES
INDIA
NEW DELHI-110011

6 JAN 1993

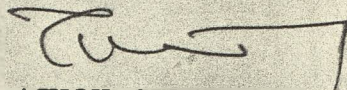
Dear Shri Mishra Ji,

I am in receipt of your letter dated December 31, 1992 enclosing therewith a representation from Co-operative Weavers Spinning Mills Staff Association, Mokama-Patna.

The matter shall receive attention.

With warm regards,

Yours sincerely,


(ASHOK GEHLOT)

Shri Chaturanan Mishra
Member of Parliament (RS)
11 Canning Lane
New Delhi 110 001



PRIME MINISTER

New Delhi
January 14, 1993

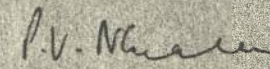
Dear Shri Mishra,

I have received your two letters of January 2 and 5, 1993 regarding relief funds meant for victims of Garhwal earthquake.

I am referring this to the Governor, Uttar Pradesh.

With regards,

Yours sincerely,


(P.V. Narasimha Rao)

Shri Chaturanan Mishra, MP
11, Canning Lane
New Delhi

11-xi-93

BIFR Braithwaite

1. Hiring off Clive works, Victoria Division
Working Capital
Retrench 825 employees.

2. Co. Not favouring hiring off Victoria Division
825 retrenchment not feasible

Report of OA (Operating Agency) does not give
any direction
Wagon order.

Promoter: Dept. of Heavy Engineering

Bd: If Promoter cannot give any input, finance,
then there is no point in further exercise
~~it~~ which will be in vacuum.

Re: Viability of Angus works is contradiction
between Holding Co + Head of Dept

51 Cr. Govt back give 1150 Cr. by Govt as Equity to come.
49 " Int.
Guarantee by Govt

Promoter: Infusion of finance is difficult, needs constant

Co: Cost reduction measures not spelled out by OA
VRS:

Bd. Promoter + Ministry to prepare Manpower Revival

Clive + Victoria viable

Company will prepare its
own report by end Feb

OA's report closed chapter

Promoter's report main thing, i.e. of Ministry

Next Hr. 21 Nov '94. Final

Co. says Angus needs
reduction of manpower 400
(Project Dept. is self sufficient
and laundry renovation
will reach break even)
- Guarantee commission by Govt
must be waived

Malady Lack of
work order
working capital

Nirmal Roy.

S 139: Till to-day policy is not to give
any interest concession to any Co only to
certainty Pub. Sector U.Ts.

~~Amal Das~~
Amal Das
IAS,
Braithwaite
Shrawan K.
Karny

Amal Das

Jr. Genl. Secretary,
Braithwaite Samik Karmachari Union
5, Hill Road, Col-43

The Sick Industrial Companies (Special Provisions) Act, 1985

alongwith

**BOARD OF INDUSTRIAL AND FINANCIAL
RECONSTRUCTION REGULATIONS, 1987**

together with

OTHER ALLIED RULES

with

SHORT NOTES

1993

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alongwith

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B.I.F.R. (Financial and Administrative Power) Rules, 1987

**B.I.F.R. (Salaries and Allowances and Conditions of Service of
Chairman and other Members) Rules, 1987**

**Appellate Authority for Industrial and Financial Reconstruction
(Secretary's Powers and Duties) Rules, 1988**

**Appellate Authority for Industrial and Financial Reconstruction (Conditions of
Service of the Secretary and other Officers and Employees) Rules, 1989**

with

SHORT NOTES

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**THE SICK INDUSTRIAL COMPANIES
(SPECIAL PROVISIONS) ACT, 1985**

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The Sick Industrial Companies (Special Provisions) Act, 1985

No. 1 of 1986

[8th January, 1986.]

An Act to make, in the public interest, special provisions with a view to securing the timely detection of sick and potentially sick companies owning industrial undertakings, the speedy determination by a Board of experts of the preventive, ameliorative, remedial and other measures which need to be taken with respect to such companies and the expeditious enforcement of the measures so determined and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

COMMENTS

GENERAL

- (i) The Hon'ble Supreme Court has held that this Act has been enacted in order to afford maximum protection of employment, optimise the use of financial resources, salvaging the assets of production, realizing the amounts due to the Banks and to replace the existing time consuming and inadequate machinery by efficient machinery for expeditious determination by a body of experts. *Navnit R. Kamani v/s R.R. Kamani - (1989) 66 Comp. Cas. 132*
- (ii) It has been held that the Act had been enacted to safeguard the economy of the country and protect viable sick units. Its object is to revitalize & rehabilitate sick industries. *Testeels Ltd. v/s Radhaben Ranchhodlal Charitable Trust - (1989) 66 Comp. Cas. 555*

CHAPTER I

PRELIMINARY

1. Short title, extent, commencement and application.—(1) This Act may be called the Sick Industrial Companies (Special Provisions) Act, 1985.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and any reference in any provision of this Act to the commencement of this Act shall be construed as a reference to the commencement of that provision.

(4) It shall apply, in the first instance, to all the scheduled industries other than the scheduled industry relating to ships and other vessels drawn by power.

(5) The Central Government may, in consultation with the Reserve Bank of India, by notification, apply the provisions of this Act, on and from such date as may be specified in the notification, to the scheduled industry relating to ships and other vessels drawn by power.

2. Declaration.—It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of article 39 of the Constitution.

3. Definitions.—(1) In this Act, unless the context otherwise requires,—

- (a) “Appellate Authority” means the Appellate Authority for Industrial and Financial Reconstruction constituted under section 5;
- (b) “Board” means the Board for Industrial and Financial Reconstruction established under section 4;
- (c) “Chairman” means the Chairman of the Board or, as the case may be, the Appellate Authority;
- (d) “company” means a company as defined in section 3 of the Companies Act, 1956, [* * *]¹
- (e) “industrial company” means a company which owns one or more industrial undertakings;
- (f) “industrial undertaking” means any undertaking pertaining to a scheduled industry carried on in one or more factories by any company but does not include—
 - (i) an ancillary industrial undertaking as defined in clause (aa) of section 3 of the Industries (Development and Regulation) Act, 1951; and
 - (ii) a small scale industrial undertaking as defined in clause (j) of the aforesaid section 3;
- (g) “Member” means a Member of the Board or, as the case may be, the Appellate Authority and includes the Chairman thereof;
- (h) “notification” means a notification published in the Official Gazette;
- (i) “operating agency” means any public financial institution as may be specified by general or special order as its agency by the Board;
- (j) “prescribed” means prescribed by rules made under this Act;
- (k) “public financial institution” means any of the following institutions, namely:—
 - (i) the Industrial Credit and Investment Corporation of India Limited, a company formed and registered under the Companies Act, 1913;
 - (ii) the Industrial Finance Corporation of India established under section 3 of the Industrial Finance Corporation Act, 1948;
 - (iii) the Industrial Development Bank of India, established under section 3 of the Industrial Development Bank of India Act, 1964;
 - (iv) the Industrial Reconstruction Bank of India established under section 3 of the Industrial Reconstruction Bank of India Act, 1984;
 - (v) such other institutions as the Central Government may, by notification, specify;

Provided that no institution shall be so specified unless it has been established or constituted by or under any Central Act, or not less than fifty-one per cent. of the paid-up

¹ Omitted by Act No 57 of 1991. Published in Gazette of India (Extraordinary), No. 77, dt. 30.12.91. Part II Sect. 1.

share capital of such institution is held or controlled by the Central Government or by any one or more of the institutions mentioned in sub-clauses (i) to (iv) or partly by the Central Government and partly by one or more of the institutions mentioned in sub-clauses (i) to (iv);

- (l) "Reserve Bank" means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934;
- (m) "scheduled bank" means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934;
- (n) "scheduled industry" means any of the industries specified for the time being in the First Schedule to the Industries (Development and Regulation) Act, 1951;
- (o) "sick industrial company" means an industrial company (being a company registered for not less than seven years) which has at the end of any financial year accumulated losses equal to or exceeding its entire net worth and has also suffered cash losses in such financial year and the financial year immediately preceding such financial year.

Explanation.— For the purposes of this clause—

- (i) "cash loss" means loss as computed without providing for depreciation;
- (ii) "net worth" is the sum total of the paid-up capital and free reserves;
- (iii) "free reserves" means all reserves credited out of the profits and share premium account but does not include reserves credited out of re-evaluation of assets, write back of depreciation provisions and amalgamation;
- (p) "State level institution" means any of the following institutions, namely:—
 - (i) State Financial Corporations established under section 3 or section 3A and institutions notified under section 46 of the State Financial Corporations Act, 1951;
 - (ii) State industrial development corporations registered under the Companies Act, 1956;
 - (iii) such other institutions, being companies and not being public financial institutions, engaged in the development or financing of industrial undertakings, as the Central Government may, by notification, specify:

Provided that no institution shall be so specified unless not less than fifty-one per cent. of the paid-up share capital thereof is held by any State Government or Governments or by any institution or institutions mentioned in sub-clauses (i) and (ii) or partly by one or more public financial institutions or institutions mentioned in sub-clauses (i) and (ii) and partly by one or more State Governments.

(2) (a) Words and expressions used and not defined in this Act shall have the meanings, if any, respectively assigned to them in the Companies Act, 1956.

(b) Words and expressions used but not defined either in this Act or in the Companies Act, 1956 shall have the meanings, if any, respectively assigned to them in the Industries (Development and Regulation) Act, 1951.

(3) Any reference in this Act to any other enactment or any provision thereof, shall, in relation to an area in which such enactment or such provision is not in force, be construed

as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area.

COMMENTS

It has been held that for a company to attract the provisions of Section 3(1)(0) it should be an industrial company having been registered for not less than 7 years and having incurred losses equal to or exceeding its entire net worth at the end of any financial year and also suffered cash losses in such financial year and the financial year immediately preceeding such financial year. *Polyolefins Industries Ltd. v/s Kosmek Plastics Manufacturing Ltd. (1990) 69 Comp. Cas. 527*

CHAPTER II

BOARD AND APPELLATE AUTHORITY FOR INDUSTRIAL AND FINANCIAL RECONSTRUCTION

4. Establishment of Board.—(1) With effect from such date as the Central Government may, by notification, appoint, there shall be established a Board to be known as the “Board for Industrial and Financial Reconstruction” to exercise the jurisdiction and powers and discharge the functions and duties conferred or imposed on the Board by or under this Act.

(2) The Board shall consist of a Chairman and not less than two and not more than fourteen other Members, to be appointed by the Central Government.

(3) The Chairman and other Members of the Board shall be persons who are or have been or are qualified to be High Court Judges, or persons of ability, integrity and standing who have special knowledge of, and professional experience of not less than fifteen years in science, technology, economics, banking industry, law, labour matters, industrial finance, industrial management, industrial reconstruction, administration, investment, accountancy, marketing or any other matter, the special knowledge of, or professional experience in which, would in the opinion of the Central Government be useful to the Board.

5. Constitution of Appellate Authority.—(1) The Central Government may, by notification, constitute, with effect from such date as may be specified therein, an appellate authority to be called the “Appellate Authority for Industrial and Financial Reconstruction” consisting of a Chairman and not more than three other Members, to be appointed by that Government, for hearing appeals against the orders of the Board under this Act.

(2) The Chairman shall be a person who is or has been a Judge of the Supreme Court or who is or has been a Judge of a High Court for not less than five years.

(3) A Member of the Appellate Authority shall be a person who is or has been a Judge of a High Court or who is or has been an officer not below the rank of a Secretary to the Government of India or who is or has been a Member of the Board for not less than three years.

6. Term of office, conditions of service, etc., of Chairman and other Members.—

(1) Before appointing any person as the Chairman or other Member, the Central Government shall satisfy itself that the person does not and will not, have any such financial or other interest as is likely to affect prejudicially his functions as such Member.

(2) The Chairman and every other Member shall hold office for such period, not exceeding five years, as may be specified by the Central Government in the order of his appointment, but shall be eligible for reappointment:

Provided that no person shall hold office as the Chairman or other Member after he has attained the age of sixty-five years.

(3) Notwithstanding anything contained in sub-section (1), a Member may—

(a) by writing under his hand and addressed to the Central Government resign his office at any time;

(b) be removed from his office in accordance with the provisions of section 7.

(4) A vacancy caused by the resignation or removal of the Chairman or any other Member under sub-section (3) or otherwise shall be filled by fresh appointment.

(5) In the event of the occurrence of a vacancy in the office of the Chairman by reason of his death, resignation or otherwise, such one of the Members as the Central Government may, by notification, authorise in this behalf shall act as the Chairman till the date on which a new Chairman, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(6) When the Chairman is unable to discharge his functions owing to absence, illness or any other cause, such one of the Members as the Chairman may authorise in writing in this behalf, shall discharge the functions of the Chairman, till the date on which the Chairman resumes his duties.

(7) The salaries and allowances payable to and the other terms and conditions of service of the Chairman and other Members shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairman or any other Member shall be varied to his disadvantage after his appointment.

(8) The Chairman and every other Member shall, before entering upon his office, make a declaration of fidelity and secrecy in the form set out in the Schedule.

(9) The Chairman or any other Member ceasing to hold office as such shall not hold any appointment or be connected with the management or administration in any company in relation to which any matter has been the subject matter of consideration before the Board or, as the case may be, the Appellate Authority, for a period of five years from the date on which he ceases to hold such office.

7. Removal of Members from office in certain circumstances.—(1) The Central Government may remove from office any Member, who—

(a) has been adjudged as insolvent, or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude, or

(c) has become physically or mentally incapable of acting as a Member, or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member, or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) Notwithstanding anything contained in sub-section (1), no Member shall be removed from his office on the ground specified in clause (d) or clause (e) of that sub-section unless the Supreme Court on a reference being made to it in this behalf by the Central Government, has, on an inquiry held by it in accordance with such procedure as it may specify in this behalf, reported that the Member ought, on such grounds, to be removed.

8. Secretary, officers and other employees of Board or Appellate Authority.—

(1) The Central Government shall appoint a Secretary to the Board and a Secretary (by whatever name called) to the Appellate Authority to exercise and perform, under the control of the Chairman, such powers and duties as may be prescribed or as may be specified by the Chairman.

(2) Subject to such restrictions and conditions as may be prescribed, the Board or, as the case may be, the Appellate Authority, may appoint such other officers and employees as may be necessary for the efficient performance of its functions.

(3) The salaries and allowances payable to and the conditions of service of the Secretary and other officers and employees of the Board and the Appellate Authority shall be such as may be prescribed:

Provided that such Secretary, officer or other employee shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the Schedule.

9. Salaries, etc., be defrayed out of the Consolidated Fund of India.—The salaries and allowances payable to the Members and the administrative expenses, including salaries, allowances and pension, payable to or in respect of the officers and other employees of the Board and the Appellate Authority shall be defrayed out of the Consolidated Fund of India.

10. Vacancies, etc., not to invalidate proceedings of Board and Appellate Authority.—No act or proceeding of the Board or, as the case may be, the Appellate Authority shall be questioned on the ground merely of the existence of any vacancy or defect in the constitution of the Board or the Appellate Authority or any defect in the appointment of a person acting as a Member of the Board or the Appellate Authority.

11. Members and staff of Board and Appellate Authority to be public servants.—The Chairman and other Members and the officers and other employees of the Board and the Appellate Authority shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

12. Constitution of Benches of Board or Appellate Authority.—(1) The jurisdiction, powers and authority of the Board or the Appellate Authority may be exercised by Benches thereof.

(2) The Benches shall be constituted by the Chairman and each Bench shall consist of not less than two Members.

(3) If the Members of a Bench differ in opinion on any point, they shall state the point or points on which they differ and the case shall be referred by the Chairman of the Board or, as the case may be, the Appellate Authority for hearing on such point or points by one or more other Members and such point or points shall be decided according to the opinion of the majority of the Members who have heard the case including those who first heard it.

13. Procedure of Board and Appellate Authority.—(1) Subject to the provisions of this Act, the Board or, as the case may be, the Appellate Authority, shall have powers to regulate—

- (a) the procedure and conduct of the business;
- (b) the procedure of the Benches, including the places at which the sittings of the Benches shall be held;
- (c) the delegation to one or more Members of such powers or functions as the Board or, as the case may be, the Appellate Authority may specify.

(2) In particular and without prejudice to the generality of the foregoing provisions, the powers of the Board or, as the case may be, the Appellate Authority, shall include the power to determine the extent to which persons interested or claiming to be interested in the subject matter of any proceeding before it may be allowed to be present or to be heard, either by themselves or by their representatives or to cross-examine witnesses or otherwise to take part in the proceedings.

(3) The Board or the Appellate Authority shall, for the purposes of any inquiry or for any other purpose under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying suits in respect of the following matters, namely:—

- (a) the summoning and enforcing the attendance of any witness and examining him on oath;
- (b) the discovery and production of document or other material object producible as evidence;
- (c) the reception of evidence on affidavit;
- (d) the requisitioning of any public record from any court or office;
- (e) the issuing of any commission for the examination of witnesses;
- (f) any other matter which may be prescribed.

14. Proceedings before Board or Appellate Authority to be judicial proceedings.—The Board or the Appellate Authority shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 and every proceeding before the Board or the Appellate Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

CHAPTER III

REFERENCES, INQUIRIES AND SCHEMES

15. Reference to Board.—(1) Where an industrial company has become a sick industrial company, the Board of Directors of the company, shall, within sixty days from the date of finalisation of the duly audited accounts of the company for the financial year as at the end of which the company has become a sick industrial company, make a reference to the Board for determination of the measures which shall be adopted with respect to the company:

Provided that if the Board of Directors had sufficient reasons even before such finalisation to form the opinion that the company had become a sick industrial company, the Board of Directors shall, within sixty days after it has formed such opinion, make a reference to the Board for the determination of the measures which shall be adopted with respect to the company.

(2) Without prejudice to the provisions of sub-section (1), the Central Government or the Reserve Bank or a State Government or a public financial institution or a State level institution or a scheduled bank may, if it has sufficient reasons to believe that any industrial company has become, for the purposes of this Act, a sick industrial company, make a reference in respect of such company to the Board for determination of the measures which may be adopted with respect to such company:

Provided that a reference shall not be made under this sub-section in respect of any industrial company by—

- (a) the Government of any State unless all or any of the industrial undertakings belonging to such company are situated in such State;
- (b) a public financial institution or a State level institution or a scheduled bank unless it has, by reason of any financial assistance or obligation rendered by it, or undertaken by it, with respect to, such company, an interest in such company.

16. Inquiry into working of sick industrial companies.—(1) The Board may make such inquiry as it may deem fit for determining whether any industrial company has become a sick industrial company—

- (a) upon receipt of a reference with respect to such company under section 15; or
- (b) upon information received with respect to such company or upon its own knowledge as to the financial condition of the company.

(2) The Board may, if it deems necessary or expedient so to do for the expeditious disposal of an inquiry under sub-section (1), require by order any operating agency to enquire into and make a report with respect to such matters as may be specified in the order.

(3) The Board or, as the case may be, the operating agency shall complete its inquiry as expeditiously as possible and endeavour shall be made to complete the inquiry within sixty days from the commencement of the inquiry.

(4) Where the Board deems it fit to make an inquiry or to cause an inquiry to be made into any industrial company under sub-section (1) or, as the case may be, under sub-section (2), it shall appoint one or more persons to be a special director or special directors of the company for safeguarding the financial and other interests of the company.

(5) The appointment of a special director referred to in sub-section (4) shall be valid and effective notwithstanding anything to the contrary, contained in the Companies Act, 1956, or in any other law for the time being in force or in the memorandum and articles of association or any other instrument relating to the industrial company, and any provision regarding share qualification, age limit, number of directorships, removal from office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the Board.

(6) Any special director appointed under sub-section (4) shall—

- (a) hold office during the pleasure of the Board and may be removed or substituted by any person by order in writing by the Board;
- (b) not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as a director or anything in relation thereto;
- (c) not be liable to retirement by rotation and shall not be taken into account for computing the number of directors liable to such retirement.

COMMENTS

- (i) It has been held by the Hon'ble Supreme Court that when the inquiry envisaged under this section is initiated by the Board for Industrial and Financial Reconstruction, no proceedings for the winding up of the industrial company or for execution, distress or the like against any of the properties of the industrial company or for the appointment of a receivers in respect thereof shall lie or be proceeded

with further, except with the consent of the Board. *Gram Panchayat vs Shree Vallabh Glass Works Ltd.* - AIR 1990 SC 1017

- (ii) It has been held that the provisions of this section are mandatory. *Industrial Finance Corporation of India vs Maharashtra Steels Ltd.* - (1990) 67 Comp. Cas. 412
- (iii) It has been held that where the Board for Industrial and Financial Reconstruction has issued a notice for enquiry envisaged under Section 16 of the Act, any subsequent application under Section 434 of The Companies Act, 1956, without obtaining the consent of the Board, is not maintainable. *Tarun Shah vs Perfect Thread Mills Ltd.* - (1989) 66 Comp. Cas. 947
- (iv) It has been held that the mandatory provisions of the Act envisage to stop both winding up proceedings already initiated as well as those which are pending disposal. *Testeels Ltd. vs Radhaben Ranchhodlal Charitable Trust* - (1989) 66 Comp. Cas. 555

17. Powers of Board to make suitable order on the completion of inquiry.—(1) After making an inquiry under section 16, the Board is satisfied that a company has become a sick industrial company, the Board shall, after considering all the relevant facts and circumstances of the case, decide, as soon as may be by order in writing, whether it is practicable for the company to make its net worth positive within a reasonable time.

(2) If the Board decides under sub-section (1) that it is practicable for a sick industrial company to make its net worth positive within a reasonable time, the Board, shall, by order in writing and subject to such reasonable time, the Board, shall, by order in writing and subject to such to the company as it may deem fit to make its net worth positive.

(3) If the Board decides under sub-section (1) that it is not practicable for a sick industrial company to make its net worth positive within a reasonable time and that it is necessary or expedient in the public interest to adopt all or any of the measures specified in section 18 in relation to the said company it may, as soon as may be, by order in writing, direct any operating agency specified in the order to prepare, having regard to such guidelines as may be specified in the order, a scheme providing for such measures in relation to such company.

(4) The Board may,—

- (a) if any of the restrictions or conditions specified in an order made under sub-section (2) are not complied with by the company concerned, review such order on a reference in that behalf from any agency referred to in sub-section (2) of section 15 or on its own motion and pass a fresh order in respect of such company under sub-section (3) ;
- (b) if the operating agency specified in an order made under sub-section (3) makes submission in that behalf, review such order and modify the order in such manner as it may deem appropriate.

18. Preparation and sanction of Schemes.—(1) Where an order is made under sub-section (3) of section 17 in relation to any sick industrial company, the operating agency specified in the order shall prepare, as expeditiously as possible and ordinarily within a period of ninety days from the date of such order, a scheme with respect to such company providing for any one or more of the following measures, namely:—

- (a) the reconstruction, revival or rehabilitation of the sick industrial company;
- (b) the proper management of the sick industrial company by change in, or take over of, management of the sick industrial company;
- (c) the amalgamation of the sick industrial company with any other industrial company (referred to in this section as 'transferee industrial company');

- (d) the sale or lease of a part or whole of any industrial undertaking of the sick industrial company;
- (e) such other preventive, ameliorative and remedial measures as may be appropriate;
- (f) such incidental, consequential or supplemental measures as may be necessary or expedient in connection with or for the purposes of the measures specified in clauses (a) to (e).

(2) The scheme referred to in sub-section (1) may provide for any one or more of the following, namely:—

- (a) the constitution, name and registered office, the capital, assets, powers, rights, interests, authorities and privileges, duties and obligations of the sick industrial company or, as the case may be, of the transferee industrial company;
- (b) the transfer to the transferee industrial company of the business, properties, assets and liabilities of the sick industrial company on such terms and conditions as may be specified in the scheme;
- (c) any change in the Board of Directors, or the appointment of a new Board of Directors, of the sick industrial company and the authority by whom, the manner in which and the other terms and conditions on which, such change or appointment shall be made and in the case of appointment of a new Board of Directors or of any director, the period for which such appointment shall be made;
- (d) the alteration of the memorandum or articles of association of the sick industrial company or, as the case may be, of the transferee industrial company for the purpose of altering the capital structure thereof or for such other purposes as may be necessary to give effect to the reconstruction or amalgamation;
- (e) the continuation by, or against, the sick industrial company or as the case may be, the transferee industrial company of any action or other legal proceeding pending against the sick industrial company immediately before the date of the order made under sub-section (3) of section 17;
- (f) the reduction of the interest or rights which the shareholders have in the sick industrial company to such extent as the Board considers necessary in the interests of the reconstruction, revival or rehabilitation of the sick industrial company or for the maintenance of the business of the sick industrial company;
- (g) the allotment to the shareholders of the sick industrial company of shares in the sick industrial company or, as the case may be, in the transferee industrial company and where any shareholder claims payment in cash and not allotment of shares, or where it is not possible to allot shares to any shareholder the payment of cash to those shareholders in full satisfaction of their claims—
 - (i) in respect of their interest in shares in the sick industrial company before its reconstruction or amalgamation; or

- (ii) where such interest has been reduced under clause (f) in respect of their interest in shares as so reduced;
 - (h) any other terms and conditions for the reconstruction or amalgamation of the sick industrial company;
 - (i) sale of the industrial undertaking of the sick industrial company free from all encumbrances and all liabilities of the company or other such encumbrances and liabilities as may be specified, to any person, including a co-operative society formed by the employees of such undertaking and fixing of reserve price for such sale;
 - (j) lease of the industrial undertaking of the sick industrial company to any person, including a co-operative society formed by the employees of such undertaking;
 - (k) method of sale of the assets of the industrial undertaking of the sick industrial company such as by public auction or by inviting tenders or in any other manner as may be specified and for the manner of publicity therefor;
 - (l) transfer or issue of the shares in the sick industrial company at the face value or at the intrinsic value which may be at discount value or such other value as may be specified to any industrial company or any person including the executives and employees of the sick industrial company;
 - (m) such incidental, consequential and supplemental matters as may be necessary to secure that the reconstruction or amalgamation or other measures mentioned in the scheme are fully and effectively carried out.
- (3) (a) A copy of the scheme prepared by the Board shall be sent, in draft, to the sick industrial company and the operating agency and in the case of amalgamation also to the transferee industrial company and any other industrial company concerned in the amalgamation for suggestions and objections, if any, within such period as the Board may specify;
- (b) The Board may make such modifications, if any, in the draft scheme as it may consider necessary in the light of the suggestions and objections received from the sick industrial company and the operating agency and also from the transferee industrial company and any other industrial company concerned in the amalgamation and from any shareholder or any creditors or employees of such industrial companies:

Provided that where the scheme relates to amalgamation of the sick industrial company the said scheme shall be laid before the transferee industrial company in the general meeting for the approval of the scheme by its shareholders and no such scheme shall be proceeded with unless it has been approved, with or without modification, by a special resolution passed by the shareholders of the transferee industrial company.

(4) The scheme shall thereafter be sanctioned, as soon as may be, by the Board (hereinafter referred to as the 'sanctioned scheme') and shall come into force on such date as the Board may specify in this behalf:

Provided that different dates may be specified for different provisions of the scheme.

(5) The Board may on the recommendations of the operating agency or otherwise, review any sanctioned scheme and make such modifications as it may deem fit or may by

order in writing direct any operating agency specified in the order, having regard to such guidelines as may be specified in the order, to prepare a fresh scheme providing for such measures as the operating agency may consider necessary.

(6) When a fresh scheme is prepared under sub-section (5), the provisions of sub-sections (3) and (4) shall apply in relation thereto as they apply to in relation to a scheme prepared under sub-section (1).

(7) The sanction accorded by the Board under sub-section (4) shall be conclusive evidence that all the requirements of this scheme relating to the reconstruction or amalgamation, or any other measure specified therein have been complied with and a copy of the sanctioned scheme certified in writing by an officer of the Board to be a true copy thereof, shall, in all legal proceedings (whether in appeal or otherwise) be admitted as evidence.

(8) On and from the date of the coming into operation of the sanctioned scheme or any provision thereof, the scheme or such provision shall be binding on the sick industrial company, or, as the case may be, on the transferee industrial company and also on the shareholders of both the companies.

(9) If any difficulty arises in giving effect to the provisions of the sanctioned scheme, the Board may, on the recommendation of the operating agency, by order do anything, not inconsistent with such provisions, which appears to it to be necessary or expedient for the purpose of removing the difficulty.

(10) The Board may, if it deems necessary or expedient so to do, by order in writing, direct any operating agency specified in the order to implement a sanctioned scheme with such terms and conditions and in relation to such sick industrial company as may be specified in the order.

(11) Where the whole of the undertaking of the sick industrial company is sold under a sanctioned scheme, the Board may distribute the sale proceeds to the parties entitled thereto in accordance with the provisions of section 529A and other provisions of the Companies Act, 1956.

COMMENTS

In a landmark judgement the Supreme Court has approved the Worker's Scheme for running sick company as sanctioned by the Board for Industrial & Financial Reconstruction. Directions were issued for shares in the company to be transferred to the workers by reducing the value from Rs. 10/- to Rs. 1/- per share as directed by BIFR. However, the scheme submitted on behalf of the management direct to the apex court without processing the same through BIFR within stipulated time was rejected on merits apart from considerations of absence of any right to present the scheme and delay in submitting the same. It was further elucidated by the court that the intention of the legislature behind the Act is to encourage the employees to take over the sick units and vest the competent authority with power to direct the transfer of shares to the employees accordingly. It has also been laid down that the scheme for running sick company as sanctioned by BIFR and approved by the Supreme Court would be binding and would not detract from the obligation incurred by guarantors towards banks with respect to the debts of the sick company. The concerned banks were and are bound by the directives and mandates it was held. *Navnit R. Kamani vs R.R. Kamani - (1988) 4 S.C.C. 387*

19. Rehabilitation by giving financial assistance.—(1) Where the scheme relates to preventive, ameliorative, remedial and other measures with respect to any sick industrial company, the scheme may provide for financial assistance by way of loans, advances or guarantees or reliefs or concessions or sacrifices from the Central Government, a State Government, any scheduled bank or other bank, a public financial institution or State level institution or any institution or other authority (any Government, bank, institution or other

authority required by a scheme to provide for such financial assistance being hereafter in this section referred to as the person required by the scheme to provide financial assistance) to the sick industrial company.

(2) Every scheme referred to in sub-section (1) shall be circulated to every person required by the scheme to provide financial assistance for his consent within a period of sixty days from the date of such circulation.

(3) Where in respect of any scheme the consent referred to in sub-section (2) is given by every person required by the scheme to provide financial assistance, the Board may, as soon as may be, sanction the scheme and on and from the date of such sanction the scheme shall be binding on all concerned.

(4) Where in respect of any scheme consent under sub-section (2) is not given by any person required by the scheme to provide financial assistance, the Board may adopt such other measures, including the winding up of the sick industrial company, as it may deem fit.

20. Winding up of sick industrial company.—(1) Where the Board, after making inquiry under section 16 and after consideration of all the relevant facts and circumstances and after giving an opportunity of being heard to all concerned parties, is of opinion that it is just and equitable that the sick industrial company should be wound up, it may record and forward its opinion to the concerned High Court.

(2) The High Court shall, on the basis of the opinion of the Board, order winding up of the sick industrial company and may proceed and cause to proceed with the winding up of the sick industrial company in accordance with the provisions of the Companies Act, 1956.

(3) For the purpose of winding up of the sick industrial company, the High Court may appoint any officer of the operating agency, if the operating agency gives its consent, as the liquidator of the sick industrial company and the officer so appointed shall for the purposes of the winding up of the sick industrial company be deemed to be, and have all the powers of, the official liquidator under the Companies Act, 1956.

(4) Notwithstanding anything contained in sub-section (2) or sub-section (3), the Board may cause to be sold the assets of the sick industrial company in such manner as it may deem fit and forward the sale proceeds to the High Court for orders for distribution in accordance with the provisions of section 529A, and other provisions of the Companies Act, 1956.

COMMENTS

It has been held that if a sick industrial company is recommended by the Board for Industrial and Financial Reconstruction for winding up under Section 20 (1) then the concerned High Court may appoint an Officer of operating agency as Liquidator as is envisaged u/s 20 (3). *Ratlam Ispat Ltd. v/s Greaves Feseco Ltd.* - 1991 R.L.R. (DB) 333

21. Operating agency to prepare complete inventory, etc.—Where, in relation to an inquiry or scheme, the circumstances so require, the Board may, through any operating agency, cause to be prepared—

(a) with respect to an industrial company, a complete inventory of—

(i) all assets and liabilities of whatever nature;

- (ii) all books of account, registers, maps, plans, records, documents of title or ownership of property and all other documents of whatever nature relating thereto;
- (b) a list of shareholders and a list of creditors showing separately in the list of creditors, the secured creditors and the unsecured creditors;
- (c) a valuation report in respect of the shares and assets in order to arrive at the reserve price for the sale of a part or whole of the industrial undertaking of the company or for fixation of the lease rent or share exchange ratio;
- (d) an estimate of reserve price, lease rent or share exchange ratio; and
- (e) proforma accounts, where no up-to-date audited accounts, are available.

22. Suspension of legal proceedings, contracts, etc.—(1) Where in respect of an industrial company, an inquiry under section 16 is pending or any scheme referred to under section 17 is under preparation or consideration or a sanctioned scheme is under implementation or where an appeal under section 25 relating to an industrial company is pending, then, notwithstanding anything contained in the Companies Act, 1956, or any other law or the memorandum and articles of association of the industrial company or any other instrument having effect under the said Act or other law, no proceedings for the winding up of the industrial company or for execution, distress or the like against any of the properties of the industrial company or for the appointment of a receiver in respect thereof shall lie or be proceeded with further, except with the consent of the Board or, as the case may be the Appellate Authority.

(2) Where the management of the sick industrial company is taken over or changed, notwithstanding anything contained in the Companies Act, 1956 or any other law or in the memorandum and articles of association of such company or any instrument having effect under the said Act or other law —

- (a) it shall not be lawful for the shareholders of such company or any other person to nominate or appoint any person to be a director of the company;
- (b) no resolution passed at any meeting of the shareholders of such company shall be given effect to unless approved by the Board.

(3) During the period of consideration of any scheme under section 18 or where any such scheme is sanctioned thereunder, for due implementation of the scheme, the Board may by order declare with respect to the sick industrial company concerned that the operation of all or any of the contracts, assurances of property, agreements, settlements, awards, standing orders or other instruments in force, to which such sick industrial company is a party or which may be applicable to such sick industrial company immediately before the date of such order, shall remain suspended or that all or any of the rights, privileges, obligations and liabilities accruing or arising thereunder before the said date, shall remain suspended or shall be enforceable with such adaptations and in such manner as may be specified by the Board:

Provided that such declaration shall not be made for a period exceeding two years which may be extended by one year at a time so, however, that the total period shall not exceed seven years in the aggregate.

(4) Any declaration made under sub-section (3) with respect to a sick industrial company shall have effect notwithstanding anything contained in the Companies Act, 1956 or any other law, the memorandum and articles of association of the company or any

instrument having effect under the said Act or other law or any agreement or any decree or order of a court, tribunal, officer or other authority or of any submission, settlement or standing order and accordingly,—

- (a) any remedy for the enforcement of any right, privilege, obligation and liability suspended or modified by such declaration, and all proceedings relating thereto pending before any court, tribunal, officer or other authority shall remain stayed or be continued subject to such declaration; and
- (b) on the declaration ceasing to have effect—
 - (i) any right, privilege, obligation or liability so remaining suspended or modified, shall become revived and enforceable as if the declaration had never been made; and
 - (ii) any proceeding so remaining stayed shall be proceeded with, subject to the provisions of any law which may then be in force, from the stage which had been reached when the proceedings became stayed.

(5) In computing the period of limitation for the enforcement of any right, privilege, obligation or liability, the period during which it or the remedy for the enforcement thereof remains suspended under this section shall be excluded.

COMMENTS

- (i) The Supreme Court has held that where a company is declared sick industrial company under section 3 (1) (O), 16 and 17 of the Act and steps were taken under section 16 and 17 by the Board for Industrial & Financial Reconstruction as a consequence all proceedings for execution, distress or the like against any of the prospectives of the company would automatically be suspended and could not be taken without the consent of the BIFR. In the case under reference the Gram Panchayat was held not entitled to recover property tax and other amounts due from the company by initiating coercive proceedings under section 12 (g) of the Bombay Village Panchayat Act 1959 without the consent of the Board. *Gram Panchayat vs Shree Vallabh Glass Works Ltd.* - (1990) 2 S.C.C. 440
- (ii) It has been held that section 22(1) stipulates the staying of the proceedings before the court in case a winding up order is not made and not where a winding up order is made. *K.S.V. Shanmugam vs Maharashtra State Co-operative Cotton Growers Marketing Federation Ltd.* - (1991) 70 COMP. CAS. 440
- (iii) It has been held that where the Board has registered a reference it implies that the inquiry is pending before it and the various measures as envisaged u/s 17 to section 20 have to be applied. When such a reference is registered the provisions of section 22 are attracted. *Sponge Iron India Ltd. vs Neelima Steels Ltd.* - 1990 (68) COMP. CAS. 201
- (iv) It has been held that the language employed in sub section (1) of section 22 of the Act emphatically prevents the court from proceeding to order winding up of the company unless the winding up order has already been made which is saved under section 31 of the Act. Therefore, if the court's jurisdiction to proceed with the winding up is suspended for the period specified under the provisions of the Act, the court does not derive any power from any other source to give incidental relief which will have the effect of nullifying the provisions contained in section 22 of the Act. In other words, what is prohibited to be done directly by the court cannot be done indirectly. *Chruch of South India Trust Association vs Wrapaids Ltd.* - (1990) 69 COMP. CAS. 838
- (v) It has been held that in a case where no reference had been made to the Board, either under sub-section (1) or under sub-section (2) of section 15, nor was an enquiry pending under section 16 and there was no material to lead to an inference that any scheme under section 17 was being worked out, the provisions of section 22 could not be attracted and the winding up petition could not be proceeded with. Even otherwise the Board was not under an obligation to recommend measures for rehabilitation for a sick industrial company. *Polyolefins Industries Ltd. vs Kosmek Plastics Manufacturing Ltd.* - (1990) 69 COMP. CAS. 527
- (vi) It has been held that section 22(1) does not prohibit the sanctioning of the prosecution by the Commissioner of Sales Tax. The question as to whether the sanction of the Commissioner for

prosecuting the directors of the company was valid was a mixed question of fact and law which could be agitated in the criminal proceedings before the court. *Vijay Mills Co. Ltd. vs State Of Gujarat - (1990) 68 COMP. CAS. 597*

- (vii) It has been held in a case where a nationalised bank had given loan facility to sick industry in consideration of which mortgage was created and subsequently in a suit by the bank receiver was appointed the court must give directions to the court receiver as to what to do in respect of property taken charge of. *Gupta Engineering Co. vs State Bank of India - (1989) 66 COMP. CAS. 116*
- (viii) It has been held that no proceeding could be commenced or continued for the release or restoration of the property of the company as long as the declaration that the company was a sick industrial company was in force, the property of such company remained under the direct control of the BIFR and no proceedings pertaining to the property of the company could be proceeded with, without the consent of the Board. *Comet Filament (India) Ltd. vs Pradeshya Industrial and Investment Corporation of U.P. Ltd - (1989) 66 COMP. CAS. 124*

CHAPTER IV

PROCEEDINGS IN CASE OF POTENTIALLY SICK INDUSTRIAL COMPANIES, MISFEASANCE PROCEEDINGS, APPEALS AND MISCELLANEOUS

23. Loss of fifty per cent. net worth by industrial companies.—(1) If the accumulated losses of an industrial company, as at the end of any financial year (hereinafter referred to as the relevant financial year) have resulted in erosion of fifty per cent., or more of its peak net worth during the immediately preceding five financial years,—

- (a) the company shall, within a period of sixty days from the date (hereinafter referred to as the relevant date) of finalisation of the duly audited accounts of the company for the relevant financial year—
 - (i) report the fact of such erosion to the Board; and
 - (ii) hold a general meeting of the shareholders of the company for considering such erosion;
- (b) the Board of directors shall, at least twenty-one days before the date on which the meeting under sub-clause (ii) of clause (a) is held, forward to every member of the company a report as to such erosion and the causes for such erosion;
- (c) the company may, by ordinary resolution passed at the meeting held under clause (a) remove a director (being a director appointed by the members of the company) and fill the vacancy created by such removal, so far as may be, in accordance with the procedure provided in sub-sections (2) to (6) of section 284 of the Companies Act, 1956.

(2) A director removed under sub-section (1) shall not be entitled to any compensation or damages for termination of his appointment as director or of any appointment terminating with that as director.

(3) If default is made in complying with the provisions of this section, every director or other officer of the company who is in default shall be punishable with imprisonment which shall not be less than six months but which may extend to two years and with fine.

24. Misfeasance proceedings.—(1) If, in the course of scrutiny or implementation of any scheme or proposal, it appears to the Board that any person who has taken part in the promotion, formation or management of the sick industrial company or its undertaking,

including any past or present director, manager or officer or employee of the sick industrial company—

- (a) has misapplied or retained, or become liable or accountable for, any money or property of the sick industrial company; or
- (b) has been guilty of any misfeasance, malfeasance or non-feasance or breach of trust in relation to the sick industrial company, the Board may, by order, direct him to repay or restore the money or property or any part thereof, with or without interest, as it thinks just, or to contribute such sum to the assets of the sick industrial company or the other person entitled thereto by way of compensation in respect of the misapplication, retainer misfeasance or breach of trust, as the Board thinks just, and also report the matter to the Central government for any other action which that Government may deem fit.

(2) If the Board is satisfied on the basis of the information and evidence in its possession with respect to any person who is or was a director or an officer or other employee of the sick industrial company, that such person by himself or along with others had diverted the funds or other property of such company for any purpose other than a *bona fide* purpose of the company or had managed the affairs of the company in a manner highly detrimental to the interests of the company, the Board shall, by order, direct the public financial institutions, scheduled banks and State level institutions not to provide, during a period of ten years from the date of the order, any financial assistance to such person or any firm of which person is a partner or any company or other body corporate of which such person is a director (by whatever name called).

(3) No order shall be made by the Board under this section against any person unless such person has been given an opportunity for making his submissions.

(4) This section shall apply notwithstanding that the matter is one for which the person may be criminally liable.

25. Appeal.—(1) Any person aggrieved by an order of the Board made under this Act may, within forty-five days from the date on which a copy of the order is issued to him, prefer an appeal to the Appellate Authority:

Provided that the Appellate Authority may entertain any appeal after the said period of forty-five days but not after sixty days from the date aforesaid if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the Appellate Authority may, after giving an opportunity to the appellant to be heard, if he so desires, and after making such further inquiry as it deems fit, confirm, modify or set aside the order appealed against.

26. Bar of jurisdiction.—No order passed or proposal made under this Act shall be appealable except as provided therein and no civil court shall have jurisdiction in respect of any matter which the Appellate Authority or the Board is empowered by, or under, this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

27. Delegation of powers.—The Board may, by general or special order, delegate, subject to such conditions and limitations, if any, as may be specified in the order, to any Member or Secretary or other officer or employee of the Board or other person authorised

by the Board to manage any industrial company or industrial undertaking or any operating agency, such powers and duties [except the powers and duties under sub-sections (2) and (4) of section 16, section 17, sub-sections (3) and (4) of section 19, sub-sections (1) and (4) of section 20, sub-section (3) of section 22 and section 24] under this Act as it may deem necessary.

28. Returns and information.—(1) The Board shall furnish from time to time to the Central Government such returns as the Central Government may require.

(2) The Board may, for the purpose of efficient discharge of its functions under this Act, collect from, or furnish to,—

- (a) the Central Government,
- (b) the Reserve Bank,
- (c) the scheduled bank or any other bank,
- (d) the public financial institution, or
- (e) the State-level institution, such information as it may consider useful for the purpose in such manner and within such time as it may think fit.

29. Power to seek the assistance of Chief Metropolitan Magistrate and District Magistrate.—(1) The Board or any operating agency, on being directed by the Board, may, in order to take into custody or under its control all property, effects and actionable claims to which a sick industrial company is or appears to be entitled, request, in writing, the Chief Metropolitan Magistrate or the District Magistrate within whose jurisdiction any property, books of account or any other documents of such sick industrial company be situate or be found, to take possession thereof, and the Chief Metropolitan Magistrate or the District Magistrate, as the case may be, shall, on such request being made to him,—

- (i) take possession of such property, books of account or other documents; and
- (ii) cause the same to be entrusted to the Board or the operating agency.

(2) For the purpose of securing compliance with the provisions of sub-section (1), the Chief Metropolitan Magistrate or the District Magistrate may take or cause to be taken such steps and use or cause to be used such force as may, in his opinion, be necessary.

(3) No act of the Chief Metropolitan Magistrate or the District Magistrate done in pursuance of this section shall be called in question in any court or before any authority on any ground whatsoever.

30. Protection of action taken in good faith.—No suit or other legal proceeding shall lie against the Board or the Appellate Authority or the Chairman or any other Member, officer or other employee of the Board or the Appellate Authority, or operating agency or any other person authorised by the Board or the Appellate Authority to discharge any function under this Act for any loss or damage caused or likely to be caused by any action which is in good faith done or intended to be done in pursuance of this Act.

31. Saving of pending proceedings.—Where a receiver or an official liquidator has been appointed in any proceeding pending immediately before the commencement of this Act, in any High Court for winding up of an industrial company such proceeding shall not abate but continue in that High Court.

32. Effect of the Act on other laws.—(1) The provisions of this Act and of any rules or schemes made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law except the provisions of the Foreign Exchange Regulation Act, 1973 and the Urban Land (Ceiling and Regulation) Act, 1976 for the time

being in force or in the Memorandum or Articles of Association of an industrial company or in any other instrument having effect by virtue of any law other than this Act.

(2) Where there has been under any scheme under this Act an amalgamation of a sick industrial company with another company, the provisions of section 72A of the Income-tax Act, 1961, shall, subject to the modifications that the power of the Central Government under that section may be exercised by the Board without any recommendation by the specified authority referred to in that section, apply in relation to such amalgamation as they apply in relation to the amalgamation of a company owning an industrial undertaking with another company.

(3) Nothing in the Monopolies and Restrictive Trade Practices Act, 1969 shall apply in relation to—

- (a) the modernisation or expansion of a sick industrial company, or
- (b) the amalgamation or merger of a sick industrial company with another company as a result of a scheme sanctioned in accordance with the provisions of this Act.

33. Penalty for certain offences.—(1) Whoever violates the provisions of this Act or any scheme, or any order of the Board, or the Appellate Authority and whoever makes a false statement or gives false evidence to the Board or the Appellate Authority, shall be punishable with simple imprisonment for a term which may extend to three years and shall also be liable to fine.

(2) No court shall take cognizance of any offence under sub-section (1) except on a complaint in writing of the Secretary or any such other officer of the Board or any such officer of an operating agency as may be authorised in this behalf by the Board.

34. Offences by companies.—(1) Where any offence, punishable under this Act has been committed by a company, every person who, at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence punishable under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) “company” means any body corporate and includes a firm or other association of individuals; and
- (b) “director”, in relation to a firm, means a partner in the firm.

35. Power to remove difficulties.—If any difficulty arises in giving effect to the provisions of this Act or the rules, schemes or orders made thereunder, the Central Government may, by notification, remove the difficulty:

Provided that no such notification shall be made by the Central Government after the expiry of a period of three years from the date on which this Act receives the assent of the President.

36. Power to make rules.—(1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the salaries and allowances payable to and other terms and conditions of service of the Chairman and other Members under sub-section (7) of section 6;
- (b) the powers which may be exercised and the duties which may be performed by the Secretary to the Board or the Appellate Authority under sub-section (1) of section 8;
- (c) the restrictions and conditions subject to which officers and employees may be appointed to the Board or the Appellate Authority under sub-section (2) of section 8;
- (d) the salaries and allowances and other conditions of service of the Secretary and other officers and employees of the Board or the Appellate Authority under sub-section (3) of section 8;
- (e) the additional matters referred to in sub-section (3) of section 13;
- (f) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDULE

[See sections 6(8) and 8(3)]

DECLARATION OF FIDELITY AND SECRECY

I,....., do hereby declare that I will faithfully, truly and to the best of my skill and ability, execute and perform the duties required of me as the Chairman /Member/Secretary/other officer or employee of the Board for the Industrial and Financial Reconstruction/the Appellate Authority for Industrial and Financial Reconstruction and which properly relate to the office or position held by me in or in relation to the said Board/Appellate Authority.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the Board/Appellate Authority, nor will I allow any such person to inspect or have access to any books or documents belonging to or in possession of the Board/Appellate Authority or the business of any person having any dealing with the said Board/Appellate Authority.

Signed before me.

Signature.

Board for Industrial and Financial Reconstruction Regulations, 1987

Notification No. 2(4)/BIFR/86, dated 27th April, 1987¹

In exercise of the powers conferred on it by section 13 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), and all other powers enabling it in this behalf, the Board for Industrial and Financial Reconstruction hereby makes the following regulations, namely.

CHAPTER I

GENERAL

1. Short title and commencement.—(1) These regulations may be called the **Board for Industrial and Financial Reconstruction Regulations, 1987.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Interpretation.—(1) The General Clauses Act, 1897 (10 of 1897), shall apply to the interpretation of these regulations.

(2) Words and expressions used but not defined in these regulations, in the Act, in the Companies Act, 1956 (1 of 1956), and in the Industries (Development and Regulation) Act, 1951 (65 of 1951), shall have the meanings, if any, respectively assigned to them in the General Clauses Act, 1897 (10 of 1897).

3. Definitions.— In these regulations, unless the context otherwise requires:—

- (a) “Act” means the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986);
- (b) “Board” means the Board for Industrial and Financial Reconstruction established under section 4 and includes, where the context so requires, a Bench exercising the jurisdiction, powers and authority of the Board;
- (c) “Bench” means a Bench of the Board constituted under sub-section (2) of section 12;
- (d) “Chairman” means the Chairman of the Board appointed under section 4;
- (e) “informant” means the person making a reference to the Board on behalf of the sick industrial company under sub-section (1) of section 15 or on behalf of the Central government, the Reserve Bank, a State Government, a public financial institution, a State-level institution, or, as the case may be, a scheduled bank under sub-section (2) of section 15;
- (f) “Member” means a member of the Board;
- (g) “Operating agency” means any public financial institution, as may be specified by general or special order, as its agency, by the Board;

- (h) "Persons interested" includes a sick industrial company, a transferee industrial company within the meaning of clause (c) of sub-section (1) of section 18, any other industrial company concerned in the amalgamation, any shareholder, any creditor or employee of such industrial companies;
- (i) "Registrar" means an officer appointed by the Chairman as the Registrar and includes any officer to whom powers and functions of the Registrar have been entrusted by the secretary and such other person who is for the time being discharging the functions of the Registrar;
- (j) Reference to "court", while applying the provisions of the Code of Civil Procedure, 1908 (5 of 1908), shall be understood to refer to the Board and similarly reference to "plaintiff" or "defendant" shall be understood to refer to appropriate parties before the Board;
- (k) Reference to "suits or petitions", while applying the provisions of the Code of Civil Procedure 1908 (5 of 1908), shall be understood to refer to appropriate proceedings under the Act;
- (l) "Secretary" means a Secretary to the Board appointed by the Central Government under sub-section (1) of section 8.
- (m) "Section" means a section of the Act.

BOARD'S OFFICE

- 4. (1) The Central Office of the Board shall be at Delhi.
- (2) The Central Office of the Board shall be open at such times as the Chairman may direct.

LANGUAGE OF THE BOARD

- 5. The proceedings of the Board shall be conducted in English or Hindi.
- 6. No reference, application, representation, document or other matter contained in any language other than English or Hindi shall be accepted by the Board, unless the same is accompanied by a true translation thereof in English or Hindi.

FILING OF REFERENCES, LETTERS, ETC.

- 7. All references, letters, replies, rejoinders, documents or papers required to be filed before or submitted to the Board shall be written, or as the case may be, typewritten, cyclostyled or printed neatly, and legibly on one side of fulscap size paper, in double space, provided that true copies of documents prepared by any other mechanical or chemical process, including photocopying may be filed or submitted.

HOLIDAY

- 8. Where the last day for doing any act falls on a day on which the office of the Board is closed and by reason thereof, the act cannot be done on that day, it may be done on the next day on which that office is open.

ADJOURNMENTS

9. The Board may, if sufficient cause is shown, at any stage of any inquiry or proceeding, grant time to the parties or to any of them and may from time to time adjourn the inquiry or hearing of the proceedings.

EX PARTE PROCEEDINGS

10. Where on the day fixed for hearing, any of the parties does not appear, the proceedings, unless adjourned by the Board, shall continue in the absence of the party not so appearing.

EXTENSION OR ABRIDGEMENT OF TIME

11. Subject to the provisions of the Act, the time prescribed by these regulations or by an order of the Board, for doing any act:—

- (a) may be extended by an order of the Board (whether it has already expired or not); or
- (b) may be abridged by an order of the Board, after giving notice to the concerned parties.

EFFECT OF NON-COMPLIANCE AND APPLICATION OF
CODE OF CIVIL PROCEDURE

12. (1) Failure to comply with any requirement of these regulations shall not invalidate the proceeding merely by reason of such failure, unless the Board is of the view that such failure has resulted in mis-carriage of justice;

(2) Subject to the provisions of sub-section (3) of section 13, where no specific provision has been made in these regulations, the Code of Civil Procedure, 1908 (5 of 1908), to the extent as may be deemed expedient by the Board, shall apply to the proceeding.

SERVICE OF NOTICES OR OTHER DOCUMENTS

13. (1) Every notice or other document required to be served on or delivered to any person may be sent by registered post addressed to the person or his agent empowered to accept service at the address furnished by him for service or at the place where the person or his agent ordinarily resides or carries on business or personally works for gain, and every notice or other document required to be delivered to or filed with the secretary, may be delivered at the office of the Board or sent by registered post to the secretary at the office of the Board. An acknowledgment purporting to be signed by the person or the agent or an endorsement by a postal employee that the person or the agent has refused to take delivery may be deemed by the Board to be *prima facie* proof of service and section 27 of the General Clauses Act, 1897 (10 of 1897), shall apply.

(2) Any notice or other document required to be served on or delivered to a company may be sent to the chairman, managing director, secretary, manager or other principal officer of the company at the registered office of the company, by registered post or by leaving it at its registered office.

(3) Every notice or other document required to be served on the Central Government or, as the case may be, the State Government, shall be addressed and sent to the secretary of the appropriate Ministry or Department and shall be served in the manner specified in sub-regulation (1) of this regulation.

MEETINGS OF THE BOARD

14. (1) The Board may meet at such times and places, for conduct of its business, as it may think fit provided that in the absence of a decision of the Board to the contrary, the Chairman shall decide the time and place for the sittings of the Board.

(2) A minimum number of three members personally present at a meeting of the Board shall be the quorum for that meeting of the Board.

(3) In the case of difference of opinion among the members of the Board, the opinion of the majority of the members present at the meeting shall prevail and orders of the Board shall be expressed in terms of the views of the majority. Any member dissenting from the majority view may record his reasons separately. If the members are evenly divided in their opinions, the Chairman shall have a second or casting vote.

(4) The proceedings of each meeting of the Board shall be signed and dated by the Chairman, or in his absence, by the member presiding over the meeting as soon as may be, after the conclusion of the meeting and the proceedings so signed shall be conclusive evidence of the proceedings recorded therein.

Explanation.—This regulation shall not apply to a Bench, sitting as a Bench.

AUTHENTICATION AND COMMUNICATION OF ORDERS OF THE BOARD

15. (1) All orders and decisions of the board shall be authenticated by the signature of the Chairman or any other member, or the Secretary, or any other officer empowered in this behalf by the Chairman, and bear the official seal of the Board.

(2) Every order of the Board shall be communicated under the signature of the Secretary or any other officer of the Board duly empowered by the secretary, in this behalf.

BENCHES

16. (1) Each Bench shall consist of not less than two Members. The Chairman of the Board shall by order constitute such number of Benches as he may deem fit. [He shall, from time to time, assign]² the cases to be dealt with by the respective Benches, provided that the Chairman may constitute, as and when deemed fit, a Bench for dealing with a particular case or batch of cases. He³ may also transfer a case from one Bench to another.

(2) The places at which the Benches shall sit, shall be such as the Chairman may, by order, specify.

(3) Subject to the other provisions of these regulations, every order made or act done by a Bench in exercise of its powers shall be deemed to be the order or act, as the case may be, of the Board.

(4) There shall be a separate official seal indicating that it is the seal of a Bench of the Board and such Bench shall be provided with a seal which shall also indicate the Bench to which it relates.

2. Substituted by BIFR (Amendment) Regulations 1987.

3. Substituted by BIFR (Amendment) Regulations 1987.

(5) Each such seal shall be kept under the custody of the Registrar and shall be used under his directions.

(6) Every order, communication, or notice issued or certified copy granted by any Bench shall be stamped with the seal of the Bench and shall be authenticated by the Registrar.

(7) The Registrar shall have the custody of the records of the Bench.

(8) The Registrar shall discharge such other functions as are entrusted to him by the Secretary.

PUBLICATION OF ORDERS

17. Such of the orders of the Board, as are deemed fit for publication in any authoritative report or the Press, may be released for such publication on such terms and conditions as the Chairman may specify.

POWER TO REMOVE DIFFICULTIES

18. If any difficulty arises in giving effect to any of the provisions of these regulations, the Board may, by general or special order, do anything, not being inconsistent with the provisions of the Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty.

CHAPTER II

REFERENCES UNDER SECTION 15

19. (1)⁴ Every reference to the Board under sub-section (1) of section 15 shall be made—

(i) in Form A in respect of an industrial company other than a Government Company

(ii) in Form AA in respect of a Government Company.

(2)⁵ Every reference to the Board under sub-section (2) of section 15 shall be made

(i) in Form B in respect of an industrial company other than a Government Company

(ii) in Form BB in respect of a Government Company.

(3) A reference may be filed either by delivering it at the office of the Board or by sending it by registered post.

(4) On receipt of a reference, the Secretary or, as the case may be, the Registrar, shall endorse on each reference the date on which it is filed or received in the office of the Board and shall sign the endorsement.

(5) If, on scrutiny, the reference is found to be defective and the defect noticed is formal in character, the Secretary or, as the case may be, the Registrar, may allow the concerned informant to rectify the defect within such time as he may deem reasonable.

(6) If, on scrutiny, the reference is found to be in order, it shall be duly registered, assigned a serial number and put up before the concerned Bench.

4. Substituted by BIFR Not. dated 6-3-92, Published in Gazette of India, Extraordinary Part III sec. 4.

5. Substituted by BIFR Not. dated 6-3-92, Published in Gazette of India, Extraordinary Part III sec. 4.

(7) If the informant fails to rectify the defect within the time allowed under sub-regulation (5), the Secretary or, as the case may be, the Registrar, may, by order, decline to register the reference. The reference so declined to be registered shall be deemed not to have been made.

(8) (1) An appeal against the order of the Registrar declining to register a reference shall be made by the aggrieved person to the Secretary within fifteen days of communication to him of such an order.

(2) An appeal against the order of the secretary declining to register a reference shall be made by the aggrieved person to the Chairman within fifteen days of communication to him of such an order and the Chairman's decision thereon shall be final.

CHAPTER III

GENERAL PROVISIONS REGARDING ENQUIRIES

20. (1) The Board or, as the case may be, the operating agency, may call for such additional information as it considers necessary in connection with any enquiry or investigation under the Act or any of these regulations from the informant or any authority, public financial or other institution, or any other person.

(2) The Board may address communications to the informant, to the sick industrial company if it is not the informant, the concerned Government Department, the operating agency and such other authorities, institutions or persons as considered appropriate, calling for such other particulars and information, as in the opinion of the Board, may be relevant to the matters under consideration by the Board. The replies to such communications of the Board shall be submitted by the addressees, in quadruplicate.

(3) The Board may call the informant, the board of directors of the industrial company, or their authorised representative, if any, any Government official or any other person for such discussion as it may consider necessary, in connection with the matters under consideration.

(4) The Board may visit any establishment, including that of the informant, as it may consider necessary and hold discussions with the representative of the informant, if in the opinion of the Board, such visits and discussions may be expedient in the interest of proper determination of matters under consideration.

(5) The Board may depute such of its officers and staff to such places to meet such persons, as it may deem appropriate, for investigating and discussing matters under its consideration and call for reports from them.

(6) The informant, the concerned industrial company when it is not the informant, and other interested persons, who have sent their comments or suggestions to the Board, and expressed the desire that they would like to be heard and whom the Board may determine to hear shall be intimated about the date of hearing. The persons who have sent their comments or suggestions and intimation that they would like to participate in the hearing shall file with the Board, not less than 10 days before the date of hearing, a written statement containing the gist of the submissions that they would like to make at the hearing.

(7) Where there are a large number of persons having common interest, the persons having common interest may select one or more persons for appearing in the proceedings on their behalf or for their benefit:

Provided that intimation in this regard shall be sent to the Board within the time prescribed in sub-regulation (1) of this regulation.

(8) The Board shall hear the persons to whom an intimation of hearing has been sent and who present themselves for hearing.

(9) In the proceedings before the Board, the informant or the operating agency shall be entitled to be represented by such officer or officers as it may depute. The other persons concerned may either be heard by themselves or be represented by a legal practitioner, specially authorised by them, to act on their behalf.

CHAPTER IV

INQUIRY UNDER SECTION 16

21. Upon a reference with respect to an industrial company under section 15 or upon information received with respect to such company, or upon its own knowledge as to the financial condition of the company, the Board may—

- (a) itself make such inquiry, as it may deem fit, for determining whether the industrial company has become a sick industrial company; or
- (b) if it deems necessary or expedient so to do, for the expeditious disposal of inquiry mentioned at (a) above, direct by an order, an operating agency, to be specified in the order, to enquire into and make a report with respect to such matters as may be specified in the order:

Provided that reasonable opportunity for making submissions shall be given by the Board to the informant, and to the concerned industrial company if it is not the informant, before deciding whether the said company has become a sick industrial company or not.

22. Where the Board, after considering the report submitted by the operating agency and report thereon, if any, of the Secretary submitted in pursuance of an order made by the Board or the Chairman or in accordance with the rules made under the Act, is of the opinion that the report of the operating agency is not complete with respect to any of the matters referred to it for inquiry by the Board, the Board may direct the operating agency to make such further inquiry as it may deem necessary and submit a further report to the Board.

23. The operating agency shall complete its inquiry as expeditiously as possible and make endeavour so to do within sixty days of the commencement of the inquiry.

24. Where the Board after completion of its inquiry or after considering the report or, as the case may be, the further report of the operating agency, is satisfied that no case exists for coming to the conclusion that the industrial company has become a sick industrial company, it shall drop further proceedings in the reference.

25. Where the Board after completing its enquiry, or after considering the report or, as the case may be, the further report of the operating agency, is satisfied that the industrial company has become a sick industrial company, it shall hold further proceedings in accordance with the procedure prescribed in these regulations.

CHAPTER V

PROCEEDINGS UNDER SECTION 17

26. The Board shall, after giving to the informant and to the sick industrial company if it is not the informant, a reasonable opportunity of making their submissions, pass such order as deemed fit under sub-sections (1), (2), (3) or (4) of section 17.

PROCEDURE FOR PREPARATION AND SANCTION OF SCHEME UNDER SECTION 18

27. On receipt of an order of the Board in terms of sub-section (3) of section 17 of the Act, in relation to a sick industrial company, the specified operating agency shall prepare a scheme, having regard to the guidelines specified in the said order, within the time prescribed under sub-section (1) and in terms of sub-sections (1) and (2) of section 18 :

Provided that the Board may at the request of the concerned operating agency and on sufficient cause being shown, suitably extend the time for submission of the scheme.

28. The Board, after considering the scheme prepared by the operating agency and report thereon, if any, of the Secretary, submitted in pursuance of an order made by the Board, on the point as to whether the scheme has been prepared in accordance with the guidelines specified in the order of the Board made under sub-section (3) of section 17, shall prepare a draft scheme and cause a copy of the same to be sent to the sick industrial company and the operating agency :

Provided that in case the said scheme envisages amalgamation of the sick industrial company with another industrial company, a copy thereof shall also be sent to the transferee industrial company and any other industrial company concerned in the amalgamation for suggestions and objections, if any. The suggestions and objections, if any, shall be furnished to the Board within such time as may be specified by the Board:

Provided that the Board may, at the request of the concerned party and on sufficient cause being shown, suitably extend the time for submission of suggestions and objections.

29. The Board shall publish or cause to be published short particulars concerning the draft scheme, by way of notification, in such daily newspapers and periodicals, as it may consider necessary, inviting suggestions and objections regarding the draft scheme, within such time as may be mentioned in the notification, from the shareholders, creditors and employees of the sick industrial company, the transferee-industrial company as well as any other industrial company concerned in the amalgamation.

30. The Board shall consider the suggestions and objections received from the sick industrial company, the operating agency or, as the case may be, from the transferee-industrial company and any other industrial company concerned in the amalgamation and from any shareholder, creditor, or employee, of such industrial companies.

31. Where the draft scheme envisages amalgamation of the sick industrial company with another industrial company, the Board shall not proceed with the scheme, unless the board of directors of the transferee-industrial company shall have placed the draft scheme before the transferee industrial company, in the general meeting of its shareholders and the shareholders shall have approved the draft scheme, with or without modification, by a special resolution.

32. The Board may, thereafter, by order in writing sanction the scheme, with or without any modification, in terms of sub-section (4) of section 18.

33. For modification of the sanctioned scheme or preparation of a fresh scheme in pursuance of the order of the Board under sub-section (5) of section 18, the procedure prescribed in regulations 28, 29, 30 31 and 32 of these regulations shall, as far as may be, be followed, as it applies to a scheme prepared under regulation 28.

CHAPTER VII

PROCEDURE FOR SANCTIONING SCHEMES UNDER SECTION 19

34. A scheme under sub-section (1) of section 19, which provides for financial assistance to the sick industrial company by way of loans, advances, guarantees, reliefs, concessions or sacrifices from the Central Government, a State Government, any scheduled or other bank, a public financial institution or State level institution, or any institution or other authority, shall be sanctioned by the Board, with the consent of the Government, bank, institutions or other authorities called upon to provide loans, advances, guarantees, reliefs, concessions or sacrifices.

(2) The Board shall cause the scheme to be circulated to every person required by the scheme, to provide financial assistance by way of loans, advances, guarantees, reliefs, concessions or sacrifices for giving his consent, latest within a period of sixty days from the date of such circulation.

(3) Upon receipt of consent from every person in terms of sub-regulation (2), the Board may, as soon as may be, sanction the scheme, which shall be binding on all concerned on and from the date of such sanction.

35. Where consent under sub-section (2) of section 19 is not given by any person required by the scheme to provide loans, advances, guarantees, reliefs, concessions or sacrifices with respect to the sick industrial company, the Board may adopt such other measures, including winding up of the industrial company, as it may deem fit.

CHAPTER VIII

REPORT UNDER SECTION 23

†36. Industrial Companies required to report the erosion of their net worth under section 23 shall do so in the following manner :

- (i) Companies other than Government company in Form C.
- (ii) Government Company in Form CC

CHAPTER IX

RESTRICTION ON DISCLOSURE OF INFORMATION

37. No member, officer or employee of the Board shall disclose any information obtained, or received by him or otherwise in his possession, being an information relating to the affairs of the Board, or relating to an industrial company or industrial undertaking concerned in any proceedings before the Board, except to persons legally entitled thereto.

INSPECTION AND COPIES OF DOCUMENTS, ETC.

38. (1) A party to any proceeding before the Board may, subject to regulation 37 of these regulations, on an application made by him in that behalf addressed to the Secretary,

† Substituted by BIFR Not. dated 6-3-92. Published on Gazette of India, Extry, Pt III, sec. 4.

be allowed, during office hours, to inspect or get copies of records, including documents in the proceedings, on payment of the fees and charges as prescribed by these regulations.

(2) The Secretary may, subject to the provisions of regulation 37, on the application of a person, who is not a party to the proceedings, on good cause shown, allow such inspection or to obtain such copies, as are mentioned in the last preceding sub-regulation, on payment of the fees/charges as prescribed by these regulations.

(3) An inspection shall be allowed only in the presence of an officer of the Board and copies of documents, etc., shall not be allowed to be taken, but notes of inspection may be taken.

(4) Copying charges shall be worked out at the rate of Rs. 5 for a folio or part thereof, of material not involving typing of statements and figures and at the rate of Rs. 10 per folio or part thereof, involving typing of statements or figures. Fees for inspection shall be worked out at the rate of Rs. 20 per hour of inspection.

(5) Every duly authorised officer of the Central Government, a State Government or a person duly authorised by a public financial institution, State level institution, the Reserve Bank or, as the case may be, a schedule bank shall be entitled, on authorisation by the secretary, at all reasonable times, to inspect the file of the proceedings before the Board and to take copies or extracts from any document therein and to be furnished such copies or extracts.

INVESTIGATIONS, ETC., BY OFFICERS OF THE BOARD

39. The Board may, at any time, direct the Secretary, or any one or more of its officers to study, investigate, and report or furnish information with respect to any matters under consideration by the Board in relation to their functions under the Act. The Board may, for this purpose, give such other directions as it may deem fit, and specify the time within which the report is to be submitted or information furnished. If any such report or information appears to the Board to be insufficient or inadequate, the Board may give directions for giving a further report or information :

Provided that, if the report or information so obtained or any part thereof is brought on record of any inquiry and is proposed to be relied upon by the Board, for forming its opinion or view, the party or parties to the enquiry shall be given a reasonable opportunity for making his or their submissions with respect thereto.

ASSISTANCE TO THE BOARD

40. The Board may, at any time, take the assistance of public financial institutions, banks or other institutions, consultants, experts, chartered accountants, surveyors and such other technical and professional persons as it may consider necessary and ask them to submit report or reports or furnish any information :

Provided that if the report or information so obtained or any part thereof is brought on record of any inquiry and is proposed to be relied upon by the Board for forming its opinion or view, the party or parties to the inquiry shall be given a reasonable opportunity of making his or their submissions with respect thereto.

41. Nothing in these regulations shall bar the Board from adopting, in conformity with the provisions of the Act, a procedure, which is at variance with any of the provisions of these regulations, if the Board, in view of the special circumstances of a case or a class of cases and for reasons to be recorded in writing, deems it necessary or expedient for dealing with such a case or class of cases.

5A FORM A
(See regulation 19)

(Note : Particulars given below shall give the position as on the date unless otherwise directed in the questionnaire. Indicate financial figures in lakhs of rupees.)

1. Name Designation and address of the informant
2. Name of the industrial company :
Address :
(a) Head Office
(b) Registered office
(c) Factory or factories
3. (a) Number and date of registration of the company under the Companies Act, 1956, and the State in which registered, a copy of registration certificate to be enclosed.
(b) Number and date of registration of all the factories/factory under the Factories Act, 1948, and the State/States in which registered.
(c) The Heading/Sub-heading of the scheduled industry or industries under the Industries (Development and Regulation) Act, 1951, to which the article(s) manufactured or proposed to be manufactured relate(s).
(d) Number and date of registration or licence under the Industries (Development and Regulation) Act, 1951. In case the company is registered with DGTD, the number and date of registration with DGTD should also be indicated, copy of registration certificate or licence to be enclosed.
(e) Whether ancillary industrial undertaking within the meaning of clause (aa) of section 3 of the Industries (Development and Regulation) Act, 1951. Yes/No
(f) Whether a small scale industrial undertaking as defined in clause (j) of section 3 of the Industries (Development and Regulation) Act, 1951. Please indicate investments in plant and machinery whether held on ownership terms, or by lease or by hire purchase (before depreciation). Yes/No
4. (a) Name(s) of the promoter(s) and his/their address(es)
(b) Shareholding pattern of all classes of shares Amount % of aggregate paid-up capital
(i) Promoters
(ii) Associates
(iii) Public Financial Institutions
(iv) State level institutions (Institution-wise)
(v) Banks (bank-wise) -do-
(vi) General public
(c) Details of 10 largest shareholders (against each, please indicate whether promoters/associates/holding company/Group Co.) -Private/Joint
5. Sector :

6. (a) Names of directors and their latest addresses (Indicating A. Chairman, B. Wholtime directors including managing director, C. Nominee-directors)

(b) Name and address of chief executive by whatever name called.

7. (a) Main line(s) of business activity since registration of the company. Please furnish a copy of memorandum of association.

(b) Other subsidiary business activity.

8. Whether MR TP Company

Yes/No

9. Whether FERA Company

Yes/No

10. Whether subsidiary of another company. If so, the name and address of the holding company, its nature of business, share-holding pattern, promoters and management, etc.

11. Capital structure :

Number

Value

Total

(i) Authorised capital, preference shares, ordinary shares, deferred shares and any other class of shares;

(ii) Issued capital, preference shares, ordinary shares, deferred shares and any other class of shares;

(iii) Paid-up capital, preference shares, ordinary shares, deferred shares and any other class of shares;

12. Name(s) and address(es) of all companies in the group/house/associates, their nature of activities and financial position as per last audited balance-sheet (company-wise)

(a) Paid-up capital

(b) Net worth

(c) Sales

(d) Net profit

(e) Borrowings from public financial institutions

(f) Borrowings from banks

13. Reserves and accumulated losses

(i) Free reserves (in terms of section 3(1)(o), Explanation (iii) of the Sick Industrial Companies (Special Provisions) Act, 1985).

(ii) Other reserves (nature and nomenclature of each reserve to be given)

(iii) Accumulated losses as per latest balance-sheet

(iv) Accumulated losses, after accounting for all arrears of depreciation, accrued interest, statutory and other liabilities/expenses, if any. Details of all such unprovided for liabilities should also be given.

14. Financial position (As per the last two audited balance-sheets)

LIABILITIES As on..... As on

A Paid up capital

B Reserves :

C Term liabilities:

D Current liabilities :

E Others :

Total

ASSETS As on..... As on.....

F Fixed assets :

G Non-current assets :

H Current assets :

I Others :

J P & L A/C Bal :

Total

21. Dues to term-lending institutions : (as on a recent date to be specified by the informant)

Name of institution	Original amount	Outstanding		Default	
		Principal	Interest	Principal	Interest
1. I.D.B.I.					
2. I.R.B.I.					
3. I.F.C.I.					
4. I.C.I.C.I.					
5. Others—SFCs, SIDCs, etc. (Specify institutions individually)					
Total :					

22. Deferred credits, if any:

Name of institution/bank	Amount Outstanding	Default	
		Principal	Interest

23. Foreign financial institutions/
Collaborators

Name of institution/bank	Amount Outstanding	Default	
		Principal	Interest

[23A. Particulars of fixed assets

(As on a recent date to be specified by the informant)

Sl. No.	Description	Market value (Rs. lakhs)	Nature of ownership	Remarks
1	2	3	4	5
1.	Land	—	Indicate whether free-hold/lease-hold/taken on leave and licence.	Whether land subject to land ceiling laws, particulars as to location of, area of land and other particulars in respect of each category of land should be separately furnished.
2.	Buildings (a) Factory (b) Office (c) Residential	—	Indicate whether owned/taken on lease/taken on leave and licence	Particulars of location and area about each category of buildings and other particulars should be separately furnished.
3.	Plant and machinery		Whether owned or taken on lease/taken on leave and licence basis.	Indicate whether indigenous or imported; whether acquired as original or second hand, make and life span as indicated by the manufacturers; the period expired and other particulars about each plant and machinery should be separately furnished.
4.	Other lease and rights in immovable property, if any	—		Date of acquisition of rights/lease; period of lease; any other particulars.

Note: (i) Value of each of the assets should be indicated separately except that those originally valued Rs. 1 lakh or below be clubbed together.

(ii) If any of the fixed assets has been revalued, relevant information in that regard to be given.

(iii) Particulars of fixed assets furnished should be got duly certified by the company's chartered accountants and/or chartered engineers.

23B. Investment, if any

(As on a recent date to be specified by the informant)

Sl. No.	Particulars of Investments	Value (Rs. lakhs)	Remarks] ⁶

24. Statutory liabilities (as on a recent date to be specified by the informant)

PF arrears total out of the above, amount deducted from employees but not deposited :

ESI dues

Excise arrears

Sales tax arrears

Electricity duty arrears

Others—Specify

25. Total contingent liabilities, if any (As on a recent date to be specified by the informant). Out of the above, amount likely to mature, in the opinion of the informant

26. Fixed deposits as on a recent date (to be specified by the informant)

Amount Outstanding

Default

Principal

Interest

(i) From public

(ii) From shareholders/directors

(iii) From others (specify)

27. Other unsecured loans as on a recent date (to be specified by the informant)

Amount Interest rate

Amount of interest fallen due but not paid

(i) From promoters and associates

(ii) From others (specify)

Amount

28. Sundry creditors as on a recent date (to be specified by the informant)

(i) Firms/Companies/Individuals having family or business relationship with the promoters/Management (Give details)

(ii) Others (Specify)

Amount

29. Sundry debtors as on a recent date (to be specified by the informant)

(i) Promoters and associates

(ii) Others (specify)

6. Inserted by BIFR (Second Amendment) Regulations 1991 published in Gazette of India, Extraordinary No. 36 dated 3-9-91, Part III, sec. 4.

30. Total income for last five years (to be indicated separately for each year) :

(i) Sales of products

(ii) Other incomes (specify)

(iii) Total

31. Gross profit/loss before interest, depreciation and taxes for last five years (to be indicated separately for each year) :

(i) Interest

(ii) Depreciation

(iii) Taxes

(iv) Net profit/loss

(Copies of balance-sheets for the last five years to be enclosed.)

32. Adjustments made in respect of past liabilities, dues, income, expenses, etc., made year-wise for last five years and detailed reasons therefor

33. Manufacturing activities :

(a) Whether continuous or shift operation

(b) Number of shifts, generally worked

(c) Number of working days in a month/year

34. Annual capacity

Name of the products

Licensed

Installed

(a)

(b)

(c)

35. Past production including by-products during the last five years.

Name of the products or by-products

(a) Quantity

(b) Value

36. Physical capacity utilisation, material and labour cost during the last five years :

(Figures should relate to the position at the end of the year)

(a) Break-even point

(b) Cash break-even point

(c) Percentage of capacity utilisation

(d) Material cost as percentage of output

(e) Labour cost as percentage of output

(f) Total down-time as percentage of total available time

(g) Interest cost to operating cost

37. Working capital and its financing during the last five years (Figures should relate to the position at the end of the year)

(a) Total working capital

(b) Working capital as percentage of output

(c) Working capital financed by :

(i) Internal resources

(ii) Borrowed fund(s)

(iii) Sundry creditors.

	Year	Year	Year	Year	Year
38. Inventory break up at the end of each of the last five years :					
(a) Raw material					
(b) Stores and spares					
(c) Work in progress					
(d) Finished products					
(e) Sundry debtors					
39. Fund position as at the end of each of the last five years :	Year	Year	Year	Year	Year
(a) Cash in hand					
(b) Cash in bank					
(c) Cash credit utilised					
(d) Cash over draft limit					
(e) Sale bills discounted.					
40. Sources of financing cash loss as on a recent date (to be specified by the informant).					
(a) Non-payment of overdue interest to FIs/banks					
(b) Non-payment of overdue interest to other creditors					
(c) Non-payment of statutory dues					
(d) Non-payment of workers' dues					
(e) Sale of assets					
(f) Irregularity in bank accounts					
(g) Loans (sources to be indicated)					
(h) Any other source (to be specified)					
41. Orders position as at the end of the last financial year :					
(a) Ordes in hand					
(b) Orders under execution					
(c) Orders attempted but not materialised.					
42. Staff or labour employed	Head Office	Factory	Other establish- ment	Total	
(a) Managerial					
(b) Supervisory :					
Technical-non-technical					
(c) Clerical					
(d) Labour :					
Skilled					
Semi-skilled					
Un-skilled					
(e) Other categories					

⁷(Indicate the maximum number of workers employed during the 12 months preceding the date of making of reference to the Board. In case of the unit(s) which are lying closed immediately prior to making of the reference, the aforesaid period of 12 months shall be reckoned after excluding the period of closure)]

43. (i) Is there any surplus labour, if so the number thereof, division-wise/unit-wise.

(ii) Has any rationalisation proposal been discussed with trade unions? If so, the outcome.

44. Names (and registered office : address) of the recognised trade union/Presidents and Secretaries.

45. Technical health of plant and machinery

(i) Is maintenance up to date?

(ii) Are there frequent breakdowns of machinery?

(iii) Reasons for utilisation of capacity below break-even level.

(iv) Percentage of rejection of finished products.

(v) Are major replacements of machinery/additions to machinery considered necessary? If so, give details, including cost and benefits—when was last modernisation carried out—details to be furnished.

46. Can the technology employed be considered adequate or is there any need for upgradation?

47. State of demand for company's products—identify internal and external constraints.

48. Has any recent market survey of demand for product(s) been conducted and with what results?

49. Does company have any proposal for diversification of the product range as a means of restoring viability? Give details.

50. Is marketing/part operation/part processing done by a separate company under promoter control—Give details including financial assistance given to, as also amounts due from that company.

51. Are there any specific Govt.(Central or State) policies or actions which have contributed to the sickness of the unit (e.g., tariff anomalies, denial of power, import policy, etc.) What Government action can help revival?

52. Are there any surplus assets of the company which could be sold, and the realisable value thereof?

53. What is the maximum amount of finance that promoters can put into a revival package.

54. Is there scope for considering amalgamation of the sick unit with a healthy unit?

55. Have particular aspects of sickness of the company or any need of assistance been discussed with Central/State Govt.? Give details, including their reactions.

56. Reasons for sickness according to informant—

- (a) Managerial problems
- (b) Production and technical problems
- (c) Marketing difficulties
- (d) Financial problems
- (e) Lack of adequate infrastructure
- (f) Shortage of raw material
- (g) Govt. policies
- (h) Other reasons to be specified.

57. (i) Whether it is possible to make net worth positive within a reasonable time.

(ii) If so, furnish a note separately indicating steps required to be taken for that purpose. The note should, inter alia, contain steps taken for capacity utilisation, reducing material component of total cost and inventory of all types, reducing debts, increasing orders, reducing losses, improving cash position and other relevant techno-economic details.

(iii) Further assistance for modernisation or rehabilitation proposed:

(iv) Whether any legal action already initiated by any creditor/whether already declared a relief undertaking.

If legal action initiated, copies of all suits, winding-up petitions, court orders passed from time to time therein should be furnished.

(v) Has Official Liquidator/Receiver been appointed in any winding-up petition and if so copy of relative court order should be furnished.

58. Any other information considered relevant or useful :

I do hereby certify that the particulars and information given above are based on information derived from records and believed to be true.

Signature of informant

The company has, accordingly, become a sick industrial company within the meaning of clause (o) of sub-section (1) of section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985.

On behalf of the board of directors of the company and duly authorised in that behalf, I hereby make a reference under sub-section (1) of section 15 of the Act, and request the Board for Industrial and Financial Reconstruction for determination of the measures which shall be adopted with respect to company.

Date :

Signature and designation of informant

Place :

To

The Secretary,
Board for Industrial and
Financial Reconstruction,
Ansal Chambers—II,
Bhikaji Cama Place,
New Delhi-110 066.

¹FORM AA

[See regulation 19(1)]

To be filled up in respect of Government companies.

(Note : Particulars given below shall give the position as on the date unless otherwise directed in the questionnaire. Indicate financial figures in lakhs of rupees.)

1. Name/designation and address of the informant:
2. Name of the Industrial company Address:
 - (a) Head Office
 - (b) Registered Office
 - (c) Factory or Factories

3. (a) Number and date of registration of the company under the companies Act, 1956 (1 of 1956) and the State in which registered, A COPY OF REGISTRATION CERTIFICATE TO BE ENCLOSED.

(b) Number and date of registration of all the FACTORIES/Factory under the Factories Act, 1948 (63 of 1948) and the States/State in which registered.

(c) The HEADING/SUB-HEADING of the Scheduled industry or industries under the Industries (Development and Regulation) Act, 1951 (65 of 1951) to which the article(s) manufactured or proposed to be manufactured relate.

(d) Number and date of registration or licence under the Industries (Development and Regulation) Act, 1951. In case the Company is registered with DGTD the number and date of registration with DGTD should also be indicated, COPY OF REGISTRATION CERTIFICATE OR LICENCE TO BE ENCLOSED.

(e) Whether ancillary industrial undertaking within the meaning of clause (aa) of section 3 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Yes/No

(f) Whether a small scale industrial undertaking as defined in clause (j) of Section 3 of the Industries (Development and Regulation) Act, 1951 (65 of 1951). Please indicate investments in plant and machinery whether held on ownership terms, or by lease or by hire purchase (before depreciation)

Yes/No

4. (a) Share holding pattern of ALL CLASSES OF SHARES-AMOUNT % OF AGGREGATE PAID UP CAPITAL AND NAME OF ADMINISTRATIVE MINISTRY/DEPARTMENT.

(b) Indicate separately the shareholding of Central Govt./State Govt./FI (Central & State) and Private.

5. (a) Is the unit taken over from Private Sector? If so, the date of take over of management under IDR Act, 1951 (65 of 1951) and financial position at the time of management take over.

(b) Date of nationalisation.

6. Name of Directors AND THEIR LATEST ADDRESSES (indicating A. Chairman B. Whole-time Directors including Managing Director, Chief Executive during last five years C. Nominee Directors).

¹ Inserted by BIFR Notification dated 6-3-92, published in Gazette of India, Extry, PT III, sec. 4.

7. (a) Main line (s) of business activity SINCE REGISTRATION OF THE COMPANY. Please furnish a copy of Memorandum of Association.

(b) Other subsidiary business activity.

8. Whether subsidiary of another company. If so, the name and address of the holding company, ITS NATURE OF BUSINESS, SHAREHOLDING PATTERN, and the administrative Ministry/Department.

9. Capital Structure Number Value Total

(i) Authorised capital-preference shares, ordinary shares, deferred shares, and any other class of shares:

(ii) Issued capital-preference shares, ordinary shares, deferred shares, and any other class of shares.

10. RESERVES AND ACCUMULATED LOSSES

(i) Free reserves (in terms of section 3(I)(o) explanation (iii) of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986).

(ii) Other reserves (nature and nomenclature of each reserve to be given).

(iii) Accumulated losses AS PER LATEST BALANCE SHEET.

(iv) ACCUMULATED LOSSES, AFTER ACCOUNTING FOR ALL ARREARS OF DEPRECIATION, ACCRUED INTEREST, STATUTORY AND OTHER LIABILITIES/EXPENSES, IF ANY. DETAILS OF ALL SUCH UNPROVIDED FOR LIABILITIES SHOULD ALSO BE GIVEN.

11. Financial position (As per the last two audited balance sheets).

Liabilities	As on....	As on.....	Assets	As on..	As on..
A. Paid up capital:			F. Fixed assets :		
B. Reserves:			G. Non-current Assets:		
C. (i) Secured loans			H. Current Assets:		
(ii) unsecured loans			I. Others :		
D. Current liabilities :			J. P & L A/C Bal :		
E. Others :					
TOTAL			TOTAL		

12. Date of finalisation of duly audited accounts of the company for the relevant financial year (i.e. date of Annual General Meeting of the company in which accounts were approved for the financial year at the end of which net worth became zero or negative).

13. (i) Financial position as per the provisional balance sheet(s) available for the Latest two year(s) in case they have not been duly audited :

Liabilities	As on....	As on.....	Assets	As on...	As on...
A. Paid up capital :			F. Fixed Assets :		
B. Reserves :			G. Non-current assets :		
C. (i) Secured loans			H. Current Assets:		
(ii) unsecured loans			I. Others :		
D. Current Liabilities:			J. P & L A/C Bal :		
E. Others:					
TOTAL			TOTAL		

6. I.C.C.I.

7. Others -SFCs SIDC,—

Etc. (Specify Institutions Individually)

Total :

20. Deferred credits, if any :

Name of Institution/ Bank Amount	Outstanding	Default
	Principal	Interest

21. Foreign financial
Institutions/Collaborators

Name of Institution/Bank Amount	Outstanding	Default
	Principal	Interest

22. Fixed assets & Investments :

(a) Particulars of Fixed Assets (As on a recent date to be specified by the informant).

S.No.	Designation	Market value (Rs. lakhs)	Nature of Ownership	Remarks
(1)	(2)	(3)	(4)	(5)
1.	Land	—	Indicate whether free-hold/lease-hold/taken on leave and licence.	Whether land subject to land ceiling laws, particulars as to location of, area of land and other particulars in respect of each category of land should be separately furnished.
2.	Buildings (a) Factory (b) Office (c) Residential		Indicate whether owned/taken on lease/taken on leave & licence.	Particulars of location and are about each category of buildings and otherer particulars should be separately furnished.
3.	Plan and Machinery		Whether owned or taken on lease/taken on leave & licence basis.	Indicate whether indigenous or imported; whether acquired as original or second hand make and life span as indicated by the manufacturers, the period expired and other particulars about each plant and machinery should be separately furnished.
4.	Other lease and rights in immovable property, if any.			Date of acquisition of rights/lease; period of lease, any other particulars.

NOTE (i) Value of each of the assets should be indicated separately except that those originally valued Rs. One Lakh or below be clubbed together.

(ii) if any of the fixed assets has been revalued, relevant information in that regard be given.

(b) Investments, if any.

23. Statutory Liabilities (as on a recent date to be specified by the informant).

PP Arrears-total. Out of the above, amount deducted from employees but not deposited—

ESI Dues

Excise Arrears

Sales Tax Arrears

Electricity Duty Arrears

Others—Specify

24. (a) Total Contingent Liabilities, if any (As on a recent date to be specified by the informant).

Out of above, amount likely to mature, in the opinion of the informant.

(b) Guarantees, if any, by Central/State Government. Indicate the amount for which guarantees have been given by Central/State Government.

25. Fixed Deposits as on a recent date (to be specified by the informant).

Amount	Outstanding		Defaults
	Principal		Interest

(i) From public

(ii) From shareholders/directors

(iii) From others (specify)

26. Other/Unsecured loans as on a recent date (to be specified by the informant).

Amount	Interest Rate	Amount of interest fallen due but not paid
--------	---------------	--

Specify source(s)

27. Sundry Creditors as on a recent date (to be specified by the informant).

Amount

28. Sundry debtors as on a recent date (to be specified by the informant)

Amount

29. Total income for last five years (to be indicated separately for each year)

Year Year Year Year Year

(i) Sales of Products

(ii) Other Income (Specify)

(iii) Total.

30. Cost of Production per unit sale price per unit Contribution per unit Direct labour cost per unit Direct material cost per unit.

31. Gross profit/loss before interest, depreciation and taxes for last five years. (to be indicated separately for each year)

Year Year Year Year Year

- (i) Gross Profit/Loss
- (ii) Interest
- (iii) Depreciation
- (iv) Taxes
- (v) Net Profit/Loss

(Copies of balance sheets for the last five years to be enclosed).

32. Adjustments made in respect of past liabilities, dues income, expenses etc. made Year-wise for Last Five years and detailed reasons therefore.

33. Manufacturing activities :

- (a) Whether continuous or shift operation.
- (b) Number of shifts generally worked.
- (c) Number of working days in a month/year.

34. Annual capacity :

Name of the products	Licensed	Installed
(a)		
(b)		
(c)		

35. Past production including by-products during the last five years.

Name of the Products or By-products

Year	Year	Year	Year	Year
(a)				
(b)				

36. Physical capacity utilisation, material and labour cost during the last five years :

Year	Year	Year	Year	Year
------	------	------	------	------

(Figure should relate to the position at the end of the year).

- (a) Break even point
- (b) Cash break even point
- (c) Percentage of capacity utilisation
- (d) Material cost as percentage of output
- (e) Labour cost as percentage of output
- (f) Total down time as percentage of total available time
- (g) Interest cost to operating cost.

37. Working capital and its financing during the last five years (Figures should relate to the position at the end of the year).

Year	Year	Year	Year	Year
------	------	------	------	------

- (a) Total working capital
- (b) Working capital as percentage of output
- (c) Working capital financed by
 - (i) Internal resources
 - (ii) Borrowed fund(s)
 - (iii) Sundry creditors

38. Inventory Break up at the end of each of the last five years :

Year Year Year Year Year

- (a) Raw material
- (b) Stores and spares
- (c) Work in progress
- (d) Finished products
- (e) Sundry debtors

39. Fund position as at the end of each of the last five years :

- (a) Cash in hand
- (b) Cash in Bank
- (c) Cash Credit utilised
- (d) Cash overdraft limit
- (e) Sale Bills discounted

40. Sources of financing cash loss as on a recent date (to be specified by the informant).

- (a) Non Payment of overdue interest to FIs/Banks
- (b) Non Payment of overdue interest to other creditors
- (c) Non Payment of statutory dues
- (d) Non Payment of Workers' Dues
- (e) Sale of assets
- (f) Irregularity in bank accounts
- (g) Loans (sources to be indicated)
- (h) Any other source (to be specified)

41. Order position as at the end of the last financial year :

- (a) Orders in hand
- (b) Orders under execution
- (c) Orders attempted but not materialised.

42. Staff or labour employed

	Head Office	Factory	Other Establishment	Total
(a) Managerial				
(b) Supervisory Technical-non- technical				
(c) Clerical				
(d) Labour Skilled Semi-skilled Un-skilled				
(e) Other categories				

(Indicate the maximum number of workers employed during the twelve months preceding the date of making of reference to the Board. In case of the unit(s) which are lying closed immediately prior to making of the reference, the aforesaid period of twelve months shall be reckoned after excluding the period of closure).

43. (i) Is there any surplus labour, if so the Number thereof, division wise/unit wise.

(ii) Has any Rationalisation proposal been discussed with the trade unions ? If so, the outcome ?

(iii) If any V.R.S. approved and under implementation.

44. No. of employees retiring each year in next three years.

45. Names (and Registered Office : Address) of the recognised trade union/presidents and secretaries.

46. Technical health of Plant and Machinery

(i) Is Maintenance upto date ?

(ii) Are there frequent breakdowns of machinery ?

(iii) Reasons for utilisation of capacity below break even level.

(iv) Percentage of Rejection of finished products.

(v) Are major replacements of Machinery/ additions to Machinery considered necessary ? If so give details including cost and benefits—when was last modernisation carried out—details to be furnished.

47. Can the technology employed be considered adequate or is there any need for Upgradation ?

48. (a) Pollution control measures and investment thereon as per the last balance sheet.

(b) Additional investment needed in this regard.

49. State of demand for Company's Products—Identify Internal and External Constraints.

50. Has any recent Market Survey of demand for product(s) been Conducted, if so with that Results ? If product competitive, specify competitive units in Public Sector, State Government Sector and others. Indicate share of market with the company and with competitors.

51. Does Company have any Proposal for Diversification of the product range as a means of Restoring Viability ? Give Details ?

52. Is Marketing/Part Operation/Part Processing done by a Separate Company/Organisation ?

53. Are there any specific Government (Central or State) policies or Actions which have contributed to the sickness of the units (e.g. tariff anomalies, denial of power, import policy, etc.) What Government action can help revival ?

54. Does the unit follow administered prices ? Please specify the prices and products and cost of production thereof.

55. Directives, if any, issued by Central/State Government under Articles of Association.

56. Are there any surplus assets of the Company which could be sold, and the realisable value thereof ?

57. (a) Financial reliefs and capital restructuring done during the past indicating the date of each capital restructuring and quantum of benefits/reliefs provided.

(b) Conditions, obligations, commitments for sanction of reliefs each time and the extent to which fulfilled.

58. Subsidies received from Government during last five years :
- (a) Interest
 - (b) Others
59. Levies/duties paid during the last five years (including custom duties)
- (a) To Central Government (specify separately)
 - (b) State Government (specify separately)
60. Social costs incurred during the last five years.
- (a) Capital invested in social infrastructure-school, township.
 - (b) Cost of running township,
 - (c) Cost of labour welfare measure.
 - (d) Others.
61. Is there scope for considering amalgamation of the sick unit with a healthy unit.
62. Have particular aspects of sickness of the Company, of any needs of assistance been discussed with Central/State Government ? Give details, including their reactions.
63. Reasons for sickness according to informant:
- (a) Managerial problems
 - (b) Production and technical problems
 - (c) Marketing difficulties
 - (d) Financial problems
 - (e) Lack of adequate infrastructure
 - (f) Shortage of raw material
 - (g) Government policies
 - (h) Other reasons to be specified.
64. (i) Whether it is possible to make net worth positive with a reasonable time.
- (ii) If so, furnish a note separately indicating steps required to be taken for that purpose. The note should inter-alia contain steps taken for capacity utilisation, reducing material component of total cost and inventory of all types, reducing debts, increasing orders, reducing losses, improving cash position and other relevant techno-economic details.
- (iii) Further assistance for modernisation or rehabilitation proposed ;
- (iv) Whether any legal action already initiated by any creditor/whether already declared a relief undertaking. If legal action initiated, copies of all suits, winding up petitions court orders passed from time to time therein should be furnished.
- (v) Has official liquidator/receiver been appointed in any winding up petition and if so copy of relative court orders should be furnished.
65. Copy of the regular or special reports issued by audit authorities during last three years.

66. Copy of the reports, if any, prepared by Parliament/State Legislature Committee with respect to the affairs of the company.

67. Copies of annual reports for the last three years of the administrative Ministry on the working and affairs of the company as required under Section 619-A of the Companies Act, 1956 (1 of 1956) and laid before Parliament/State Legislature.

68. Any other information considered relevant or useful :

I do hereby certify that the particulars and information given below are based on information derived from records and believed to be true.

Signature and designation of Informant

The company has, accordingly, become a sick industrial company within the meaning of clause (c) sub-section (1) of section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1985).

On behalf of the Board of Directors of the company and duly authorised in that behalf. I hereby make a reference under sub-section (1) of Section 15 of the said Act, and request the Board for Industrial and Financial Reconstruction for determination of the measures which shall be adopted with respect to the company.

Signature and designation of Informant

Date :

Place :

To

The Secretary,
Board for Industrial and
Financial Reconstruction,
Ansal Chambers-II,
Bhikaji Cama Place,
New Delhi-110066

FORM B
(See regulation 19)

(Note : Particulars given below shall give the position as on the date unless otherwise directed in the questionnaire. Indicate financial figures in lakhs of rupees.)

1. Name, Designation and address of the informant :

2. Name of the industrial company :

Address :

(a) Head Office

(b) Registered office

(c) Factory or factories

3. (a) Number and date of registration of the company under the Companies Act, 1956, and the State in which registered, a copy of registration certificate to be enclosed.

(b) Number and date of registration of all the factories/factory under the Factories Act, 1948, and the State/States in which registered.

(c) The Heading/Sub-heading of the scheduled industry or industries under the Industries (Development and Regulation) Act, 1951, to which the article(s) manufactured or proposed to be manufactured relate(s).

(d) Number and date of registration or licence under the Industries (Development and Regulation) Act, 1951. In case the company is registered with DGTD, the number and date of registration with DGTD should also be indicated, copy of registration certificate or licence to be enclosed.

(e) Whether ancillary industrial undertaking within the meaning of clause (aa) of section 3 of the Industries (Development and Regulation) Act, 1951.

Yes/No

(f) Whether a small scale industrial undertaking as defined in clause (j) of section 3 of the Industries (Development and Regulation) Act, 1951. Please indicate investments in plant and machinery whether held on ownership terms, or by lease or by hire purchase (before depreciation).

Yes/No

4. (a) Name(s) of the promoter(s) and his/their address(es)

(b) Shareholding pattern of all classes of shares

Amount % of aggregate paid-up capital

(i) Promoters

(ii) Associates

(iii) Public financial institutions

(iv) State level institutions

(Institution-wise)

(v) Banks (bank-wise)

-do-

(vi) General public

(c) Details of 10 largest shareholders (against each, please indicate whether promoters/associates/holding company/group co.)

5. Sector :

Private/Joint

6. (a) Names of directors and their latest addresses (Indicating A. Chairman, B. Whole-time directors including managing director, C. Nominee-directors)

(b) Name and address of chief executive by whatever name called.

7. (a) Main line of business activity since registration of the company.

(b) Other subsidiary business activity.

8. Whether MRTP Company

Yes/No

9. Whether FERA Company

Yes/No

10. Financial position (as per the last two audited balance-sheets)

LIABILITIES	As on.....	As on	ASSETS	As on.....	As on.....
A Paid up capital			F Fixed assets :		
B Reserves :			G Non-current assets :		
C Term liabilities:			H Current assets :		
D Current liabilities :			I Others :		
E Others :			J P & L A/C bal :		
Total			Total		

(Copies of balance-sheets for last five years to be enclosed if available)

11. Cash losses (i.e., losses before depreciation but after charging interest) for the last two years.

(1) Rs.....for the financial year ended—
(2) Rs.....for the financial year ended—

12. Net worth [as defined in section 3(1)(o), Explanation (ii) of the Sick Industrial Companies (Special Provisions) Act, 1985],

(a) Peak Net worth and the year :

(b) Net worth at the end of last financial year :

13. Whether closed or working :

(Position of each plant/unit/division to be specified)

14. Dues to individuals banks :

(As on a recent date to be specified by the informant)

(a) Name of bank	(b) Working capital limit/outstanding amount	(c) Working capital term loan		(d) Funded interest	
		Original amount	Outstanding amount	Original amount	Outstanding amount
		(e) Term loan		(f) Total outstanding amount	
				(g) Irregularity	
Original amount		Outstanding amount			
Total :					

15. Dues to term-lending institutions : (as on a recent date to be specified by the informant)

Name of institution	Original amount	Outstanding		Default	
		Principal	Interest	Principal	Interest
1. I.D.B.I.					
2. I.R.B.I.					
3. I.F.C.I.					
4. I.C.I.C.I.					
5. Others—SFCs, SIDCs, etc. (Specify institutions individually)					
Total :					

16. Reasons for sickness according to informant:

- (a) Managerial problems
- (b) Production and technical problems
- (c) Marketing difficulties
- (d) Financial problems
- (e) Lack of adequate infrastructure
- (f) Shortage of raw materials
- (g) Government policies
- (h) Other reasons to be specified

17. Measures taken or contemplated for revival:

18. Whether any, legal action already intitated by any creditor. If so, furnish copy of winding-up petitions and copy of court order, if any, or indicate the latest position.

19. Whether Official Liquidator/Receiver appointed.

If so, furnish copy of court order or indicate the latest position.

20. Any other information considered relevant or useful :

I do hereby certify that the particulars and information given above are based on information derived from records and believed to be true.

Signature of informant

The company has, accordingly, become a sick industrial company within the meaning of clause (o) of sub-section (1) of section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985.

On behalf of, and duly authorised, I hereby make reference under sub-section (2) of section 15 of the Act to the Board for Industrial and Financial Reconstruction for determination of the measures which may be adopted with respect to the company.

Date :

Place:

To

Signature of informant

The Secretary,
Board for Industrial and
Financial Reconstruction,
New Delhi.

¹[FORM BB
[See regulation 19(2)]

To be filled up in respect of Government companies.

Note : Particulars given below shall give the position as on the date unless otherwise directed in the questionnaire. Indicate financial figures in lakhs of rupees.)

1. Name/designation and address of the informant :

2. Name of the industrial company Address :

(a) Head Office

(b) Registered Office

(c) Factory or Factories

3. (a) Number and date of registration of the company under the Companies Act, 1956 (1 of 1956) and the State in which registered, A COPY OF REGISTRATION CERTIFICATE TO BE ENCLOSED.

(b) Number and date of registration of all the FACTORIES/FACTORY under the Factories Act, 1948 (63 of 1948) and the States/State in which registered.

(c) The HEADING/SUB-HEADING of the scheduled industry or industries under the Industries (Development and Regulation) Act, 1951 (65 of 1951) which the article(s) manufactured or proposed to be manufactured relate.

(d) Number and date of registration or licence under the Industries (Development and Regulation) Act, 1951. In case the Company is registered with DGTD the number and date of registration with DGTD should also be indicated, COPY OF REGISTRATION CERTIFICATE OR LICENCE TO BE ENCLOSED.

Yes/No

(e) Whether ancilliary industrial undertaking within the meaning of clause (aa) of section 3 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Yes/No

(f) Whether a small scale industrial undertaking as defined in clause (j) of Section 3 of the Industries (Development and Regulation) Act, 1951 (65 of 1951). Please indicate investments in plant and machinery whether held on ownership terms, or by lease or by hire purchase (before depreciation).

4. (a) Shareholding pattern of ALL CLASSES OF SHARES-AMOUNT, % OF AGGREGATE PAID UP CAPITAL AND NAME OF ADMINISTRATIVE MINISTRY/DEPARTMENT.

(b) Indicate separately the shareholding of Central Government/State Government/FI (Central and State) and Private.

5. (a) Is the unit taken over from Private Sector? If so, the date of take over of management under IDR Act, 1951 (65 of 1951) and financial position at the time of management take over.

(b) Date of nationalisation.

¹ Inserted by BIFR Notification dated 6-3-92, published in Gazette of India, PT III, Sec. 4.

14. Dues to Govt./Term lending institutions : (as on a recent date to be specified by the informant)

Name of Institutions	Original amount	Outstanding		Default	
		Principal	Interest	Principal	Interest
1. Central Govt.					
2. State Govt.					
3. I.D.B.I.					
4. I.R.B.I.					
5. I.F.C.I.					
6. I.C.I.C.I.					
7. Others SFCs—SIDCs— Etc. (specify Institutions Individually)					
Total					

15. Gurantees, if any, Central/State Government
Indicate the amount for which gurantees have been given by Central/State Government.

16. Is there any surplus labour ? Give available information on surplus labour including division/unit, rationalisation scheme, if any discussed etc.

17. Can the Technology employed be considered adequate or is there any need for upgradation ?

18. State of Demand for Company's product. Projection of demand and supply of the product for next few years, if any conducted by a Govt. Deptt./Agency.

19. Are there any specific Govt. (Central or State) policies or actions which have contributed to the sickness of the unit (e.g. tariff anomalies, denial of power, import policy, etc.) what Government action can help Revival ?

20. Does the unit follow administered prices ?
Furnish relevant details.

21. Directives, if any, issued by Central/State Government under Articles of Association.

22. (a) Financial reliefs and capital restructuring done during the past indicating the date of each capital restructuring and quantum of benefits/reliefs provided.

(b) Conditions, obligations, commitments for sanction of reliefs each time and the extent to which fulfilled.

23. Subsidies received from Government during last five years :-

(a) Interest

(b) Others

24. Have particular Aspects of sickness of the company been studied by the Government. Findings and suggestions in that regard.

25. Reasons for sickness according to informant :

(a) Managerial problems

- (b) Production and Technical Problems
 - (c) Marketing difficulties
 - (d) Financial problems
 - (e) Lack of adequate infrastructure
 - (f) Shortage of raw material
 - (g) Govt. Policies
 - (h) Others reasons to be specified.
26. Copy of the regular or special reports issued by audit authorities during last three years.
27. Copy of the reports, if any, prepared by Parliament/State Legislature Committee with respect to the affairs of the Company.
28. Copies of annual reports for the last three years of the administrative Ministry on the working and affairs of the Company as required under section 619 A of the Companies Act 1956 (1 of 1956) and laid before Parliament/State Legislature.
29. Any other information considered relevant or useful:

I do hereby certify that the particulars and information given above are based on information derived from records and believed to be true.

Signature and designation of Informant

The Company has, accordingly, become a sick industrial company within the meaning of clause (e) sub-section (1) of section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) ;

On behalf of the and duly authorised, hereby make a reference under sub-section (2) of section 15 of the said Act, and request the Board for Industrial and Financial Reconstruction for determination of the measures which shall be adopted with respect to the company.

Date :

Signature and designation of Informant

Place :

To

The Secretary,
Board for Industrial and
Financial Reconstruction,
Ansal Chambers-II,
Bhikaji Cama Place,
New Delhi-110066]

FORM C

(See regulation 36)

NOTE:—Particulars given below shall give the position as on date unless otherwise directed in the questionnaire. Indicate financial figures in lakhs of rupees.

1. Name of the industrial company :

Address :

(a) Head office

(b) Registered office

(c) Factory or factories

2. (a) Number and date of registration of the company under the Companies Act, 1956, and the State in which registered. A copy of registration certificate to be enclosed.

(b) Number and date of registration of all the factories/factory under the Factories Act, 1948, and the States/State in which registered.

(c) The heading/sub-heading of the scheduled industry or industries under the Industries (Development and Regulation) Act, 1951, to which the article(s) manufactured or proposed to be manufactured relate(s).

(d) Number and date of registration or licence under the Industries (Development and Regulation) Act, 1951. In case the company is registered with DGTD, the number and date of registration with DGTD should also be indicated : Copy of registration certificate or licence to be enclosed.

(e) Whether ancilliary industrial undertaking within the meaning of clause (aa) of section 3 of the Industries (Development and Regulation) Act, 1951.

Yes/No

(f) Whether a small scale industrial undertaking as defined in clause (j) of section 3 of the Industries (Development and Regulation) Act, 1951. Please indicate investments in plant and machinery whether held on ownership terms, or by lease or by hire purchase (before depreciation).

Yes/No

3. (a) Name(s) of the promoter(s) and his/their address(es)

(b) Shareholding pattern of all classes of shares

Amount % of aggregate paid up capital

(i) Promoters

(ii) Associates

(iii) Public financial institutions

(Institution-wise)

(iv) State level institutions

-do-

(v) Banks (bank-wise)

(vi) General public

(c) Details of 10 largest shareholders (against each, please indicate whether promoters/associates/holding co./group co.)

4. Sector

Private/Joint

5. (a) Names of directors and their latest addresses : (indicating A. Chairman, B. Whole-time directors including managing director, C. Nominee-directors)

14. Dues to term-lending institutions : (As on a recent date to be specified by reporting company)

(Rs. in lakhs)

Name of institution	Original amount	Outstanding		Default	
		Principal	Interest	Principal	Interest
1. I.D.B.I.					
2. I.R.B.I.					
3. I.F.C.I.					
4. I.C.I.C.I.					
5. Others—SFCs, SIDCs, etc. (specify institutions individually)					
Total :					

15. Reasons for potential sickness

- (a) Managerial problems
- (b) Production and technical problems
- (c) Marketing difficulties
- (d) Financial problems
- (e) Lack of adequate infrastructure
- (f) Shortage of raw material
- (g) Government policies
- (h) Other reasons to be specified

16. Date of finalisation of duly audited accounts of the company for the relevant financial year (i.e. date of annual general meeting of the company whereat duly audited annual accounts of the company were approved for the financial year at the end of which net worth declined to 50% or less of peak net worth during the immediately preceding five financial years).

17. Date on which the general meeting of the shareholders of the company is proposed to be convened for purpose of considering the erosion of net worth. Whether minimum 21 days notice given after the AGM.

18. Any other information considered relevant or useful.

I do hereby certify that the particulars and information given above are based on information derived from records and believed to be true.

Signature

Date:

Place :

To

The Secretary,

Board for Industrial and Financial Reconstruction,

New Delhi.

For and on behalf of the reporting company
Name and designation of the
authorised officer

¹[FORM CC

[See regulation 36]

To be filled up in respect of Government companies.

NOTE—Particulars given below shall give the position as on the date unless otherwise directed in the questionnaire. Indicate financial figures in lakhs of rupees.

1. Name of the industrial company Address :

- (a) Head Office
- (b) Registered Office
- (c) Factory or Factories

2. (a) Number and date of registration of the company under the Companies Act, 1956 (1 of 1956) and the State in which registered A, COPY OF REGISTRATION CERTIFICATE TO BE ENCLOSED.

(b) Number and date of registration of all the FACTORIES/Factory under the Factories Act, 1948 (63 of 1948) and the States/State in which registered.

(c) The HEADING/SUB-HEADING of the Scheduled industry or industries under the Industries (Development and Regulation) Act, 1951 (65 of 1951) which the article(s) manufactured or proposed to be manufactured relate.

(d) Number and date of registration or licence under the Industries (Development and Regulation) Act, 1951. In case the Company is registered with DGTD the number and date of registration with DGTD should also be indicated, COPY OF REGISTRATION CERTIFICATE OR LICENCE TO BE ENCLOSED.

(e) Whether ancillary industrial undertaking within the meaning of clause (aa) of section 3 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Yes/No

(f) Whether a small scale industrial undertaking as defined in clause (j) of Section 3 of the Industries (Development and Regulation) Act 1951 (65 of 1951). Please indicate investments in plant and machinery whether held on ownership terms, or by lease or by hire purchase (before depreciation).

Yes/No.

3. (a) Share holding pattern of ALL CLASSES OF SHARES-AMOUNT per cent OF AGGREGATE PAID UP CAPITAL AND NAME OF ADMINISTRATIVE MINISTRY/DEPARTMENT.

(b) Indicate separately the shareholding of Central Govt./State Govt./FI (Central & State) and Private.

4. (a) Is the unit taken over from Private Sector? If so, the date of take over of management under IDR Act, 1951 (65 of 1951), and financial position at the time of management take over.

(b) Date of nationalisation.

5. Name of Directors AND THEIR LATEST ADDRESSES (indicating A. Chairman B. Whole-time Directors including Managing Director, Chief Executive during last five years, C. Nominee Directors).

¹ Inserted by BIFR Not. dated 6-3-92. Published in Gazette of India, Part III, Sec. 4.

Name of Institutions	Original amount	Outstanding		Default	
		Principal	Interest	Principal	Interest
1. Central Govt.					
2. State Govt.					
3. I.D.B.I.					
4. I.R.B.I.					
5. I.F.C.I.					
6. I.C.I.C.I.					
7. Others SFCs. SIDCs Etc. (specify Institution individually)					
<hr/>					
Total					

15. Guarantees, if any, by Central/State Government:

Indicate the amount for which guarantees have been given by Central/State Government.

16. Does the unit following administered prices ?
Please specify the prices and products and cost of production thereof.

17. Directives, if any, issued by Central/State Government under Articles of Association.

18. Financial reliefs and capital restructuring done during the past indicating the date of each capital restructuring and quantum of benefits/reliefs provided.

19. Reason for potential sickness :

- (a) Managerial problems,
- (b) Production and Technical problems.
- (c) Marketing difficulties
- (d) Financial problems
- (e) Lack of adequate infrastructure
- (f) Shortage of raw material
- (g) Govt. of Policies
- (h) Other reasons to be specified.

20. Date of finalisation of duly audited accounts of the company for the relevant financial year (i.e. date of annual general meeting of the company where at duly audited annual accounts of the company were approved for the financial year at the end of which net worth declined to 50 per cent or less of peak net worth during the immediately preceding five financial years).

21. Date on which the general meeting of the shareholders of the company is proposed to be convened

for purpose of considering the erosion of net worth.
Whether minimum 21 days notice given after the annual
general meeting.

22. Any other information considered relevant or
useful :

I do hereby certify that the particulars and information given above are based on
information derived from records and believed to be true to the best of my knowledge and
nothing has been concealed therein.

Signature and designation of Informant

Date :

Place :

To,

The Secretary,
Board for Industrial and,
Financial Reconstruction,
Ansal Chambers-II,
Bhikaji Cama Place,
New Delhi-110066.]

Board for Industrial and Financial Reconstruction (Secretary's Powers and Duties) Rules, 1987

Notification No. G.S.R. 506(E), dated 15th May, 1987¹.

In exercise of the powers conferred by section 36 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), the Central Government hereby makes the following rules, namely :—

1. Short title and commencement.— (1) These rules may be called the Board for Industrial and Financial Reconstruction (Secretary's Powers and Duties) Rules, 1987.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.— In these rules, unless the context otherwise requires:—

(a) "Act" means the Sick Industrial Companies (Special Provisions) Act, 1985;

(b) "Bench" means a Bench of the Board constituted under sub-section (2) of section 12;

(c) "Board" means the Board for Industrial and Financial Reconstruction, established under section 4 of the Act, and includes, where the context so requires, a Bench exercising the jurisdiction, powers and authority of the Board;

(d) "Chairman" means the Chairman of the Board;

(e) "operating agency" means any public financial institution specified by the Board, by general or special order, as its agency;

(f) "reference" means reference made to the Board under section 15 of the Act;

(g) "Secretary" means the Secretary to the Board appointed under sub-section (1) of section 8 of the Act.

3. General.— (1) The Secretary shall be the principal officer of the Board who shall exercise his powers and perform his duties under the control of the Chairman.

(2) The Board in discharge of its functions under the Act, may take such assistance from the Secretary, as it may deem fit, and the Secretary shall be bound to assist the Board.

(3) In particular and without prejudice to the generality of the provisions of this rule, the Secretary shall have the following powers and perform the following duties, namely:—

(a) It shall be the duty of the Secretary to scrutinise the report submitted by any operating agency, in pursuance of the order of the Board made under sub-section (2) of section 16 of the Act and submit a report to the Board on the point as to whether the said report is complete with respect to matters which the operating agency was required by the Board to enquire into or not, and seek directions of the Board as to carrying out of further inquiry, if any, by the operating agency and submission by it of a further report.

(b) It shall be the duty of the Secretary to scrutinise the scheme prepared by any operating agency in pursuance of an order of the Board under sub-section (3) of section 17 or a fresh scheme prepared by an operating agency in pursuance of the order of the Board under sub-section (5) of section 18

¹ Published in Gazette of India. (Extraordinary) No. 262, dt. 15-5-87, Pt. II, sec. 3(i).

of the Act, and submit a report on the point as to whether the said scheme has been prepared in accordance with the guidelines specified in the order of the Board.

- (c) The Secretary shall have the right to collect from the Central Government, the Reserve Bank, any scheduled bank or any other bank, the public financial institutions or the State level institutions, or other offices, institutions, companies, firms, such information as may be considered useful for the purpose of efficient discharge of the functions of the Board under the Act and place the said information before the Board.
- (d) The Secretary may call upon any industrial company to furnish within such time, as may be specified by him, information in relation to compliance by the company of the provisions of sub-section (1) of section 23 and seek the directions of the Chairman as to further action, if any, to be taken in the matter.
- (e) The official seal of the Board shall not be affixed to any order, summons, other process or any certified copy issued by the Board or any other document save under the authority in writing of the secretary.
- (f) The Secretary shall have the custody of the records of the Board.
- (g) The official seal of the Board shall be in the custody and control of the Secretary.

4. Additional powers and duties of the Secretary.— (1) In addition to his powers and duties specified in rule 3, the Secretary shall have the following additional powers and perform the following duties, namely :—

- (i) receive all references, applications, reports, letters, representations and other documents;
- (ii) decide all questions arising out of any reference to the Board before the same is registered in the office of the Board;
- (iii) require any reference to be amended in accordance with the Act or the regulations made under section 13 of the Act;
- (iv) subject to the directions of the Chairman, or the respective Benches, as the case may be, fix dates for hearing of references, applications or other proceedings;
- (v) direct formal amendment of records;
- (vi) grant leave to inspect the records of the Board;
- (vii) dispose of all matters relating to the service of the notice, summons, other process, applications for issue of fresh notices, summons or other process, or for extending time for ordering a particular mode of service including the substituted service by publication of the notice, summons or other process by way of advertisement in the newspapers.

(2) An appeal against the decision of or direction issued by the Secretary under clauses (ii), (iii), (v) (vi) and (vii) shall be made to the Chairman by the aggrieved party within 15 days from the date on which such decision or direction is communicated to him and the decision thereon of the Chairman shall be final.

5. Powers exercisable under these rules to be in addition to other powers of the Secretary.— (1) The powers exercisable and duties to be performed by the Secretary under these rules shall be in addition to those prescribed under any other rules as have already been made or as may be made from time to time, by the Central Government under section 36 of the Act.

(2) The powers exercisable and duties to be performed by the Secretary under these rules are without prejudice to those as may be specified by the Chairman or delegated to the Secretary, by the Board under section 27 of the Act.

Board for Industrial and Financial Reconstruction (Financial and Administrative Powers) Rules, 1987

Notification No. G.S.R. 368(E), dated 2nd April, 1980.¹

In exercise of the powers conferred by section 36 read with sub-section (1) of section 8 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), and in supersession of the notification of the Government of India in the Ministry of Finance, Department of Economic Affairs No. GSR 68(E), dated the 28th January, 1987, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely :—

1. Short title and commencement.— (1) These rules may be called the **Board for Industrial and Financial Reconstruction (Financial and Administrative Powers), Rules, 1987.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.— In these rules, unless the context otherwise requires,—

(a) “Act” means the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986);

(b) “Board” means the Board for Industrial and Financial Reconstruction;

(c) “Chairman” means the Chairman of the Board;

(d) “Secretary” means the Secretary of the Board.

3. Powers of the Chairman and the Secretary.— (1) The Chairman shall have the same powers as are conferred on a Department of the Central Government in respect of the Delegation of Financial Powers Rules, 1978, the General Financial Rules, 1963, the Fundamental and Supplementary Rules, the Central Civil Services (Leave) Rules, 1972, the Central Civil Services (Joining Time) Rules, 1979, the Civil Services (Pension) Rules, 1972, the Central Civil Services (Conduct) Rules, 1964, the Central Civil Services (Classification, Control and Appeal) Rules, 1965, and the General Provident Fund (Central Services) Rules, 1960, as amended from time to time.

(2) The Secretary shall have the same powers as are conferred on a head of the department in respect of the Delegation of the Financial Powers Rules, 1978, the General Financial Rules, 1963, the Fundamental and Supplementary Rules, the Central Civil Services (Leave) Rules, 1972, the Central Civil Services (Joining Time) Rules, 1979, the Civil Services (Pension) Rules, 1972, the Central Civil Services (Conduct) Rules, 1964, the Central Civil Services (Classification, Control and Appeal) Rules, 1965, and the General Provident Fund (Central Services) Rules, 1960, as amended from time to time:

Provided that the exercise of the powers by the Chairman or Secretary under these rules shall be subject to such instructions as may be issued from time to time by the Central Government.

¹ Published in Gazette of India (Extraordinary) No. 174, dt.2-4-87, Pt. II, sec. 3(i).

Board for Industrial and Financial Reconstruction (Salaries and Allowances and Conditions of Service of Chairman and other Members) Rules, 1987

In exercise of the powers conferred by clause (a) of sub-section (2) of section 36 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), the Central Government hereby makes the following rules namely:—

1. Short title and commencement.— (1) These rules may be called the Board for Industrial and Financial Reconstruction (Salaries and Allowances and Conditions of Service of chairman and other Members) Rules, 1987.

(2) They shall come into force on the date of their publication in the official Gazette.

2. Definitions.—In these rules, unless the context otherwise requires—

(a) “Act” means the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986);

(b) “Board” means the Board for Industrial and Financial Reconstruction, established under section 4 of the Act;

(c) “Chairman” means the Chairman of the Board appointed under section 4 of the Act;

(d) “Member” means a Member of the Board appointed under section 4 of the Act.

3. Pay.—(1) The Chairman shall receive pay as admissible to a Judge of a High Court.

(2) A Member shall receive pay as admissible to the Secretary to the Government of India;

Provided that in the case of an appointment of a person as a Chairman, or as a Member, who was retired as a Judge of a High Court or who has retired from service under the Central Government or a State Government and who is in receipt of or has received or has become entitled to receive any retirement benefit by way of pension, gratuity, employer’s contribution to the Contributory Provident Fund or other forms of retirement benefits, the pay of such Chairman or Member shall be reduced by the gross amount of pension and pension equivalent of gratuity or employer’s contribution to the Contributory Provident Fund or any other form of retirement benefits, if any, drawn or to be drawn by him.

4. Dearness allowance and city compensatory allowance.—(1) The Chairman shall receive dearness allowance and city compensatory allowance at the rate admissible to a Judge of the Delhi High Court.

(2) A Member shall receive dearness allowance and city compensatory allowance at the rate admissible to a Group ‘A’ officer of the Central Government drawing an equivalent pay.

5. Leave.—(1) Person, on appointment in the Board as Chairman or a Member shall be entitled to have leave as follows :

(i) Earned leave at the rate of thirty days for every completed calendar year of service or a part thereof:

Provided that the leave account shall be credited with earned leave in advance, in two instalments of fifteen days each on the first day of January

and July of every calendar year:

Provided further that the earned leave at the credit at the close of previous half year shall be carried forward to next half year, subject to the condition that the leave so carried forward plus credit for the half year do not exceed the maximum limit of one hundred and eighty days.

- (ii) Half pay leave on medical certificate or on private affairs at the rate of twenty days in respect of each completed year of service and the leave salary for half pay leave shall be equivalent to half of the leave salary admissible during the earned leave;
- (iii) Leave on half pay may be commuted to full pay leave at the discretion of the Chairman or a Member, provided it is taken on medical grounds and is supported by a medical certificate by a competent medical authority;
- (iv) Extraordinary leave without pay and allowances up to a maximum period of one hundred and eighty days in one term of office.

6. Leave sanctioning authority.—The Chairman shall be the authority competent to sanction leave to a Member and the President of India shall be the authority competent to sanction leave to the Chairman.

7. Provident Fund.—The Chairman or a Member shall be entitled to subscribe to the General Provident Fund at his option and in case of his so opting, shall be governed by the provision of the General Provident Fund (Central Services) Rules.

8. Travelling Allowances.—(1) The Chairman while on tour or on transfer (including the journey undertaken to join the Board or on the expiry of his term with Board to proceed to his home town) shall be entitled to the travelling allowances, daily allowances, transportation of personal effect and other similar matters at the same scale and the same rates as are prescribed in the High Court Judge (Travelling Allowances) Rules, 1956.

(2) A Member while on tour or on transfer (including the journey undertaken to join the Board or on the expiry of his term with the Board to proceed to his home town) shall be entitled to the travelling allowances, daily allowances, transportation of personal effects and other similar matters at the same scales and at the same rates as are applicable to a Group 'A' officer of the Central Government drawing an equivalent pay.

9. Leave travel concession.—(1) The Chairman shall be entitled to leave travel concession at the same rates and at the same scales as are applicable to a Judge of the Delhi High Court.

(2) A Member shall be entitled to leave travel concession at the same rates and at the same scales as are applicable to Group 'A' officer of the Central Government drawing an equivalent pay.

10. Accommodation.—(1) Every person appointed to the Board as a Chairman or a Member shall be eligible, subject to availability, to the use of official residence from the general pool accommodation of the type admissible to a Group 'A' officer of the Central Government drawing an equivalent pay and stationed at Delhi on payment of the licence fee at the rates specified by the Central Government from time to time.

(2) Where a Chairman or a Member occupies an official residence beyond permissible period he shall be liable to pay additional licence fee or penal rent, as the case may be, and he will be liable to eviction in accordance with the rules applicable to Central Government servants.

11. Facility of conveyance.—(1) The Chairman shall be entitled to a staff car and one hundred and fifty litres of petrol every month or actual consumption of petrol per month whichever is less.

(2) A Member shall be entitled to get a conveyance allowance of rupees seven hundred and fifty per mensem.

12. Facilities for medical treatment.—The Chairman or other Members shall be entitled to medical treatment and hospital facilities as provided in the Contributory Health Services Scheme Rules, 1954 and in places where the Central Health Services Scheme is not in operation, the Chairman and Members shall be entitled to the facilities as provided in the Central Services Medical Attendance Rules.

13. Residuary provision.—Matter relating to the conditions of service of the Chairman or other Members with respect to which no express provision has been made in these rules shall be referred in each case to the Central Government for its decision and the decision of the Central Government thereon shall be binding on the Chairman or the other Member.

14. Powers to relax.—The Central Government shall have power to relax the provisions of any of these in respect of any class or categories of persons.

Appellate Authority for Industrial and Financial Reconstruction (Secretary's Powers and Duties) Rules, 1988

Notification No. G.S.R. 463(E), dated 18th April, 1988¹

In exercise of the powers conferred by section 36 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), the Central Government hereby makes the following rules, namely :—

1. Short title and commencement.—(i) These rules may be called the Appellate Authority for Industrial and Financial Reconstruction (Secretary's Powers and Duties) Rules, 1988.

(ii) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.—In these rules, unless the context otherwise requires—

- (a) "Act" means the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986);
- (b) "Bench" means a Bench of the Appellate Authority constituted under sub-section (2) of section 12 of the Act;
- (c) "Appellate Authority" means the Appellate Authority for Industrial and Financial Reconstruction, constituted under section 5 of the Act, and includes, where the context so requires, a Bench exercising the jurisdiction, powers and authority of the Appellate Authority;
- (d) "Chairman" means the Chairman of Appellate Authority;
- (e) "Secretary" means the Secretary to the Appellate Authority appointed under sub-section (1) of section 8 of the Act.

3. General.—(1) The Secretary shall be principal Officer of the Appellate Authority who shall exercise his powers and performs his duties under the control of the Chairman.

(2) The Appellate Authority, in discharge of its functions under the Act, may take such assistance from the Secretary as it may deem fit and the Secretary shall be bound to assist the Appellate Authority.

(3) In particular and without prejudice to the generality of the provisions of this rule, the Secretary shall exercise the following powers and perform the following duties, namely:—

- (a) It shall be the duty of the Secretary to assist the Appellate Authority in making such enquiry as it deems fit in connection with any appeal before the Appellate Authority.
- (b) The Secretary shall have the right to collect from the Central Government, the Reserve Bank, any scheduled bank or any other bank, public financial institutions or State level institutions or other offices, institutions, companies, firms, such information as may be considered useful for the purpose of discharge of the functions of the Appellate Authority under the Act and place the said information before the Appellate Authority.
- (c) The official seal of the Appellate Authority shall not be affixed to any order, summons, other process or any certified copy issued by the Appellate

¹ Published in Gazette of India (Extraordinary), No. 204, dt. 18-4-88, Pt. II, sec. 3(i).

Authority or any other document save under the authority in writing of the Secretary.

- (d) The Secretary shall have the custody of the records of the Appellate Authority.
- (e) The official seal of the Appellate Authority shall be in the custody and control of the Secretary.

4. Additional powers and duties of the Secretary.—(1) In addition to his powers and duties specified in rule 3, the Secretary shall have the following additional powers and perform the following duties, namely :—

- (i) receive all references, applications, reports, letters, representations and other documents;
- (ii) decide all questions arising out of any reference to the Appellate Authority before the same is registered in the office of the Appellate Authority;
- (iii) require any reference to be amended in accordance with the Act, or the regulations made under section 13 of the Act.
- (iv) subject to the directions of the Chairman, or the respective Benches, as the case may be, fix dates for hearing of references, applications or other proceedings;
- (v) direct formal amendment of records;
- (vi) grant leave to inspect the records of the Appellate Authority;
- (vii) dispose of all matters relating to the service of the notices, summons, other process, applications for issue of fresh notices, summons or other process or for extending time for ordering a particular mode of service including the substituted service by publication of the notices, summons or other process by way of advertisement in the newspapers.

(2) An appeal against the decision of, or direction issued by, the Secretary under clauses (ii), (iii), (v), (vi) and (vii) shall be made to the Chairman by the aggrieved party within 15 days from the date on which such decision or direction is communicated to him and the decision thereon of the Chairman shall be final.

5. Powers exercisable under these rules to be in addition to other powers of the Secretary.—(1) The powers exercisable and duties to be performed by the Secretary under these rules shall be in addition to those prescribed under any other rules as have already been made or as may be made from time to time, by the Central Government under section 36 of the Act.

(2) The powers exercisable and duties to be performed by the Secretary under these rules are without prejudice to those as may be specified by the Chairman or delegated to the Secretary by the Appellate Authority under section 27 of the Act.

Appellate Authority for Industrial and Financial Reconstruction (Conditions of Service of the Secretary and Other Officers and Employees) Rules, 1989¹.

In exercise of the powers conferred by sub-section (1) read with clause (d) of sub-section (2) of section 36 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), the Central Government hereby makes the following rules, namely:—

1. Short title and commencement.—(i) These rules may be called the **Appellate Authority for Industrial and Financial Reconstruction (Conditions of Service of the Secretary and other Officers and Employees) Rules, 1989.**

(ii) They shall come into force on the date of their publication in the Official Gazette.²

2. Definitions.—In these rules, unless the context otherwise requires:

(a) “Appellate Authority” means the Appellate Authority for Industrial and Financial Reconstruction;

(b) “Secretary” means the Secretary to the Appellate Authority.

3. Pay of Secretary.—The Secretary shall receive pay as admissible to an Additional Secretary to the Government of India or where an officer of the Government is appointed on deputation to the Appellate Authority as Secretary, he shall receive the pay admissible to such officer while on deputation.

4. Other staff of the Appellate Authority.—The nature and categories of other officers and employees of the Appellate Authority and the scales of pay thereof shall be as specified in the Schedule appended to these rules.

5. Conditions of service.—The conditions of service of the Secretary and other officers and employees of the Appellate Authority in the matter of pay, allowances, leave, joining time, joining time pay, provident fund, age of superannuation, pension and retirement benefits, medical facilities and other conditions of service, shall be regulated in accordance with such rules and regulations as are, from time to time, applicable to officers and employees of the Central Government belonging to Group ‘A’, Group ‘B’, Group ‘C’ and Group ‘D’ as the case may be, and drawing the corresponding scales of pay.

Sl. No.	Name of the Post	Scale of Pay
1	2	3
1.	Director	Rs. 4500-150-5700
2.	Deputy Secretary	Rs. 3700-125-4700-150-5000
3.	Under Secretary	Rs. 3000-100-3500-125-4500
4.	Section Officer	Rs. 200-60-2300-EB-75-3200-100-3500
5.	Assistant	Rs. 1400-40-1600-50-2300-EB-60-7600

1. Published vide GSR 313(E), dated 7th March, 1989.

2. Came into force by Gazette of India, Extraordinary No. 120, dated 7th March 1989, Part II, Section 3(i).

1	2	3
6.	Private Secretary to Chairman and Members	Rs. 3000-100-3500-125-4500
7.	Stenographer Gr. 'A'/Grade 'B'	Rs. 2000-60-2300-EB-75-3200-100-3500
8.	Stenographer Gr. 'C'	Rs. 1400-40-1600-50-EB-60-2600
9.	Stenographer Gr. 'D'	Rs. 1200-30-1560-EB-40-2040
10.	Upper Division Clerk	Rs. 1200-30-1560-EB-40-2040
11.	Lower Division Clerk	Rs. 950-20-1150-EB-25-1500
12.	Staff Car Driver	Rs. 950-20-1150-EB-25-1500
13.	Gestetner Operator <i>cum</i> -Photo-copier	Rs. 800-15-1010-EB-20-1150
14.	Jamadar	Rs. 775-12-955-EB-14-1025
15.	Daftry	Rs. 775-12-955-EB-14-1025
16.	Peon	Rs. 775-12-870-EB-14-940
17.	Frash	Rs. 775-12-870-EB-14-940
18.	Sweeper	Rs. 775-12-870-EB-14-940

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