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4.1. GENESIS OF BIFR

In a market-driven economy, an ailing industry has only two options before it: either to get well through its own efforts or to close down. But India in the Eighties was a mixed economy guided by the ideals of socialism. State intervention in all spheres of activity was routine. "The compulsion for maintaining employment, the scarcity of foreign exchange, the need to restrict imports, the urge for self-reliance based on indigenous capability, inhibited India from taking steps like closing down unviable sick industrial units."\(^4^8\) So the Government was more interested in finding ways and means to revive and rehabilitate the sick industrial units than in closing them down permanently.\(^4^9\)

4.1.1. Establishment of IRCI

The first step in this direction was taken by the Government in 1971 with the establishment of the Industrial Reconstruction Corporation of India Ltd (IRCI) with the sole objective of providing reconstruction and rehabilitation assistance to sick and closed units. In 1976, the Reserve Bank of India advised commercial banks to set up cells for rehabilitation of sick industrial units and


\(^{4^9}\) Indeed, a number of chronically loss making private sector units were absorbed in the public sector through nationalisation and management takeovers. See Kamal Nayan Kabra, *Nationalisation in India: Political Economy of Policy Options*, New Delhi: Eastern Books, (1992).
participate in the revival of viable units. In 1978, the RBI drew the attention of the banks in dealing with sick industrial units in the small scale sector. The "Statement on Policy of Sick Industries" announced by the Government in 1978 aimed at devising suitable means for dealing effectively with sick industrial units and also setting up a mechanism for monitoring and detecting sickness at an early stage.\(^{50}\) In 1980 state level inter-institutional committees were set up to tackle the problem of sickness. In order to have a coordinated approach at all-India level, the Government decided to refer the sick units receiving rehabilitation assistance from banks to the IRCI and the units receiving assistance from term lending institutions to the Industrial Development Bank of India.\(^{51}\)

### 4.1.2. Tiwari Committee Report

However the IRCI, financial institutions and the commercial banks had to face a lot of constraints in combating industrial sickness and initiating the process of rehabilitation. The Reserve Bank of India, therefore, constituted a high-powered Committee\(^{52}\) in May 1981 under the chairmanship of Shri P. Tiwari, Chairman of IRCI to examine the legal and other problems faced by the banks and financial institutions in rehabilitation of sick industrial units and to suggest

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\(^{52}\) Reserve Bank of India, Report of the Committee to Examine the Legal and other Difficulties faced by the Banks and Financial Institutions in Rehabilitation of Sick Industrial Undertakings and Suggest Remedial Measures including Changes in the Law (Chairman: T. Tiwari), Bombay: Reserve Bank of India, (1984).
remedial measures for effectively tackling the problem of sickness. The Tiwari Committee submitted its Report in 1984 wherein it made far-reaching recommendations.

The main recommendations of the Committee were:

1. "The remedies as available in terms of various existing statutes for reviving and rehabilitating sick industrial units are inadequate and dilatory. Making amendments to the existing laws may not achieve the desired objective because it would require a large number of amendments, substantial as well as consequential. Having regard, therefore, to the existing legal framework vis-à-vis rehabilitation of sick industrial units, a comprehensive special legislation designed to deal with the problems of sick units is necessary.

2. A quasi-judicial body called the Board for Industrial Revival may be set up under the special legislation to deal expeditiously and exclusively with matters relating to rehabilitation of sick industrial units. The Board will have the powers of a Civil Court in passing orders and in matters of enforcement thereof. To ensure finality and speed, the decision of the Board should be made non-justiciable, except the writ and other jurisdiction of the High Courts and the Supreme Court.

3. Special tribunals to serve as quasi-judicial bodies to deal exclusively with the recovery of dues of the banks and financial institutions by following summary procedures may be created.

4. For creating a security in favour of the banks and financial institutions over land, the Urban Land Ceiling Legislation may be amended suitably.

5. A special procedure in the legislation for creation of statutory charge in favour of the banks and financial institutions should be made.

6. Apart from monetary concessions from banks and financial institutions, other agencies, such as the Central/State Governments, management,
labour, shareholders, depositors, creditors, etc., should also contribute their mite in the package of rehabilitation.

7 Concessions from the Central Government may be made applicable to sick industrial units as a class. The concessions envisaged are exemption from Central Excise, wholly or partly, for a period of time, exemption from interest tax and income-tax on interest suspense amount in the case of banks in regard to sick industrial units, preferential allotment of canalised items to sick industrial units, deferment/rephasing of contribution to Provident Fund, Income-tax, Employees' State Insurance Fund, etc., deferment of payment of minimum bonus for a limited period, extending market support by reserving certain quota for purchase from sick industrial units, etc.

8 State Governments may assist sick industrial undertakings in the form of ensuring preferential treatment in respect of power supply, concessions in power tariff for a specified period, exemption or concessions in the rate of sales tax/octroi duty, etc., speedier disposal of industrial disputes, adequate market support for the products by strengthening infrastructure, waiver of penal levies, declaration of sick industrial units as Relief Undertakings, price preference in the matter of purchase, grant of expeditious permission under the Urban Land Ceiling Act for purposes of mortgage/sale, etc.

9 Management should co-operate by foregoing interest on unsecured loans/deposits brought by self or friends and relatives, write-off of the loans and bringing in fresh funds as may be decided under the package.

10 Labour may contribute by voluntarily agreeing to a scheme of rationalisation/retrenchment, wage stabilisation, agreeing not to raise any fresh demand for an agreed period, increased productivity, productivity linked incentives, moderation of fringe facilities for a period of time, etc.
11 Shareholders should voluntarily agree to any scheme of restructuring, resulting in writing down the value of shares, share exchange value in the case of merger or amalgamation, pledge or deposit of their shares with the financing agency and transfer of voting rights, etc.

12 The depositors and trade creditors may agree to a phased liquidation of past dues, desist from filing winding-up petitions, extend co-operation at creditors' meetings to any scheme of reconstruction, merger, etc.

13 Setting up of a 'National Industrial Rehabilitation Fund' to provide equity, support/overcome liquidity problems of sick industrial units may be considered.

14 Setting up a 'Redundancy Fund' for compensating labour may be considered.

15 In order to avoid delay in arriving at a commonly committed package programme (of a sick industrial unit) amongst the participating agencies, an agency or a 'Standing Forum' (Working Group) may be constituted whose decision should be made binding on all the participants.

16 Advances to sick industrial units under rehabilitation programme of the banks/financial institutions may be exempted from the incidence of interest-tax.

17 Banks' and other financial institutions' nominee directors on the Boards of industrial units may get the necessary statutory protection.

18 An 'Industrial Management Pool' may be created and maintained by the financial institutions. Government may also create an 'Industrial Management Service' on the lines of the Indian Administrative or Indian Police Service, etc. to man the industrial units.

19 A stand-by institutional arrangement may be made whereby the sick industrial units could be taken over as a stop-gap arrangement by an
institution as part of its designated functions with a view to negotiating for a fair price for its ultimate sale.

20 During the interregnum, pending creation of the BIR, the IRCI may deal within its scope with cases of rehabilitating sick industrial units referred to it by the banks and financial institutions.\textsuperscript{53}

4.1.3. Enactment of SICA

Following the recommendations of the Tiwari Committee, the Government enacted the Sick Industrial Companies (Special Provisions) Act, 1985\textsuperscript{54} (hereinafter referred to as "SICA" or as "the Act").

In the Statement of Objects and Reasons that accompanied the Bill at the time of its enactment, the Government stated that a need has been felt to enact in public interest a legislation to provide for timely determination by a body of experts of the preventive, ameliorative, remedial and other measures that would need to be adopted with respect to such companies and for enforcement of the measures considered appropriate with utmost practicable despatch.


\textsuperscript{54} The Sick Industrial Companies (Special Provisions) Act, 1985 (Act No. 1 of 1986). The Act received the assent of the President on 8th January, 1986 \textit{vide} Gazette of India, Extraordinary No.1, dated 9 January, 1986, Part II, Section 1. All the provisions of the Act, excepting sections 15 to 34, were made applicable w.e.f. 12-01-1987 \textit{vide} Notification No. GSR 24(E), dated 12 January, 1987 whereas sections 15 to 34 were made applicable w.e.f. 15-05-1987 \textit{vide} Notification No. SO 444(E), dated 28 April, 1987.
The object of this legislation has been explained clearly by the Supreme Court in the following words\textsuperscript{55}:

\begin{quote}
"(T)he legislation had been enacted with the end in view to (1) afford maximum protection of employment; (2) optimise the use of the funds, etc; (3) salvaging the production assets; (4) realising the amounts due to the banks, etc; and (5) to replace the existing time-consuming and inadequate machinery by efficient machinery for expeditious determination by a body of experts."
\end{quote}

The salient features of SICA are given below.

1. The Act provides for the establishment of the Board for Industrial and Financial Reconstruction (hereinafter called "the Board" or "BIFR"), consisting of experts in various relevant fields with powers to enquire into and determine the incidence of sickness in industrial companies and devise suitable remedial measures through appropriate schemes or other proposals and for their proper implementation.

2. The Act defines a sick industrial company and requires the Board of Directors of a sick or potentially sick industrial company to make a reference of the said fact to BIFR within the prescribed time for determination of the measures which shall be adopted with respect to the company. The Act also provides for a reference by the Central or State Government or the Reserve Bank or a public financial institution or a State level institution or a scheduled bank.

3. The Act lays down the procedure for conducting inquiries, for preparation of rehabilitation schemes and for passing various appropriate orders by BIFR.

\textsuperscript{55} Navnit R. Kamani v. RR Kamani, (1989) 66 Comp Cas 132.
The Act clothes BIFR with the power to suspend legal proceedings against the sick industrial company and keep in abeyance all contracts to which the sick industrial company is a party.

The Act also provides for the constitution of an Appellate Authority consisting of persons who are or have been Supreme Court Judges, senior High Court Judges and Secretaries to the Government of India, etc. for hearing appeals against the order of the Board.

The Central Government has also framed regulations under the Act called the "Board for Industrial and Financial Reconstruction Regulations, 1987" (hereinafter called the "BIFR Regulations") to clarify and elaborate on the provisions contained in the Act.

4.1.4. Establishment of BIFR

In pursuance of the provisions contained in the Sick Industrial Companies (Special Provisions) Act, 1985, the Government established the Board for Industrial and Financial Reconstruction w.e.f. 12th January 1987. The Act and the BIFR Regulations together govern the role, organizational structure and the decision making process of the Board.

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4.2. Constitution, Jurisdiction and Functions of BIFR

4.2.1. Constitution

The BIFR shall consist of a Chairman and not less than two and not more than fourteen other members, to be appointed by the Central Government.\(^57\) The word "Member" means a member of the Board and includes the Chairman.\(^58\) 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 be in the opinion of the Central Government useful to the Board.\(^59\)

The Member of BIFR should not have any such financial or other interest as is likely to affect prejudicially his functions as such Member.\(^60\)

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. But no person shall hold office as the Chairman or other member after he has attained the

\(^{57}\) Section 4(2) of SICA.

\(^{58}\) Section 3(1)(g) of SICA.

\(^{59}\) Section 4(3) of SICA.

\(^{60}\) Section 6(1) of SICA.
age of sixty-five years. A member may resign his office at any time or be removed from his office under certain circumstances. 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. 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 BIFR 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.

The Chairman and other members and the officers and other employees of BIFR shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

4.2.2. Benches

The jurisdiction, powers and authority of the Board may be exercised by Benches thereof. The Benches shall be constituted by the Chairman and each Bench shall consist of not less than two members.

The Chairman of the Board shall constitute such number of Benches as he may deem fit. He shall from time to time, assign the cases to be dealt with by the respective Benches provided that he may constitute, as and when deemed necessary:

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61 Section 6(2) of SICA.
62 Section 6(3) of SICA.
63 Section 6(8) of SICA.
64 Section 6(9) of SICA.
65 Section 11 of SICA.
66 Section 12 of SICA.
fit, a Bench for dealing with a particular case or batch of cases. The Chairman may also transfer a case from one Bench to another. 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.67

If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and make a reference to the Chairman of the Board who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the 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.

4.2.3. Jurisdiction

The jurisdiction of BIFR gets invoked when it receives--

- reference from the Board of Directors of an industrial company
- reference from the Central/State Government, Reserve Bank of India, public or State-level financial institution or scheduled bank, or
- when it has own knowledge or information

that a scheduled industry (other than the scheduled industry relating to ships and other vessels drawn by power) belonging to an industrial company has become a sick or potentially sick industrial company.

67 Regulation 16 of BIFR Regulations.
A "scheduled industry" means any of the industries specified for the time being in the First Schedule to the Industries (Development and Regulation) Act, 1951 (65 of 1951). 68

A "company" means a company as defined in section 3 of the Companies Act, 1956 (1 of 1956). 69 The original definition of "company" given in clause (d) of sub-section (1) of section 3 of SICA read as follows: "'company' means a company as defined in section 3 of the Companies Act, 1956 (1 of 1956) but does not include a government company as defined in section 617 of that Act." So as per the provisions of SICA as originally enacted, the BIFR had no jurisdiction over Government companies. But subsequently in 1991, government companies have also been brought within the purview of the Board. 70

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68 Section 3(1)(n) of SICA.

69 Section 3(1)(d) of SICA. Section 3(1)(i) of the Companies Act, 1956 states that "a company means a company formed and registered under this Act or an existing company as defined in section 3(1)(ii)." Section 3(1)(ii) lays down that "an existing company means a company formed and registered under any of the previous Company Law."

70 The words and figures, "but does not include a government company as defined in s. 617 of that Act" omitted from clause (d) of sub-section (1) of section 3 of SICA by Act No. 57 of 1991 w.e.f. 28-12-1991. The Statement of Objects and Reasons has explained the need of such amendment as follows: "At present the Sick Industrial Companies (Special Provisions) Act, 1985 does not apply to Government companies. In view of this, industrial companies in the public sector which are sick but can be revived as well as those which are chronically sick and cannot be turned around do not fall within the purview of the said Act. It has now become necessary to apply the provisions of the said Act to the industrial companies in the public sector so that the cases of such sick industrial companies can be referred to the Board for Industrial and Financial Reconstruction for the formulation of revival or rehabilitation schemes or winding up, as the Board may consider necessary. Accordingly, it is proposed to amend section 3 of the said Act so as to cover such Government companies within the definition of 'company' given in clause (d) of sub-section (1) of that section."
An "industrial company" means a company which owns one or more industrial undertakings.\textsuperscript{71} An "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 same section 3.\textsuperscript{72} A "factory" here means any premises, including the precincts thereof, where manufacturing process is ordinarily carried on and where the employment on any day in the last 12 months is at least 50 persons if the manufacture is carried on with the aid of power and at least 100 persons if the manufacture is carried on without the aid of power.\textsuperscript{73}

A "sick industrial company" means an industrial company (being a company registered for not less than five years) which has at the end of any financial year accumulated losses equal to or exceeding its entire net worth.\textsuperscript{74}

\textsuperscript{71} Section 3(1)(e) of SICA.

\textsuperscript{72} Section 3(1)(f) of SICA.

\textsuperscript{73} Section 3(c) of the Industries (Development and Regulation) Act, 1951. It may be noted that this definition of factory is different from the definitions given in other enactments like the Factories Act, where the employment should be at least 10 in case of manufacture with aid of power and 20 in case of manufacture without aid of power and the Central Excise Act, where a unit employing even one person will be a "factory."

\textsuperscript{74} Section 3(1)(o) of SICA as amended by Act No. 12 of 1994. Prior to this amendment, this clause read as follows: "(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.
A "potentially sick" industrial company means an industrial company the accumulated losses of which as at the end of any financial year, have resulted in erosion of fifty per cent or more of its peak net worth during the immediately preceding four financial years.\(^7\)

The net result of all these provisions is that BIFR will get jurisdiction only

- when it has own knowledge or information or when it receives reference from the Central/State Government, RBI, public or State-level financial institution, a scheduled bank or the Board of Directors of
- a company registered under the Companies Act, 1956 or any previous Company Law for not less than five years,
- owning one or more large and medium industries (not being ancillary industries) specified in the First Schedule to the Industries (Development and Regulation) Act, 1951 excepting shipping industry,
- employing at least 50 persons (where power is used) or 100 persons (where power is not used) on any day in the previous 12 months, and
- where the accumulated losses equal or exceed its entire net worth or where the accumulated losses as at the end of any financial year, have resulted in erosion of fifty per cent or more of its peak net worth during the immediately preceding four financial years.

\(^7\) Section 23 of SICA.
4.2.4. Functions

The functions of BIFR may be summarised as follows:

- To determine quickly whether an industrial company has become a sick industrial company;
- To take expeditious steps for the rehabilitation of a viable sick industrial company by sanctioning an appropriate scheme prepared by the operating agency and approved by all concerned parties;
- To take necessary steps for safeguarding the interests and assets of the sick industrial company during the pendency of the proceedings before BIFR by appointing special director(s), by taking inventories, by staying legal proceedings and contracts and by recovering monies from persons found guilty of misfeasance; and
- To unlock the monies locked up in non-viable sick industrial companies by recommending winding up in such cases.

4.3. Powers of BIFR

4.3.1. Power to Regulate its Own Procedure

The BIFR has powers to regulate--

(a) the procedure and conduct of the business before it;

(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.
In particular and without prejudice to the generality of the foregoing provisions, the powers of BIFR 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.76

4.3.2. Power of a Civil Court

The BIFR shall, for the purposes of any inquiry or for any other purpose under SICA 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.77

The BIFR shall also be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).78

76 Section 13(1) and (2) of SICA.

77 Section 13(3) of SICA.
4.3.3. Power to Initiate Proceedings

The BIFR may initiate proceedings *suo moto* upon its own knowledge as to the financial condition of the company.79

4.3.4. Power to Conduct Inquiries

The BIFR 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,80 and

- for determining whether it is practicable for a sick industrial company to make its net worth exceed the accumulated losses within a reasonable time.81

4.3.5. Power to Appoint Special Director(s)

Where the Board deems it fit to make an inquiry into any industrial company under section 16(1) and (2), the BIFR has the power to appoint one or more

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78 Section 14 of SICA. Section 195 of the Criminal Procedure Code, 1973 deals with the prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence. Chapter XXVI of the Criminal Procedure Code, 1973 deals with the provisions as to offences affecting the administration of justice.

79 Section 16(1)(b) of SICA.

80 Section 16(1) of SICA.

81 Section 17(1) of SICA.
persons to be a special director(s) of the company for safeguarding the financial and other interests of the company or in the public interest.  

4.3.6. Power to Sanction Rehabilitation Schemes

The BIFR may—

- direct an operating agency to prepare a scheme for reviving and rehabilitating a viable sick industrial company;  
- make such modifications, if any, in the draft scheme prepared by the operating agency as it may consider necessary;  
- sanction a scheme in respect of which consent has been given by every person required by the scheme to provide financial assistance.

4.3.7. Power to Get Inventory Prepared

The BIFR has the power, where for the proper discharge of the functions of BIFR under SICA the circumstances so require, to cause to be prepared through any operating agency—

(a) with respect to a company, a complete inventory of (i) all assets and liabilities of whatever nature; and (ii) all books of account, registers, maps,

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82 Section 16(4), (4A) and (5) of SICA.
83 Section 17(3) of SICA.
84 Section 18(3)(b) of SICA.
85 Section 19(3) of SICA.
86 Section 21 of SICA.
plans, records, documents of title or ownership of property and all other documents of whatever nature relating thereto;

(b) a list of shareholders and 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.

4.3.8. Power to Give Consent for Continuation of Legal Proceedings

The BIFR has the power to give consent for the continuation of legal proceedings against an industrial company which have been automatically stayed by the operation of sub-section (1) of section 22 of SICA. The said sub-section says that 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, 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 and no suit for the recovery of money or for the enforcement of any security against the industrial company or of any guarantee in respect of any loans or advance granted to the industrial company shall lie or be proceeded with further, except with the consent of the Board.
4.3.9. Power to Suspend Contracts

The BIFR has the power\(^{87}\) to declare for a period not 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) 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.

Any such declaration 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 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.

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

\(^{87}\) Sub-sections (3) to (5) of section 22 of SICA.
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. 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.

4.3.10 Power to Give Directions Not to Dispose of Assets

The BIFR has the power\(^{88}\), if it is of opinion that any direction is necessary in the interest of the sick industrial company or creditors or shareholders or in the public interest, to direct the sick industrial company not to dispose of, except with the consent of the Board, any of its assets—

(a) during the period of preparation or consideration of the scheme under section 18; and

(b) during the period beginning with the recording of opinion by the Board for winding up of the company under sub-section (1) of section 20 and up to commencement of the proceeding relating to the winding up before the concerned High Court.

4.3.11 Power to Initiate Misfeasance Proceedings

The BIFR has the power\(^{89}\) to direct any person who has misapplied or retained, or become liable or accountable for, any money or property of the sick industrial company or who has been guilty of any misfeasance, malfeasance or

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\(^{88}\) Section 22A of SICA.

\(^{89}\) Section 24 of SICA.
non-feasance or breach of trust in relation to the sick industrial company, to repay or restore the money or property or any part thereof, with or without interest or to compensate the sick industrial company in such way as may be decided.

4.3.12. Power to Seek the Assistance of District Magistrate

The BIFR has the power\textsuperscript{90} to request the Chief Metropolitan Magistrate or the District Magistrate within whose jurisdiction any property, books of account or any other documents of any 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 accounts or other documents; and (ii) cause the same to be entrusted to the Board or the operating agency.

4.4. Decision Making Process of BIFR

The decision making process of BIFR can be gleaned from the provisions of the Sick Industrial Companies (Special Provisions) Act 1985, the Board for Industrial and Financial Reconstruction Regulations 1987 and the Guidelines issued by the Board for Industrial and Financial Reconstruction.

4.4.1. Registration of Reference

The decision making process in BIFR commences with the receipt of a reference from the Board of Directors of the concerned company or from the Central or State Government, RBI, public financial institution, State Level

\textsuperscript{90} Section 29 of SICA.
financial institution or scheduled bank. The references so received by BIFR are scrutinised by the Registrar or Secretary to find out whether prima facie they conform to the provisions of the Act. Those which conform to the provisions are registered. In cases where registration has been declined by the Registrar or Secretary, appeal lies first to the Secretary and next to the Chairman of BIFR.

4.4.2. Allocation to Bench

Registered cases are placed before the Chairman, BIFR for allocation to one of the Benches for further action under the Act. The jurisdiction, powers and authority of the Board are exercised by Benches, constituted by the Chairman; each Bench having not less than two Members.

4.4.3. Inquiry for Determining Sickness

The concerned Bench of the Board takes up the registered case for inquiry under section 16 of the Act. It may be noted that the Board may also initiate a *suo moto* inquiry upon information received or upon its own knowledge as to the financial condition of the company. The Board notifies the date of hearing of the case to all parties concerned including the representatives of the company, the representatives of the employees in the company, the financial institutions and commercial banks relevant to the company and representatives of departments of Central/State Governments. The Board may, if it deems necessary or expedient so to do for the expeditious disposal of the inquiry, require any Operating Agency to enquire into and make a report with respect to such matters as may be specified in the order.

If in the inquiry conducted by the Board or by the OA, the company is not found to be a sick industrial company, the case is closed and the reference, if any, is dismissed as 'not maintainable.'
On the other hand, if in the inquiry conducted by the Board or by the OA, the company is found to be a sick industrial company, the matter is taken up for further processing.

4.4.4. Appointment of Special Director(s)

Where the Board deems it fit to make an inquiry into any industrial company under section 16(1) and (2), the BIFR has the power to appoint one or more persons to be a special director(s) of the company for safeguarding the financial and other interests of the company or in the public interest. The Board may issue such directions to a special director so appointed as it may deem necessary or expedient for proper discharge of his duties. The appointment of a special director 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 provisions 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. 91

Any special director so appointed 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;

91 Sub-sections (4), (4A) and (5) of section 16 of SICA.
(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; and

(d) not be liable to be prosecuted under any law for anything done or omitted to be done in good faith in the discharge of his duties in relation to the sick industrial company.¹²

4.4.5. Inquiry for Determining Viability

The Board being satisfied on the basis of inquiries under section 16 that the company has become a "sick industrial company" in terms of section 3(1)(o) of the Act, sets forth to examine whether the sick company whose accumulated losses have exceeded the net worth, is capable of making its net worth exceed the accumulated losses within a reasonable time.

If in the process of analysing the nature and causes of sickness and the circumstances available to the company, the Board finds that it is practicable for the sick industrial company to make its net worth exceed the accumulated losses within a reasonable time, the Board may give such time to the company as it may deem fit subject to such restrictions or conditions as it may specify to make its net worth exceed the accumulated losses. At this stage, the sick company can submit a rehabilitation proposal for the consideration of the Board. If it is found satisfactory, the Board takes note of the scheme and gives an order in writing under section 17(2) approving the company's scheme for rehabilitation.

¹² Section 16(6) of SICA.
4.4.6. Preparation and Sanction of Turnaround Scheme

On the other hand, if the Board decides that it is not practicable for the sick industrial company to make its net worth exceed the accumulated losses within a reasonable time and that it is necessary or expedient in the public interest to revive/rehabilitate the sick industrial company, it may direct an operating agency to prepare a draft scheme. The Operating Agency is also given the measures required to be taken for revival of the company and guidelines for preparation of the revival scheme.

After receiving the draft scheme from the OA, the Board calls all the parties concerned for their consensus on the proposal and circulates a draft scheme for their consideration. Short particulars of the scheme are published in two dailies to give an opportunity to the creditors, employees etc. to send their comments, if any, to the Board. The Board also permits inspection of the records of the Board in respect of the company including the draft scheme by concerned parties to give them access to full information about the case. Interested parties may also seek permission of the Board to appear at the hearing.

If all the persons who are expected to provide financial assistance to the company give their consent to the proposals contained in the draft scheme, the Board sanctions the said scheme for rehabilitation of the company under section 18(4).

The implementation of the scheme is monitored by the Board of Directors of the company, the Special Director(s) appointed by the BIFR and the Operating Agency. The BIFR may also hold review meetings to ascertain the progress of the implementation of the sanctioned scheme and suggest appropriate remedial measures. In the event of BIFR not being satisfied with the implementation of the scheme, the case can be reopened for a de novo inquiry.
In case any of the persons who are expected to provide financial assistance to the company refuse to give their consent to the proposals contained in the draft scheme, the Board may (i) consider revival as 'not feasible' and go for winding up of the company under section 20(1) of the Act, or (ii) take up the matter for consideration of other measures set out under sections 18 and 19, or (iii) order the OA to prepare a fresh/modified draft scheme and follow the same course as explained earlier to arrive at the stage of sanctioning a scheme for rehabilitation.93

4.4.7. Winding up of the Company

On inquiry, if the BIFR is satisfied that it is not feasible to rehabilitate the sick company, it may form the prima facie opinion that it is just and equitable that the company be wound up and a show cause notice issued. Copies of this are sent to banks, institutions, governments etc. Brief particulars of the intention to wind up the company is published in newspapers inviting comments/objections from creditors, employees etc. The latter may also seek permission for appearing before the Bench.

The parties are called for a hearing before the Bench wherein a just and equitable opportunity is given to all concerned to state their position, whereafter the Board may confirm its decision that it is just and equitable that the company be wound up and forward the recommendation to the concerned High Court under section 20(1) for further action under the Companies Act.

93 Section 19(4) of SICA.
However, if at the time of the hearing it is considered that the decision to wind up needs to be modified, the BIFR may consider the suggestion for modification and continue the inquiry to prepare a rehabilitation scheme under sections 18 and 19 of the Act.

In appropriate cases where the Board has, on inquiry come to the conclusion that it is not feasible to rehabilitate the company, it may order sale of assets of the company under section 20(4) of SICA and conduct the sale and deposit the proceeds with the concerned High Court.

4.4.8. Protection from Legal Proceedings

The sick company may need protection from the operation of legal proceedings, contracts etc. during the pendency of the proceedings before the BIFR. Under section 22(1) special permission of the Board is required to initiate any legal proceedings against the sick company if an inquiry is pending or a scheme of revival is under preparation or consideration or a sanctioned scheme is under implementation.

The Board is empowered under section 22(3) during the period of consideration of any scheme or during the implementation of the scheme, to suspend 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 company is a party or which may be applicable to such sick industrial company, immediately before such orders.

The Board uses its discretion in insulating the sick company from legal proceedings, enforcement of contracts in order not to frustrate the process of rehabilitation and at the same time not to shelter a sick company undeserved. Consequently, the Board examines the circumstances under which permission
to institute legal proceedings is requested and the circumstances under which the sick company seeks such protection.

4.4.9. **Direction Not to Dispose Assets**

The Board may, if it is of opinion that any direction is necessary in the interest of the sick industrial company or creditors or shareholders or in the public interest, direct the sick industrial company not to dispose of, except with the consent of the Board, any of its assets—(a) during the period of preparation or consideration of the scheme under section 18; and (b) during the period beginning with the recording of opinion by the Board for winding up of the company under sub-section (1) of section 20 and up to commencement of the proceeding relating to the winding up before the concerned High Court.

4.5. **Turnaround Strategies of BIFR**

4.5.1. **Revival Measures**

A turnaround scheme prepared by the Operating Agency on the directions of the BIFR may provide for any one or more of the following measures: 94

- the financial reconstruction of the sick industrial company;
- the proper management of the sick industrial company by change in, or take over of, management of the sick industrial company;
- the amalgamation of the sick industrial company with any other company; or any other company with the sick industrial company;

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94 Section 18(1) of SICA.
• the sale or lease of a part or whole of any industrial undertaking of the sick industrial company;

• the rationalisation of managerial personnel, supervisory staff and workmen in accordance with law;

• such other preventive, ameliorative and remedial measures as may be appropriate; and

• such incidental, consequential or supplemental measures as may be necessary or expedient in connection with or for the purpose of the above-mentioned measures.

4.5.2. Consequential Actions

The scheme shall also provide for any one or more of the following consequential actions:95

1 the constitution, name and registered office, the capital, assets, powers, rights, interests, authorities and privileges, duties and obligations for the sick industrial company or, as the case may be, of the transferee company;

2 the transfer to the transferee 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;

3 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 other terms and conditions on which, such change or appointment shall be made and in the case of appointment of a new Board

95 Section 18(2) of SICA.
of Directors or of any director, the period for which such appointment shall be made;

4 the alteration of the memorandum or articles of association of the sick industrial company or, as the case may be, of the transferee 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;

5 the continuation by, or against, the sick industrial company or, as the case may be, the transferee 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;

6 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;

7 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 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 in respect of their interest in shares in the sick industrial company before its reconstruction or amalgamation; or where such interest has been reduced under clause (f) in respect of their interest in shares as so reduced;

8 any other terms and conditions for the reconstruction or amalgamation of the sick industrial company;
9 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;

10 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;

11 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;

12 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; and

13 such incidental, consequential and supplemental matters as may be necessary to see that the reconstruction or amalgamation or other measures mentioned in the scheme are fully and effectively carried out.

### 4.5.3. Sacrifices

The turnaround scheme prepared by the Operating Agency 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 to the sick industrial company.\footnote{Section 19(1) of SICA.}

These sacrifices or concessions may take any one or more of the following
forms.

\subsection*{4.5.3.1. From Banks and Financial Institutions}

1. Reduction of interest on term loans.

2. Waiver of all penalties and damages for non-repayment.

3. Funding (or capitalization) of unrealised interest at a subsidized rate,
subject to review. The interest can be 10\%, 6\% or even 0\% per year in
exceptional cases. The normal repayment of funded interest is three to five
years, extendable to six to seven years.

4. Conversion of the irregular component of a firm's cash credit (other than
unadjusted interest, which is funded as (3) above) into a working capital
term loan (WCTL) on which subsidized interest may be charged.

5. The cash losses of a company consist not only of irregularities in the cash
credit account, but also of non-payment of workers and other statutory
dues, and overdue creditors. The latter liabilities are supposed to be shared
between the participating banks and institutions on a fifty-fifty basis.
Anticipated cash losses during the rehabilitation periods are to be borne by
the financial institutions, who are also supposed to provide the margin
money for additional working capital.

6. Additional assistance for working capital is on commercial rates, which may
be reduced if state governments offer concessions. The costs of rationalizing
the labour force is met by the financial institutions and banks on a fifty-fifty basis.

4.5.3.2. State Governments

1 Exemption or deferment of sales tax, purchase tax and electricity duty for two to five years or when net worth becomes positive, whichever is earlier. The deferment is either free, or at simple interest of 12%, with a moratorium of one to two years after BIFR sanctions the scheme. Consideration of sales tax loans at subsidized interest rates.

2 Deferment of octroi duty and water charges.

3 Deferment of energy dues, including turnover tax or sales tax on electricity.

4 Waiver of compound interest and penal charges levied on state dues.

5 Deferment of recovery of past state excise dues.

6 Deferment of interest payment, or funding of interest on outstanding term loan dues of State Financial Corporations at subsidized rates.

7 Exemption from power cuts, preference in power connections, and protection from unilateral disconnection.

8 State governments to provide guarantees for fresh loans, if asked for. Moreover, state governments must not insist on bank guarantees for arrears of dues.

9 Protection from revenue recovery action.

10 Price preference, quota reservations, and assistance in the supply of controlled raw materials.

11 Equity contribution, even where the sick unit is not taken over by the state government.
4.5.3.3. Central Government

1. Exemption or deferment from central excise duty for two to five years.
2. Income tax relief for a specified period.
3. Deferment of provident fund, and waiver of penalties on non-payment of PF and ESI dues. Also, exemption from paying the minimum 8.33% bonus.
4. Preferential supply of canalized items.

4.6. Appeals and Writs Against Orders of BIFR

4.6.1. Appeals

The Central Government has constituted an appellate authority called the "Appellate Authority for Industrial and Financial Reconstruction" (hereinafter called the "AAIFR" or the "Appellate Authority") 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 the Act. 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. 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.98

Any person aggrieved by an order of the Board made under this Act may, within forty-five days (extendable to sixty days for sufficient cause) from the

97 W.e.f. 15th April, 1987.
98 Section 5 of SICA.
date on which a copy of the order is issued to him, prefer an appeal to the Appellate Authority. On receipt of an appeal, 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 or remand the matter to the Board for fresh consideration. The decision of the AAIFR is final.

**4.6.2. Bar of Jurisdiction of Other Courts**

The Act makes it abundantly clear\(^{100}\) that the order of BIFR or AAIFR is not appealable in civil courts and that 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. No injunction can be granted by any court or other authority in respect of any action taken or to be taken by BIFR or AAIFR in pursuance of any power conferred by or under this Act.

**4.6.3. Writ Jurisdiction**

Even though the decision of the Appellate Authority is final, the High Court and/or the Supreme Court can always intervene under their writ jurisdiction\(^{101}\) during or at the end of the proceedings before the Board or Appellate Authority.

\(^{99}\) Section 25 of SICA.

\(^{100}\) Section 26 of SICA.

\(^{101}\) Articles 32 and 226 of the Constitution of India.
4.7. OVERALL PERFORMANCE OF BIFR

Given below are some statistics relating to the performance of BIFR since its establishment in 1987.

In the last 15 years, there were 530 Bench Months roughly equivalent to 3 Benches per year. In the same period, a total of 3759 cases have been registered with the Board out of which 2347 cases have been disposed off leaving 1412 cases pending as on 31-12-2001.

A little more than one-third of all the disposed cases have been dismissed as not maintainable. In other words, these are the cases which have not satisfied the criteria specified by SICA for a "sick industrial company." In another two-fifths of all the disposed cases, the BIFR has formed the opinion that it is just and equitable to wind up the companies. The remaining one-fourth of all the disposed cases have either been revived or are under revival.

The year-wise details about the registration, disposal and pendency of cases are given in Table 4.1. The year-wise details about the disposals are given in Table 4.2.

The total net worth of all the 3759 industrial companies registered with BIFR till the end of 2001 is a staggering amount of Rs.37,358.40 crores while their accumulated losses are a mind-boggling Rs.71,182.67 crores. As many as 21 lakh workers are affected by sickness in these companies. On an average, these figures work out to Rs.9.94 crores of net worth, 18.94 crores of accumulated losses and 559 workers per company.

A region-wise analysis (Table 4.3) reveals that the western region has the most (one-third) number of registered cases while the eastern region has the least (only one-eighth). But per company-wise, the eastern region leads the
other three regions on all the three parameters—net worth, accumulated losses and affected workers. The net worth and accumulated losses per company in the eastern region stand at Rs.22.09 crores and Rs.45.55 crores respectively. These figures are more than double that of western region. Similarly, while the number of workers per company in northern, southern and western regions ranged between three and four hundreds, in the eastern region it is nearly two thousand.

Coming to sector-wise details which are presented in Table 4.4, only 178 (4.74%) companies were from the public sector while as many as 3581 (95.26%) companies were from the private sector. But these few public sector companies accounted for as much as one-fourth of the total net worth, one-third of the accumulated losses and nearly one-half of the workers. The year-wise details of all the public sector undertakings are given in Table 4.5.

The industry-wise details of the cases registered with the BIFR till the end of 2001 are given in Table 4.6. These figures reveal that the textile industry is leading the pack closely followed by the metallurgical industry.
## Table 4.1: BIFR Year-wise Performance as on 31.12.2001

<table>
<thead>
<tr>
<th>Year</th>
<th>Cases Registered</th>
<th>Cases Disposed*</th>
<th>Cases Pending at Year end Cumulative</th>
<th>Actual Bench Months</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>In the year</td>
<td>Cumulative</td>
<td>In the year</td>
<td>Cumulative</td>
</tr>
<tr>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>6</td>
</tr>
<tr>
<td>1987</td>
<td>311</td>
<td>311</td>
<td>8</td>
<td>8</td>
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<td>1988</td>
<td>298</td>
<td>609</td>
<td>42</td>
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<td>1989</td>
<td>202</td>
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<td>162</td>
</tr>
<tr>
<td>1990</td>
<td>151</td>
<td>962</td>
<td>93</td>
<td>255</td>
</tr>
<tr>
<td>1991</td>
<td>155</td>
<td>1117</td>
<td>89</td>
<td>344</td>
</tr>
<tr>
<td>1992</td>
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</tr>
<tr>
<td>1993</td>
<td>152</td>
<td>1446</td>
<td>149</td>
<td>582</td>
</tr>
<tr>
<td>1994</td>
<td>193</td>
<td>1639</td>
<td>182</td>
<td>764</td>
</tr>
<tr>
<td>1995</td>
<td>115</td>
<td>1754</td>
<td>152</td>
<td>916</td>
</tr>
<tr>
<td>1996</td>
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<tr>
<td>2001</td>
<td>463</td>
<td>3759</td>
<td>364</td>
<td>2347</td>
</tr>
<tr>
<td>TOTAL</td>
<td>3759</td>
<td>2347</td>
<td>1412</td>
<td>530</td>
</tr>
</tbody>
</table>

**Note:**

1. The earlier format used to indicate cases revived in the year of registration. As a company normally takes 5/7 years to be revived, the new format indicates companies revived in the year in which Net Worth become positive and companies were discharged from the purview of SICA.

2. Figures of Companies revived after the successful implementation of scheme as well as those where Net Worth become positive at the inquiry stage itself have been clubbed together.

* The number of Bench Months in a year is arrived at by adding the number of months that each Bench functioned during the year.

Source: BIFR, Annual Reports.
<table>
<thead>
<tr>
<th>Year</th>
<th>Cases Registered</th>
<th>Cases Disposed off during the Year</th>
<th>Total Cases Disposed</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Cases under Revival</td>
<td>Cases Revived</td>
</tr>
<tr>
<td>1987</td>
<td>311</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>1988</td>
<td>298</td>
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<td>20</td>
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</tr>
<tr>
<td>2000</td>
<td>429</td>
<td>14</td>
<td>37</td>
</tr>
<tr>
<td>2001</td>
<td>463</td>
<td>57</td>
<td>48</td>
</tr>
<tr>
<td>Total</td>
<td>3759</td>
<td>254</td>
<td>336</td>
</tr>
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</table>

Source: BIFR, Annual Reports.
Table 4.3: Region-wise Details of All Registered Cases as on 31.12.2001

(Rs. in Crores)

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Region</th>
<th>Total Registered Cases</th>
<th>Net Worth</th>
<th>Accumulated losses</th>
<th>Workers</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Number</td>
<td>%</td>
<td>Amount</td>
<td>%</td>
</tr>
<tr>
<td>1</td>
<td>Northern</td>
<td>987</td>
<td>26.26</td>
<td>8,011.21</td>
<td>21.44</td>
</tr>
<tr>
<td>2</td>
<td>Southern</td>
<td>1051</td>
<td>27.96</td>
<td>5,771.14</td>
<td>15.45</td>
</tr>
<tr>
<td>3</td>
<td>Eastern</td>
<td>455</td>
<td>12.10</td>
<td>10,049.62</td>
<td>26.90</td>
</tr>
<tr>
<td>4</td>
<td>Western</td>
<td>1266</td>
<td>33.68</td>
<td>13,526.43</td>
<td>36.21</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>3759</td>
<td>100.00</td>
<td>37,358.40</td>
<td>100.00</td>
<td>9.94</td>
</tr>
</tbody>
</table>

Source: BIFR, Annual Reports.
Table 4.4: Sector-wise Details of All Registered Cases as on 31.12.2001

(Rs. in Crores)

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Sector</th>
<th>Total Registered Cases</th>
<th>Net Worth</th>
<th>Accumulated losses</th>
<th>Workers</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Number</td>
<td>%</td>
<td>Amount</td>
<td>%</td>
</tr>
<tr>
<td>1</td>
<td>Private</td>
<td>3,581</td>
<td>95.26</td>
<td>27,516.59</td>
<td>73.66</td>
</tr>
<tr>
<td>2</td>
<td>Public</td>
<td>178</td>
<td>4.74</td>
<td>9,841.81</td>
<td>26.34</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>3,759</td>
<td>100.00</td>
<td>37,358.40</td>
<td>100.00</td>
</tr>
</tbody>
</table>

Source: BIFR, Annual Reports.
Table 4.5: Year-wise Details of All Registered PSU Cases as on 31.12.2001

(Rs. in Crores)

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Cases</th>
<th>Net Worth</th>
<th>Accumulated Losses</th>
<th>Workers</th>
</tr>
</thead>
<tbody>
<tr>
<td>1992</td>
<td>33</td>
<td>678.23</td>
<td>1,638.74</td>
<td>154,010</td>
</tr>
<tr>
<td>1993</td>
<td>35</td>
<td>397.12</td>
<td>2,517.46</td>
<td>125,979</td>
</tr>
<tr>
<td>1994</td>
<td>16</td>
<td>748.60</td>
<td>1,668.35</td>
<td>58,873</td>
</tr>
<tr>
<td>1995</td>
<td>16</td>
<td>1,808.68</td>
<td>2,232.26</td>
<td>140,307</td>
</tr>
<tr>
<td>1996</td>
<td>7</td>
<td>41.25</td>
<td>104.81</td>
<td>12,522</td>
</tr>
<tr>
<td>1997</td>
<td>7</td>
<td>57.98</td>
<td>128.76</td>
<td>3,397</td>
</tr>
<tr>
<td>1998</td>
<td>9</td>
<td>1,374.76</td>
<td>1,734.76</td>
<td>138,155</td>
</tr>
<tr>
<td>1999</td>
<td>10</td>
<td>166.62</td>
<td>342.68</td>
<td>6,584</td>
</tr>
<tr>
<td>2000</td>
<td>4</td>
<td>2,234.13</td>
<td>2,281.45</td>
<td>115,931</td>
</tr>
<tr>
<td>2001</td>
<td>3</td>
<td>270.82</td>
<td>2,817.86</td>
<td>98,986</td>
</tr>
<tr>
<td>TOTAL</td>
<td>178</td>
<td>9,841.84</td>
<td>22,697.56</td>
<td>978,383</td>
</tr>
</tbody>
</table>

Source: BIFR, Annual Reports.
Table 4.6: Industry-wise Details of All Registered Cases as on 31.12.2001
(Rs. In Crores)

<table>
<thead>
<tr>
<th>S.No</th>
<th>Industry</th>
<th>Total Registered Cases</th>
<th>Net Worth</th>
<th>Accumulated losses</th>
<th>Workers</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Textiles</td>
<td>637</td>
<td>5,006.21</td>
<td>10,973.99</td>
<td>547,443</td>
</tr>
<tr>
<td>2</td>
<td>Metallurgical</td>
<td>568</td>
<td>5,171.18</td>
<td>9,270.82</td>
<td>167,608</td>
</tr>
<tr>
<td>3</td>
<td>Paper &amp; Pulp</td>
<td>221</td>
<td>983.25</td>
<td>1,709.02</td>
<td>60,062</td>
</tr>
<tr>
<td>4</td>
<td>Chemicals</td>
<td>240</td>
<td>2,565.62</td>
<td>4,584.24</td>
<td>47,414</td>
</tr>
<tr>
<td>5</td>
<td>Engineering</td>
<td>16</td>
<td>196.23</td>
<td>1,048.79</td>
<td>36,999</td>
</tr>
<tr>
<td>6</td>
<td>Electrical equipment</td>
<td>163</td>
<td>1,360.88</td>
<td>3,466.07</td>
<td>46,873</td>
</tr>
<tr>
<td>7</td>
<td>Cement and Gypsum</td>
<td>64</td>
<td>1,091.65</td>
<td>1,671.21</td>
<td>18,820</td>
</tr>
<tr>
<td>8</td>
<td>Vegetable Oils</td>
<td>189</td>
<td>1,149.53</td>
<td>2,658.16</td>
<td>28,068</td>
</tr>
<tr>
<td>9</td>
<td>Electronics</td>
<td>82</td>
<td>547.96</td>
<td>1,028.82</td>
<td>13,921</td>
</tr>
<tr>
<td>10</td>
<td>Food Processing</td>
<td>154</td>
<td>1,066.58</td>
<td>1,477.47</td>
<td>26,740</td>
</tr>
<tr>
<td>11</td>
<td>Drugs</td>
<td>128</td>
<td>1,606.62</td>
<td>3,101.40</td>
<td>29,374</td>
</tr>
<tr>
<td>12</td>
<td>Transport</td>
<td>58</td>
<td>456.48</td>
<td>1,149.91</td>
<td>34,888</td>
</tr>
<tr>
<td>13</td>
<td>Jute</td>
<td>53</td>
<td>124.54</td>
<td>878.34</td>
<td>149,924</td>
</tr>
<tr>
<td>14</td>
<td>Glass &amp; Ceramics</td>
<td>82</td>
<td>642.39</td>
<td>1,107.14</td>
<td>27,666</td>
</tr>
<tr>
<td>15</td>
<td>Sugar</td>
<td>48</td>
<td>717.15</td>
<td>1,003.27</td>
<td>34,738</td>
</tr>
<tr>
<td>16</td>
<td>Rubber Goods</td>
<td>55</td>
<td>292.03</td>
<td>549.05</td>
<td>9,812</td>
</tr>
<tr>
<td>17</td>
<td>Leather/leather goods</td>
<td>48</td>
<td>732.46</td>
<td>1,290.11</td>
<td>10,030</td>
</tr>
<tr>
<td>18</td>
<td>Fertilizers</td>
<td>25</td>
<td>2,163.28</td>
<td>4,902.79</td>
<td>16,935</td>
</tr>
<tr>
<td>19</td>
<td>Timber Products</td>
<td>17</td>
<td>43.48</td>
<td>89.08</td>
<td>3,165</td>
</tr>
<tr>
<td>20</td>
<td>Miscellaneous</td>
<td>911</td>
<td>11,441.08</td>
<td>19,222.99</td>
<td>790,281</td>
</tr>
<tr>
<td></td>
<td>TOTAL</td>
<td>3759</td>
<td>37,358.40</td>
<td>71,182.67</td>
<td>2,100,781</td>
</tr>
</tbody>
</table>

Source: BIFR, Annual Reports.
A detailed evaluation of the performance of the BIFR is contained in the next chapter.