Bankruptcy in India

Going broke? Go slow

MUMBAI

Efforts to fast-track insolvencies get bogged down in the courts

GO FIRST, AN Indian low-cost airline, collapsed in May under the weight of four years of losses, citations for safety lapses and operating confusion that, in January, resulted in a flight from Bangalore to Delhi carrying baggage but forgetting a third of its passengers. At least the carrier held valuable assets in the form of 45 or so aircraft stranded at Indian airports. And, as a high-priority case, it was supposedly subject to expedited bankruptcy hearings.

A prompt liquidation and redeployment of assets has obvious benefits for the aviation industry, its creditors and, possibly, for rivals keen to snap up its planes to add capacity in response to packed flights. Not so fast, the court hearing Go First's case now appears to be saying. Rather than allow easily identifiable assets like the company's aeroplanes to be reclaimed while more complicated financial ones are unwound, it has placed a blanket hold on all the airline's assets.

The Go First roadblocks are indicative of longstanding problems with bankruptcy in India. These were meant to be solved by a new insolvency code introduced in 2016. That code's provisions shifted power from indebted companies, protected by a morass of earlier rules, to their creditors. It allowed some interminable bankruptcy proceedings at last to come to an end, for example forcing the sale of Essar Steel, an industrial giant which had been in default to various creditors as far back as 2002. A smooth journey through the court system was meant to send a bigger message—that the risk of lending to Indian businesses could be mitigated by ensuring that collateral is readily transferable. This, the argument went, would help reduce borrowing costs for corporate India more broadly.

Despite a few successes such as Essar, however, the regime has not lived up to its promise. One persistent problem has been the low recovery rate for creditors' claims. In the past seven years lenders to a company that presented a successful resolution plan received a paltry 32% of their claims, on average. And only one in four bankrupt firms present such a plan; the remaining three-quarters of cases end in liquidation, for which creditors' average recovery rate is a dismal 7% of what they are owed.

The official figures may overstate the actual returns of what creditors are owed. They take no account of the time and effort involved in the process—the second problem with the code as applied in practice. Under the law, cases are to be resolved within 330 days. The latest quarterly update by the law's administrator, the Insolvency and Bankruptcy Board of India, indicated that cases leading to a liquidation took an average of 456 days to conclude. The average for cases in which the company survived through a resolution plan was a gobsmacking 614 days. The number of applications that are taking more than two years rose to 85 in the 12 months to March 2022, from 15 a year before. Bankruptcy lawyers grumble that submitting an application in the first place is becoming harder, and can itself now take a couple of years.

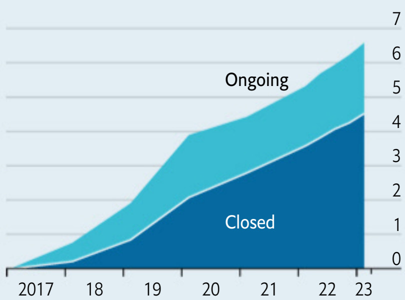
Fixing India's bankruptcy process may require revisions to the law. It could, for instance, do with a clearer distinction between tangible and less tangible assets of the sort that has historically allowed things like railway carriages to be repossessed quickly and leased out in jurisdictions such as America.

The bankruptcy system also needs more resources. As the number of cases keeps rising, so does the backlog (see chart). Unlike India's older courts, often ensconced in palatial buildings, the country's busiest bankruptcy forum in Mumbai occupies an upper floor of a dilapidated old building owned by MTNL, an ailing state-owned telecoms provider. In theory, its five courtrooms operate six hours a day. Lawyers say that in practice four hours is more common. Without enough judges to man all five benches, some courtrooms remain empty. As an exasperated banker involved in many insolvencies puts it, "No one is winning now." ■

Flush with busts

India, corporate insolvency-resolution process

Number of cases by status, '000



Source: Insolvency and Bankruptcy Board of India

The luxury business

Keeping their shine

Some bauble merchants are more recession-proof than others

HERMÈS IS A byword for exclusivity. Its signature Birkin bag, one of which sold for $450,000 last year, cannot be bought from the luxury firm's website or by simply walking into a store. There are neither ads in fashion magazines nor glossy campaigns on Instagram. For the not-so-famous, owning a Birkin can involve a years-long waiting list.

Part of the reason for the wait is constrained supply, which Hermès manages with the precision worthy of its stitching. But another part is booming demand for all manner of luxury goodies. Last year net profits of Kering, which owns fashion labels such as Gucci and Balenciaga, rose by 14%. Those at LVMH, owner of Tiffany and Louis Vuitton, among other brands, grew by nearly a quarter. Hermès and Richemont, which owns Cartier, among other baubles, each saw theirs surge by more than a third. Together, the four groups raked in over €33bn ($35bn) in profits, on combined revenues of around $130bn.

That, though, was before persistent inflation and rising interest rates to combat it fanned fears of a global recession. Now, as those fears intensify, luxury brands are losing their shine, at least in the eyes of investors. Luxury bosses' unease expressed at an industry pow-wow on May 22nd provoked a sell-off that wiped $65bn, or 7%, from the four luxury groups' collective market value. Once shareholders stop quaking in their Louboutins, they may pay closer attention to two things in order to assess their luxury stocks' prospects.

The first is a brand's positioning within ▸▸

the luxury business. Mid-market houses that target the merely affluent, such as Ralph Lauren, a maker of polo-themed apparel, are more sensitive to economic headwinds than top-end brands catering to the obscenely wealthy. This was already evident last year. Shoppers who had shelled out up to €1,000 on designer goods before the pandemic cut their average spending in half in 2022, according to Bernstein, a broker. By contrast, the truly loaded more than doubled theirs. These days just 5% of buyers account for two-fifths of global luxury sales.

Exposure to China, one of the world's biggest luxury markets, is another factor. Luxury merchants counting on a sharp rebound from years of harsh zero-covid lockdowns to raise sales have been disappointed by Chinese shoppers' unobliging restraint. Brands including Estée Lauder, a pedlar of pricey cosmetics, have slashed their outlook for the region. Burberry, a British maker of beige coats, generated less than a third of sales from Chinese shoppers, down from 40% before the pandemic. Things could get worse for American and European brands in China if Sino-Western geopolitical tensions ratchet up.

Luxury houses are already searching for new engines of growth. These include India, which though mostly poor has growing ranks of the super-rich, and sub-Saharan Africa, where last year Chanel became the first European luxury brand to stage an African fashion show, in Dakar, the capital of Senegal. But these markets will take years to reach China's scale, if they manage to do so at all. In the meantime, investors are likely to become as discerning about their luxury stocks as they are about their posh wardrobes. ■

Bartleby Desk rage

The health condition that blights office workers everywhere

A RECENT PIECE of research revealed that as many as one in five people in Britain suffers from "misophonia", a condition in which certain sounds cause them disproportionate distress. If you can listen to your spouse eating an apple and don't immediately want a divorce, you are not a sufferer of misophonia. But you may have another, similar condition for which the workplace is the perfect breeding-ground. "Misergonia" (colloquial shorthand: desk rage) is the name hereby bestowed on the eye-gougingly deep irritation triggered by certain aspects of office life.

Like misophonia, sounds are often the trigger for misergonia. The routine fire-alarm test is a case in point. "Attention please, attention please," shouts a voice that is literally impossible to ignore. "This is a test," it roars, making it clear that your attention is not in fact required. More shouting and eardrum-piercing noises follow. Then, most galling of all, a message of thanks for your attention, the aural equivalent of a prison thanking you for choosing them for a stay. By the end of it all, a conflagration would be sweet release.

Other noises are less obviously intrusive but just as annoying. The noise of clicking keys is the soundtrack of cubicles everywhere. But every office has its share of keyboard thumpers, people whose goal seems to be not producing a document but destroying the equipment before one can be created.

Verbal tics are another tripwire for misergonia sufferers. "This is a point that has already been made," is how weirdly large numbers of people start to make a point that has already been made. Why not just say "I don't value your time" and have done with it?

Small IT failures are a fact of office life, but they can still be soul-destroying. The printer which jams repeatedly. The design requirement in said printer that demands every flap and tray must be opened once before things can restart. The headphones that never work. Or the mouse that gives up at just the wrong moment. Your cursor is two centimetres from the unmute button on a Zoom call; you move your mouse towards it when it is your turn to speak, and nothing happens. You rattle it around more vigorously, and still no response. Either your cursor is in a coma or the battery has run out. "You're still on mute," offers up a colleague helpfully. Someone else fills the gap. "This is a point that has already been made...," they begin.

And then there is the reply-all email. It starts innocently enough, with someone asking for help with a problem. In come one or two replies, and with a sickening lurch of the stomach you realise that the entire company has been copied in on this request. Suddenly, an avalanche. It is as if nothing else matters other than weighing in on this one question. Deadlines are

deferred. Milk goes off in the fridge. Visitors in reception are left to forage for food while members of staff devote themselves to the matter at hand. There are replies to replies, and replies to replies to replies. This isn't a thread, it's a hawser. Everyone seems to be enjoying themselves hugely.

But there is a silent, suffering group for whom every new message lands as a hammer blow to their composure. How many minutes can one organisation fritter away on this nonsense? Why isn't it stopping? And when the initial round of answers has died down, can you be certain that it is really over? It is always possible that someone who has been away from their desk will pile in and start the whole farrago up again.

Individual workers will have their own triggers, ostensibly tiny things to which they are extremely sensitive. It might be the person who still doesn't understand you have to tag someone in Slack to notify them of a message. It might be the doors closing on a crowded lift, only for an arm to snake in and a voice to ask "room for one more?" (If you were the size of a marmot, yes.) It might be a particularly heavy tread or an even heavier perfume. It might be the way someone insists on using the word "pivot". It might be anything, frankly—which means that for some of your colleagues it might also be you.

There is no cure for misergonia. The workplace is a collection of people in enforced and repeated proximity, their habits, noises and idiosyncrasies turning into something familiar for some colleagues and disproportionately grating for others. The only release is to go home, close the front door behind you and find your significant other tucking into an apple.