

● **BID FOR RELIANCE CAPITAL**

# Maximised value vs minimised delay

**COMMERCIAL WISDOM.** Should a corporate debt resolution plan prioritise value maximisation above all other considerations?

**Vasanth Rajasekaran**  
**Harshvardhan Korada**

Two years after the Piramal Group and US-based Oaktree Capital bid against each other for control of the bankrupt Dewan Housing and Finance (DHFL), a similar bidding battle has emerged for Reliance Capital. In the auctions to date, the leading contenders include the Torrent group, the Hinduja group, Oaktree Capital, and a partnership between Cosmea Financial Holdings and Piramal Enterprises.

Valuation reports by Duff and Phelps, and RBSA Advisors peg the liquidation value of Reliance Capital at ₹12,500 crore and ₹13,200 crore, respectively. On December 21, 2022, it was first reported that Torrent had emerged the highest bidder with an offer of ₹8,640 crore, followed closely by Hinduja with ₹8,150 crore. However, things took a different turn when Hinduja gave the lenders of Reliance Capital a revised offer of approximately ₹9,500 crore, including a ₹8,800-crore cash component, a day after the auction concluded. With Hinduja sweetening its offer (after the deadline), the lenders and bidders alike have been left in a procedural mess.

## WHY ARE THEY SPARRING?

The market capitalisation of Reliance Capital is reportedly ₹284 crore. Then why the fight over the low-valued company? Bidders are offering upwards of ₹8,000 crore for an insolvent company because it would give them an opportunity to grab multiple licences, regulatory permits and an enterprise that has the potential to hit the ground running. For investors, this would mean opening gateways to new business channels without the hassle for permissions. For instance, Reliance Capital owns Reliance



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ance General Insurance and Reliance Securities, which may enable the bidders to enter the insurance and financial services market.

## 'CHALLENGE MECHANISM'

One of the central principles for insolvency resolution is the "maximisation of value" of the corporate debtor. The insolvency resolution of companies is guided by the provisions of the Insolvency and Bankruptcy Code (IBC) and the regulations of the Insolvency and Bankruptcy Board of India (IBBI). Once the corporate insolvency resolution process (CIRP) is commenced, a resolution professional

invites resolution plans from eligible applicants. The call for resolution plans often contains detailed terms and conditions for the applicants.

For value maximisation of the corporate debtor's assets, the resolution professional can use a 'challenge mechanism' to enable the applicants to improve their plans. In the challenge mechanism, prospective applicants present their bids and resolution plans, which the creditors later evaluate.

In Reliance Capital's case, after four rounds of challenge mechanism, the highest bid of ₹8,640 crore was received from Torrent on

December 21, 2022.

However, in the resolution plan eventually submitted to the administrator of the challenge mechanism, the Hinduja group had revised its offer to over ₹9,000 crore.

## TORRENT'S CHALLENGE

On January 10, 2023, it was reported that the lenders of Reliance Capital had decided to conduct a second round of auction. This would nullify the current offers from Torrent and Hinduja. According to reports, the base price for the second auction was set at ₹9,500 crore, which includes upfront cash of ₹8,000 crore.

Torrent filed an application before the National Company Law Tribunal (NCLT), Mumbai Bench, challenging the purportedly illegally modified resolution plan of Hinduja group. Torrent argued on the grounds of procedural propriety. It presented multiple documents and/or communications to show that no change in the finalised financial proposal was permissible.

The NCLT, agreeing with Torrent, observed that the approval of a resolution plan could not be delayed endlessly under the guise of value maximisation. Accordingly, the NCLT did not permit the Hinduja group to deviate from its offer of ₹8,110 crore.

The Hinduja group, in turn, filed an appeal before the National Company Law Appellate Tribunal (NCLAT). On February 21, 2023, it was reported that the hearing in the appeal proceedings had concluded, and the matter had been reserved for orders.

## DRAWING THE LINE

The decision of the creditors to proceed with a second auction was evident given the bidding wars that had emerged and the fact that the bidding value was still a lot less than the liquidation value. However, the Reliance Capital case underscores the need to relook the present legal regime pertaining to insolvency resolution and, more specifically, the challenge mechanism under the IBC.

While value maximisation is an important goal, it is not the only one. Further, while exercising its commercial wisdom, the committee of creditors must refrain from acting arbitrarily. Organising multiple auctions, backed by overzealous value maximisation attempts, may only reduce the value of the corporate debtor's assets.