



## 600 MW coal based power plant at Nagpur

# Tainted ARC gets Rs 2,500 cr debt for just Rs 1,265 cr

**C**FM Asset Reconstruction Pvt Ltd was one of the four ARCs that were searched by Income Tax department in December 2021. Following these searches, the Reserve Bank of India (RBI) carried out special audit of these ARCs and based on outcomes issued them show cause notices in May 2023. Such taint notwithstanding, CFM Asset Reconstruction Pvt. Ltd has been handed over a 600 MW plant of Vidarbha Industries Power Ltd (VIPL), without any challenge from any other bidder, for Rs 1,265 crore.

This is just Rs 5 crore more than Reliance's OTS (one time settlement) offer price of Rs 1,260 crore. As per the Swiss Challenge process, the lenders were supposed to determine the starting price between 5 per cent minimum to 15 per cent maximum of the base price of Rs 1,220 crore that was initially offered by CFM. This would mean Rs 1,281 crore to Rs 1,403 crore. But, the lenders ignored this condition. The agreed price i.e. Rs 1,265 cr is much lower than this range.

For the Swiss Challenge process, SBI Caps had shortlisted Aditya

Birla ARC, Reliance ARC and Asset Reconstruction Company India Ltd (ARCIL). But, Swiss Challenge did not happen because two companies finally did not turn up, while Reliance ARC was kept in dark even while the lenders finalized the deal with CFM, accepted their offer, and received the entire payments in a matter of few hours of the same day (see table at pg 21).

The sequence of events was executed on August 17, 2023 and the details leave no doubt that favoritism and not due process ruled the day. Here are the details:

On August 17, 2023, lenders of



Vidarbha Industries Power Ltd (VIPL) called a Joint Lenders Meeting (JLM) to review and for the selection of qualified bidder for sale of VIPL's debt. Two bidders namely Aditya Birla ARC and ARCIL did not submit required documents post EoI application for the purpose of participating in Swiss Challenge. During the first meeting on August 17, 2023, the lenders decided to call for legal opinion on the eligibility of Reliance ARC.

Meanwhile, the Anchor bidder CFM was called to increase its bid more than the VIPL's OTS amount of Rs 1,260 crore. Lenders again called a JLM during the day wherein CFM informed that it can increase its bid amount to Rs 1,265 crore i.e. just Rs 5 crore above the VIPL OTS amount. Lenders

accepted the CFM offer and closed the process.

Lenders asked CFM to deposit the amount the very same day, on August 17, 2023 itself and CFM within two hours deposited the entire amount in three tranches in lenders account after taking it from Dickey Alternative Investment Trust having its office at 1106, Indra Prakash Building, Barakhamba Road, New Delhi. Lenders distributed the deposited amount, as per their percentage of principal outstanding loan

amount, among themselves.

This was happening quietly while Reliance ARC was chasing them to know at what time the bidding will start on August 18, 2023. Instead of informing the exact timing of the bidding, Reliance ARC was informed at 6:50 pm of its disqualification on grounds of Section 29A of IBC and others.

It appears that lenders put up a pretence of following Swiss Challenge but actually no other bidder participated. The process was aimed to achieve the predetermined goal of selecting CFM.

### Background

The Butibori plant comprises of two 300 MW units of coal-based power near Nagpur in Maharashtra and is operated by Vidarbha Industries Power Ltd (VIPL), a subsidiary of Reliance Power Ltd. One unit had a fuel supply agreement (FSA) with Coal India Ltd (CIL), but the other unit did not have FSA. As a result, there were frequent shut-downs. The plant was supplying its entire power to Mumbai residents through Reliance's distribution company in Mumbai, which was later bought by Adani group. Subsequently, Adani cancelled the PPA with VIPL. Since 2019, VIPL is now a stranded asset resulting in outstanding debt of Rs 2,500 crore, including interest. The lead banker, Axis Bank, had issued an invitation for EoI for the sale of VIPL's debt, the last date of which was July 17, 2023.

### CFM & 3 other ARCs

On December 8, 2021, the income tax department had carried out search and seizure operation on four ARCs - CFM Asset Reconstruction Pvt Ltd, Omkara Assets Reconstruction Pvt Ltd, Rare Asset Reconstruction Pvt Ltd, and Invent ARC Pvt Ltd – at their 60 premises spread over Mumbai, Ahmedabad, and Delhi.

The I-T department found that these ARCs were following non-transparent methods in the disposal of assets acquired by them

from the banks. In a release dated December 15, 2021 (see scan at pg 22), the Central Board of Direct Taxes (CBDT) stated, "The search has revealed that the minimum cash payout made out by the ARCs to lender banks for acquiring the stressed assets or NPAs have usually been using the funds of the borrower group. Such funds have been routed through several layers of dummy companies controlled by the borrower group or through hawala channels."

After the above I-T searches, the Reserve Bank of India carried out special audit of all these four ARCs. As per reports in May 2023, RBI issued them show-cause notices, seeking answers on why their certificate of registration should not be cancelled for having violated the provisions of the securitisation and reconstruction of financial assets and enforcement of Security Interest Act, 2002 (SARFAESI Act) and guidelines issued by the RBI.

For this story, detailed questions were sent to Om Porwal, the owner and ultimate decision maker of CFM, but no response was forthcoming:

*We are doing a story on purchase of debt of Vidarbha, a 600 MW plant. We need your specific responses to the followings;*

- What is the status of IT raids of December 2021?*
- What is the status of RBI SCN issued sometimes in May 2023?*
- How you have become Anchor bidder. Was there any communication to you from lenders?*
- Why the rule of 5 to 15 per cent on base price was not applied on you which is a norm under Swiss Challenge process?*
- How come such a large sum was paid instantly? What is your relationship with Dickey?*

*I shall appreciate your response ASAP for incorporation in the story.*

RTGS by CFM to VIPL	
Date	Amount
17.08.2023	5,216,250,000
17.08.2023	4,100,000,000
17.08.2023	3,315,000,000
<b>Total</b>	<b>12,631,250,000</b>

**Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Direct Taxes**

New Delhi, 15th December, 2021

**PRESS RELEASE**

**Income Tax Department conducts searches in Mumbai**

The Income Tax Department carried out search and seizure operations on 08.12.2021 on four Asset Reconstruction Companies (ARCs). Total of 60 premises spread over Mumbai, Ahmedabad, Delhi, etc. have been covered.

The search action has revealed that the ARCs had adopted various unfair and fraudulent trade practices in acquiring the Non-Performing Assets (NPA) from the lender banks. It has been found that an unholy nexus existed between the borrower groups and ARCs and in the process, a maze of shell / dummy concerns have been used. The amount at which the NPA has been acquired by the ARC has been found to be far less than the real value of the collateral securities covering the said asset/NPA.

The search has revealed that the minimum cash payout made out by the ARCs to lender bank(s) for acquiring the stressed assets/NPAs have usually been using the funds of the borrower group. Such funds have been routed through several layers of dummy companies controlled by the borrower group or through hawala channels.

It has also been found that the ARCs have been following non-transparent methods in disposal of assets that were acquired by them from the banks. More often than not, the underlying assets had been re-acquired by the same borrower group, albeit at a fraction of their real values. The ARCs are found to have concealed the profits on disposal of the underlying assets by diverting the actual profit to their related concerns, under the garb of consultancy receipts or unsecured loans/investments. Through this method, the ARCs have not only evaded the payment of due taxes but also deprived the lender bank(s) of their share of actual profits.

One of the ARCs was found to be maintaining a parallel set of accounts on Tally accounting software, in a pen drive, recovered from the custody of the trusted employees of the promoter. This parallel set of accounts contained cash transactions aggregating to more than Rs. 850 crore. Handwritten diaries have also been found during the search, containing detailed entries substantiating the deliberate act of layering of transactions by the promoter group and use of a network of middlemen for the same. There are also evidences of routing of funds through offshore structures to acquire the assets.

Cash of Rs. 4 crore has been seized during the search operation. Large volumes of documentary and digital evidence seized are being further analysed for detection of violations under the Income Tax and allied Acts.

Further investigations are in progress.

(Surabhi Ahluwalia)  
Commissioner of Income Tax  
(Media & Technical Policy)  
Official Spokesperson, CBDT