

# 'Many SMEs may turn insolvent'



Gireesh Chandra Prasad, ET Bureau Nov 20, 2008, 02.39am IST

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*The global financial crisis and recession in developed economies have hit the Indian economy hard. Companies are feeling the heat of dwindling orders, and large-scale job cuts look likely. Sumant Batra, a leading bankruptcy expert and vice-president of INSOL International believes that the SMEs would bear the brunt of the current downturn. Excerpts from a conversation with ET.*



## Is the global financial crisis likely to trigger insolvencies in India?

While its impact on financial institutions, capital markets and financial services is immediate and very visible, some sections of the real economy such as export houses would suffer gradually and under the surface and the impact on them would be visible only in months to come.

Such companies are already facing diminishing support from foreign markets due to closure of stores there and drop in orders. We will see a number of insolvencies in the coming months among SMEs.

## Is our insolvency system equipped to handle the aftermath of the crisis?

No, we are not. Japan's Nomura purchased Lehman Brothers' Asia-Pacific business in less than 72 hours of the troubled investment giant filing for bankruptcy protection in the US. Such quick response helps get better value for assets and rescue the company before it loses its clients and staff to rivals.

Pre-packaged deals, where a company facing bankruptcy finds a buyer first, negotiates and agrees on a price and seeks the approval of the bankruptcy court for the fire sale of assets is not possible in India. In the US and UK, the administrator or the receiver appointed to rescue or restructure a failed business is given the liberty to do whatever in his judgement is the best for the company. This is not possible in India.

The Indian bankruptcy regime is in a flux. We are moving into a new system, which is two years away. The current system, led by the company courts and BIFR, has two broad deficiencies. Firstly, there is no role for private sector insolvency practitioners.

As a result, the skills otherwise available in the private sector, in providing speedy and efficient resolution including finding a buyer, negotiating, structuring deals, organising finances, dealing with multiple stakeholders, etc., is not used in the system. Secondly, the judiciary is not equipped with the kind of approach and skills needed to handle highly technical and complex insolvency matters in an expeditious way.