



Clarification on Legislative Developments concerning Government's shareholding in IDBI

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Certain sections of press and media have brought out reports, which inter alia have comments/ views regarding the legislative developments in 2003 concerning the Government's shareholding in IDBI. It is reiterated that during the discussions of Union Budget, 2003 and the parliamentary debate on the IDBI (Repeal) Act, 2003, an amendment seeking to restrict the dilution of the Government's stake was moved but was ultimately rejected and did not form part of the enacted legislation.

The matter was subsequently examined by the Delhi High Court in All India IDBI Officers' Association v. Union of India & Others, decided on 17 December 2018. The Court, while dismissing the writ petition, adjudicated in paragraphs 41 and 42 as follows:

Paragraph 41:

"This Court is of the view that the statements made before the House almost 15 years earlier, in a debate relating to a legislative activity, would not preclude the Central Government from diluting its stake in IDBI Ltd. Indisputably, the legislation enacted by the Parliament after the debate did not contain the amendment that was sought to be introduced. The statements made before the House cannot substitute or override the statute so enacted by the Parliament. Surely, the Parliament was conscious of the import of not including the proviso as proposed. The principles of promissory estoppel are wholly inapplicable in the aforesaid context. It is not possible to accept that the statements made in Parliament amounted to a representation made to the employees and they had acted to their prejudice based on such representation. The statements made before the House were in the context of enacting a legislation (the IDBI Repeal Act, 2003), and the said Act has to be interpreted in conformity with the settled principles of statutory interpretation."

Paragraph 42:

"There is no ambiguity in the language of the IDBI Repeal Act, 2003 and there is no scope to read any provision into the said enactment which proscribes the Government from reducing or divesting its stake in IDBI Ltd."

The aforesaid judgment is significant as it specifically addresses the doctrine of promissory estoppel, which was relied upon in challenging the Government's decision to dilute its shareholding. The doctrine could not be invoked to prevent the Government from reducing

or divesting its stake in IDBI Ltd.

The Government's policy towards the transformation and strategic disinvestment of IDBI Bank was reiterated in successive Union Budget Speeches in the Parliament:

Union Budget 2016-17 — Speech of the then Hon'ble Finance Minister, Shri Arun Jaitley (Paragraph 93) said:

"Our Public Sector Banks will have to be strong and competitive. The Bank Board Bureau will be operationalized during 2016-17 and a roadmap for consolidation of Public Sector Banks will be spelt out. The process of transformation of IDBI Bank has already started. Government will take it forward and also consider the option of reducing its stake to below 50%."

Union Budget 2021-22 — Speech of the then Hon'ble Finance Minister, Smt. Nirmala Sitharaman (Paragraph 84) said:

"In spite of COVID-19, we have kept working towards strategic disinvestment. A number of transactions namely BPCL, Air India, Shipping Corporation of India, Container Corporation of India, IDBI Bank, BEML, Pawan Hans, Neelachal Ispat Nigam limited among others would be completed in 2021-22. Other than IDBI Bank, we propose to take up the privatization of two Public Sector Banks and one General Insurance company in the year 2021-22. This would require legislative amendments and I propose to introduce the amendments in this Session itself."

The legislative history of the IDBI (Repeal) Act, 2003, the judicial pronouncement of the Hon'ble Delhi High Court and successive Union Budget Speeches collectively demonstrate the evolution of the Government's policy towards the strategic disinvestment of IDBI Bank. The Judgment dated 17 December 2018 clarifies beyond doubt that the doctrine of promissory estoppel cannot be invoked on the basis of statements made during parliamentary debates to restrict the Government's power to dilute its shareholding in the IDBI Bank Ltd. The Court further held that the enacted legislation contained no prohibition against reducing the Government's stake in the IDBI Bank Ltd.

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