Insolvency Procedure and Corporate Restructuring: The Case of State Public Undertakings in Orissa

R K Mishra
Professor & Dean, Institute of Public Enterprise
Hyderabad

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Insolvency Procedure and Corporate Restructuring: The Case of State Public Sector Undertakings in Orissa

The corporate restructuring of the State Public Sector Undertakings (SPSUs) in India has assumed vital dimensions in the context of the fiscal crisis faced by the various states of the Indian Union. The losses incurred by these enterprises are about 1.5 percent of the nation's GDP. The closure/retention of these enterprises is subjected to a number of provisions imposed by the various Acts relating to the functioning and control of these enterprises such as Companies Act, Industrial Laws, Monopolies and Restrictive Trade Practices Act, Insolvency Act, Securities & Exchange Board of India Act, Sick Industrial Companies Act, State Financial Corporations Act, State Road Transport Corporations Act, Employees State Insurance Act and Article 12 of the Indian Constitution to mention a few. Whereas insolvency procedures stress the technical aspects of the closure of the company, there are several other non-technical (socio-economic and political) aspects that need to be imparted careful consideration while winding up an enterprise or deciding about its restructuring. These range from size, compulsion of using the local resource base, retaining the human face and warding off the dangers of destabilization. The purpose of this paper is to explain the insolvency procedure and corporate restructuring in the case of the SPSUs through the case study of such SPSUs in the state of Orissa.

Backdrop

The state government had 77 Government Companies (including 24 subsidiaries, three companies governed by the provisions of Section - 619-B of the Companies Act, 1956) and four Statutory corporations as on 31.03.1999. The total investment in these government undertakings was Rs. 8,354.82 crore consisting of equity of Rs. 2,328.43 crore and long-term loans of Rs. 6,026.39 crore. The classification of the Government companies was as under:

<table>
<thead>
<tr>
<th>Status of companies</th>
<th>No. of Companies</th>
<th>Investment (Rs. In crore)</th>
<th>No.of companies referred to BIFR</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Paid-up capital</td>
<td>Long term loan</td>
</tr>
<tr>
<td>Working companies</td>
<td>40</td>
<td>2,070.03</td>
<td>5,431.43</td>
</tr>
<tr>
<td>Non-working</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a) Under Liquidation</td>
<td>15</td>
<td>0.37</td>
<td>-</td>
</tr>
<tr>
<td>b) Under Closer</td>
<td>19</td>
<td>26.56</td>
<td>13.25</td>
</tr>
<tr>
<td>c) Under Merger</td>
<td>02</td>
<td>11.25</td>
<td>10.33</td>
</tr>
<tr>
<td>d) Others</td>
<td>01</td>
<td>0.03</td>
<td>-</td>
</tr>
<tr>
<td>Total</td>
<td>77</td>
<td>2,108.24</td>
<td>5,455.01</td>
</tr>
</tbody>
</table>
The total investment in four statutory corporation as on 31st March, 1999 (provisional) are as under:

<table>
<thead>
<tr>
<th>Sl No.</th>
<th>Name of Corporation</th>
<th>Capital</th>
<th>Loan</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Orissa Road Transport Corporation</td>
<td>129.43</td>
<td>23.04</td>
</tr>
<tr>
<td>2</td>
<td>Orissa State Financial Corporation</td>
<td>87.57</td>
<td>511.59</td>
</tr>
<tr>
<td>3</td>
<td>Orissa Warehousing Corporation</td>
<td>3.20</td>
<td>0.31</td>
</tr>
<tr>
<td>4</td>
<td>Industrial Infrastructure Development Corp.</td>
<td>-</td>
<td>36.43</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>220.20</td>
<td>571.37</td>
</tr>
</tbody>
</table>

The total capital employed in SPSUs amounted to Rs.5,229.95crores. The power sector dominated the total capital employed maintaining its share in the range of 40-50%. The term lending and promotional sector shared 20-25% and manufacturing sector accounted for 10% of the total capital employed. The overall asset utilisation ratio stood at 0.44 in 1985-86 and increased to 0.83 in 1994-95 and remained static thereafter. These enterprises incurred heavy losses as a result of which for all the enterprises taken together the overall net worth increased from Rs. (-) 507.36 crores in 1985-86 to Rs.852.67crores in 1994-95. The implied subsidy to SPSUs skyrocketed from Rs.98.43crores in 1985-86 to Rs.579.01crores in 1994-95. The heavy loss making forced the Government to think in terms of closure of many of the SPSUs.

The situation prevailing in the PSEs sector, created abnormal pressure on the state exchequer and the government has to take alternative measures by curtailing its projected plan / non-plan expenditure every year due to ground realities. However in recent years the state government has taken a decision to overcome these problems by divesting its shares to mobilize its resources and divert the proceeds for other welfare purposes. Accordingly a Cabinet sub-committee was formed in the year 1996 under the Chairmanship of Deputy Chief Minister, Government of Orissa went into the question of restructuring the State PSEs and to recommend the policy measures for the State PSEs.

Restructuring and Privatisation

Judged on the basis of consistent losses, poor asset utilisation, negligible contribution to State exchequer, substantial erosion of net worth and presence of implied subsidy, it is suggested that the following enterprises be wound up/ privatised: Orissa State Textile Corporation Ltd.; S.N. Corporation Ltd.; Elcosmos Electronics Ltd.; Orissa State Financial Corporation Ltd.; General Engineering & Scientific Works Ltd.; Orissa Timber & Engineering Works Ltd.; ABS Spinning Orissa Ltd.; Orissa Bridge & Construction Systems Ltd.; Elcosmos Communications Systems Ltd.; Orissa State Handloom Development Corporation Ltd.; Electronics Development Corporation Ltd.; Orissa State Police Housing & Welfare Corporation Ltd.; Elimarc Ltd.; Orissa State Seeds Corporation Ltd.; IDCOL Piping & Engineering Works Ltd.; Orissa State Leather Corporation Ltd.; Orissa Agro Industries
Corporation Ltd.; Orissa Forest Development Corporation Ltd. and Orissa Instruments Company Ltd. The Orissa Textile Mills Ltd. will be merged with the Orissa State Textile Corporation Ltd. and the Orissa State Warehousing Corporation Ltd. will be merged with the Orissa State Civil Supplies Corporation.

A Cabinet Sub-Committee under the then Deputy Chief Minister and Minister, Finance, Water Resources & Parliamentary Affairs suggested the closure of: Orissa State Seeds Corporation, Orissa State Commercial Corporation, Orissa State Leather Corporation, Orissa Fish Seeds Development Corporation, New Mayurbhanj Textiles, Orissa State Handloom Development Corporation, Konark Television; Orissa Instruments Company and Orissa Textile Mills. It proposed the following enterprises for restructuring: Orissa Bridge & Constructions Corporation, Orissa Constructions Corporation, Orissa Tourism Development Corporation, Orissa State Cashew Development Corporation, Orissa Maritime & Chilka Area Development Corporation, Industrial Promotion & Investment Corporation, Orissa Forest Development Corporation and Orissa Police Housing & Welfare Corporation. The Report has suggested the modalities and techniques that could be followed for privatisation and restructuring. The State Industrial Policy of 1996 stated that the SPSUs should undertake rationlisation of the existing manpower and seek more commercial borrowing instead of depending on the budgetary support from the State Government. The Government's general policy is to continue with the promotion of SPSUs and to strengthen them to lay their role effectively and privatise commercial undertakings. The profit making commercial undertakings could undergo partial disinvestment while shares of loss making SPSUs could be disinvested to the extent of 51% or more in order to infuse private management and capital for revival. Some SPSUs having similar activity could be merged to derive complementary benefits and avoid duplication of functions. While setting up a broad policy for the state PSEs the Government of Orissa is now guided by the following framework:

- Promotional PSEs will have to continue if their promotional role has relevance in the present day context.
- Commercial PSEs which are making profit should continue but, the State Government could consider divestment of minority shareholdings to the Public Financial Institutions or divest them to private parties in order to raise resources to meet the needs of their expansion / modernization / diversification programs.
- Commercial PSEs, which are making loss, should be privatized either partially or fully and in the even of such privatization not succeeding, should go in for liquidation.
- Co-operative commercial enterprises should be privatized at least to the extent of 51 per cent so that the private management could bring in greater efficiency in management, greater economy of operation and infuse fresh funds for rehabilitation and modernization.
- Co-operative Powerloom Units and other small Co-operative Enterprises should be totally privatized.
• Some of the PSEs with similar activities could be merged to derive complementary benefits and avoid duplication of functions.
• Present Status of Restructurization of the State PSUs as per the Cabinet Decision basing on the Recommendation of the Cabinet Sub-Committee.

Industrial Development Corporation of Orissa Limited (IDCOL)

Re-rolling Mill

Final proposal for hiving off the Unit in favour of OSIL after being approved by Ministerial Level Committee has been submitted to Industries Department for Government approval. Meanwhile, VRS Scheme is in operation, after which advertisement will be issued.

Him Cables and Hirakud Industrial Works (HIW)

As per the decision of Government both the Units have been merged with the effect from February 1997. Due to requirement of additional funds by the Unit and present liquidity crisis of IDCOL steps are being taken to divest 51% of its share holding to a private party who can bring in the required finance to the Company. 3 offers have been received by IDCOL in the mean time and negotiation process is in progress with the highest bidder and it will be finalized after Government communicates its approval in principle for divestment of the required share holding.

IDCOL Piping and Engineering Works Ltd.

The Task Force formed for ICL will look after the affairs of privatization of the Unit. This Unit was under BIFR as a sick company and a rehabilitation package was submitted by the company to IFCI (OA). IFCI has forwarded the Draft Rehabilitation scheme based on One Time settlement of the dues of FIs and Banks to BIFR. However, due to super cyclone, at the instance of State Government, IDCOL has requested BIFR to allow at least six months time for the above repayment.

Meanwhile, at the instance of BIFR, IFCI has released an advertisement seeking offer for change in management. As no offer was received, BIFR has now issued show cause notice for winding up.

ABS Spinning Mills

BIFR has issued winding up orders.

ORICHEM Limited

Closed under ID Act. After payment of the dues of the financial institutions and reduction in manpower fresh attempt will be taken for disinvestment.

S N Corporation

The Corporation has been closed under ID Act w.e.f. 06.07.1998 and approval of Government is awaited for transferring the Unit to the highest bidder as per the recommendation of the Restructuring Committee subject to final orders of BIFR. Advertisement issued for Disinvestment.

Konark Jute Limited

Offers received against the recent advertisement made by IDCOL for
privatization of the mill was not acceptable, as the amount offered was very low. The Board of IDCOL discussed the matter and decided for fresh advertisement. In response to the fresh advertisement 4 Parties have made enquiries and information memorandum have been forwarded to them for making their offer. In the mean time Government have been moved for conversion of the loan of Rs.877.00 lakh into equity to facilitate the divestment process as decided in the joint review meeting taken by Ministers PE, Finance and Industries. Fresh advertisement has been issued for Disinvestment.

IDCOL Cement Limited (ICL)

IDCOL is in contact with M/s LAFARGE, France for take over of the Unit. Simultaneously, the Unit has been referred to BIFR for revival and the IDBI is the Operating Agency.

The company is under BIFR. BIFR advised to go for dis-investment after the net worth becomes positive.

Kalinga Iron Works (KIW) & Ferro Chrome Plant (FCP)

TISCO has made an offer to take over both Mines and the Plant.

Konark Television Limited (KTV)

The company is now passing through extremely financial difficulties due to heavy loss and total erosion of its capital base. Out of 553 employees, 212 have left the organization on VR Scheme for which Government have provided financial support to the extent of Rs.2.77 crore. But considering its present position, future prospects and viability, the liquidation of the Company is under active consideration of the Government.

Orissa Small Industries Corporation (OSIC)

The share capital of Rs.25.00 lakh has been transferred to Shri Mahesh Kumar Agarwal, a private entrepreneur at a consideration of Rs.33.82 lakh being the Net Asset Value of the Unit as evaluated by OSFC and the agreement for transfer of shares was concluded on 21.10.98. The Management was transferred on 01.11.98. The private entrepreneur has acquired 51% stake in the Unit at present and the balance shall be taken over within a period of one year. OSIC now holds a minority shares in the Company.

General Engineering & Scientific Works (GESW), Berhampur

The Unit has been closed since 11.06.98 and all the employees have been paid closure compensation amounting to Rs.36.30 lakh as per ID Act. Earlier efforts to privatize the Unit could not attract any encouraging offers. It has been decided to make all out efforts to sell the assets of the Unit and salvage whatever possible.

K S Refractories Limited, Jharsuguda.

The Unit has been closed under ID Act w.e.f. 04.12.98 and closure compensation to the tune of Rs. 1.00 crore need to be provided by the Government for payment to the workers. The dues of FIs to the tune of Rs. 1.00 crore need also to be settled and the revaluation of the assets need also to be undertaken to decide the selling price of the Unit. The dues of the FIs need be settled under OTS and steps are being taken to sell the Unit immediately.
Orissa Timber & Engineering Works (OTEW), Sunabeda.

No offer was received against the advertisement for privatization of the Unit even with the efforts of OSFC. Presently, the Unit is doing well and has earned a net profit of Rs.8.52 lakh in FY 1998-99 against the turnover of Rs. 102.75 lakh. In the recent joint review meeting taken by Ministers, PE, Finance and Industries it has been decided to make the Unit independent and privatize the Unit by offering to HAL along with its existing land of about Rs.22.00 crore, if possible.

Orissa State Leather Corporation

The Corporation along with its 18 no. of units has been closed with effect from 18.06.98 under Section 25(0) of ID Act. Government has provided a sum of Rs. 1.75 crore for meeting the expenditure toward payment of arrears salaries and statutory dues of all the employees and compensation benefit only to the workmen as per the provisions of ID Act. Similarly, sanction of Rs.24.50 lakh is required for payment of compensation for closure of Orissa Leather Industries Ltd. The number of workmen whose services have been terminated on account of closure of the Undertaking is 182.

Orissa Instruments Company

The company has been closed under ID Act with effect from 20.03.98 and accordingly Government have provided Rs.46.86 lakhs for payment of arrears salary, closure compensation and other statutory dues of the workmen.

Orissa State Electronics Development Corporation

IPITRON Times, ELCOSMOS Electronics and ELCO Communication System, the subsidiary companies of the Corporation have been closed under ID Act w.e.f. 25.03.98, 20.02.98 and 10.08.98, respectively. All the employees of these 3 companies have been paid notice period pay, closure compensation, gratuity, bonus, arrears wages and other essential expenses to the extent of Rs.3.99 crore. The companies have already filed liquidation petitions before the Hon’ble High Court. The total number of workmen disengaged on account of closure of these 3 companies is 276.

Orissa Film Development Corporation

In order to implement the decision of the Government to convert the Kalinga Studio into a joint venture for better performance its assets has been revalued at Rs.7.57 crore and action is being taken to find a suitable joint venture partner.

Orissa Maritime & Chilka Area Development Corporation and Fish Seeds Development Corporation

Both the above corporations have been merged and a new corporation has been incorporated in the name of Orissa Pisciculture Development Corporation w.e.f 05.05.1998.

Orissa State Seeds Corporation

As a measure of restructurization the corporation has taken up steps for privatization of its retail sales network and has appointed 20 dealers during FY 1997-98, 301 nos. of dealers during FY 1998-99 (up to 30.06.1998) in the undivided 13 districts covering 193 nos. of blocks.
Orissa Agro Industries Corporation

As per the decision of the Government for privatization/Joint Venture of agricultural implement units of the corporation advertisements were made in the leading national and local dailies. But, only one response has been received from a party who subsequently did not show any interest. Hence, the corporation has taken steps to run these factories effectively. The cattle feed unit is also being restructured within the available resources of the corporation. Besides, installation and energisation programmes such as bore wells, dug wells and tube wells has been taken up effectively to compete with the private parties. But subsequently, Agriculture Department have asked the corporation to take further immediate attempt to private implement factories located at Remed, Sambalpur and Bhograi and accordingly, action has been taken by the corporation to issue advertisement inviting offers from private entrepreneurs to take over the Units either on lease basis or to manage the units under Joint Venture.

Orissa State Handloom Development Corporation

As the efforts of locating a suitable Joint Venture partner could not materialized, the Government has decided to close the Corporation under ID Act. It has been advised to update its accounts immediately so as to ascertain the correct position of its assets and liabilities. Meanwhile, the Employees Union have filed a writ petition before the Hon'ble High Court challenging the decisions of the Government for closure of the corporation and the case is under subjudice. In the mean time Government have provided Rs.6.00 crore to SBI and PNB in March 1999 as OTS of their loan dues against the Corporation.

Orissa State Textile Corporation (BTM)

Action for privatization has been held up as the acquisition of BTM has been challenged by the erstwhile owner. The AG, Orissa has advised that there can be no transfer / lease without leave of the court and advised to await the judgment of the case.

Orissa State Textile Mills (OTM)

The Mill is under rehabilitation package as approved by BIFR commencing from FY's 1997-98 to 2000-2001. The total rehabilitation package comes to Rs. 3,722.88 lakh. Out of this amount the state government contribution is Rs. 2,912.88 lakh and that of OTM Rs. 810.00 lakh. By FY 1998-99, Government have already released Rs. 22.52 crore in favour of OTM against its share of contribution and the balance amount will be provided in the subsequent two years i.e., FY 1999-2000 and FY 2000-2001. The entire equity base of the Mill amounting to Rs. 26.79 crore has been eroded and its net worth has become negative to the tune of Rs. 35.22 crore as on 31.12.98. Despite release of the required funds by the State Government the Mill has incurred a net loss of Rs.21.44 crore in these two years and even after implementation of the total rehabilitation package the Mill may sustain further cash loss to the extent of not less than Rs. 12.00 crore per annum.

Due to non-viability position of the Mill and pending decision on either privatization or closure it has been decided to keep the Mill running and accordingly an amount of Rs.3.05 crore has been released to OTM in the month of May, 1999.
Cooperative Enterprises

SBI CAPS and OSFC have been entrusted for valuation work of Co-operative Sugar Mills and the Spinning Mills. The Co-operative Act has since been amended to facilitate privatization of unviable units.

Orissa Lift Irrigation Corporation (OLIC)

The Government have taken a decision to have over the LI points to User's Cooperatives. But there is little progress in this regard because the cultivators are not coming forward to take over the projects from OLIC for operation and maintenance. The field Officers have been instructed to persuade the cultivators for the above purposes. OLIC has also taken steps to abolish 11 divisions out of its total 29 divisions as a measure to reduce its establishment expenditure. The Corporation is also introducing VR Scheme to get rid of its surplus staff and proposes to retrench 974 employees with a financial outflow of Rs.2.00 crore to be provided by the Government. Nearly, 1200 Government employees who are continuing on deputation in the Corporation will retire within a period of 2 years and retirement vacancies would not be filled up as a measure of austerity.

Orissa Tourism Development Corporation (OTDC)

The following progress has been made by OTDC in accordance with the decisions of the Cabinet Sub-Committee.

All the units of OTDC have been treated as Strategic Business Unit (SBU) and MOUs have been signed with the Managers of the concerned units for achievement of financial as well as physical targets. The performance of each unit is evaluated separately.

Steps have been taken to revitalize Rourkela and Rambha Panthanivas, which have shown sign of improvement after effective management and cost curtailment.

Mega projects like Phantom House, Convention Hall, Revolving Restaurant and other Hi-tech Projects were placed before the Board of OTDC and Board decided that such Projects should not be taken up by OTDC. However, it was reported that OTDC has proposed to take up an Aquarium Project in near future for which necessary funding would be provided by Forest and Tourism Departments.

OTDC is also taking up wayside amenities centre on the highways, which offer fast food counter and other facilities to the highways tourists.

New Mayurbhanj Textiles (NMT)

The process for privatization of the company has been held up as there is dispute regarding the ownership of the land under possession of the company. The land is yet to be mutated in favour of the company to effect privatization.

Orissa Forest Development Corporation (OFDC)

Commercial Plantation:

There are legal lacunae in harvesting of commercial plantations. Once these obstacles are over, OFDC will take up commercial plantations over 2500 Ha. during 1999-2000. However, preparation of the same will commence during current year.
Tissue Culture etc. in Joint Venture:

No action has been taken for tissue culture and plantation of medical species. However, joint venture plantations with paper mills is under process.

Reduction in Surplus Staff:

TATA consultancy service has reported 3000 staff as excess. In the meanwhile 666 nos. of staff were repatriated to the department and out of 776 nos. of staff who were illegally appointed from 1.1.90 to 1.1.95, 552 nos. of staff have been retrenched and 224 nos. of staff have brought stay order from court and retrenchment is under process. 186 nos. of staff have been redeployed in O.C.B. and 376 nos. in bamboo cuttings work done Raw Materials Procurers.

Orissa State Commercial Transport Corporation (OSCTC)

The corporation has been closed under ID Act, w.e.f. 30.05.1998 and 325 employees have been retrenched on account of the closure. An amount of Rs.507.33 lakh has been paid to the employees towards arrears salary, closure compensation and statutory dues.

Orissa Mining Corporation (OMC)

Proposal for placing the Chrome Ore Beneficiation Plant and the China Clay Plant under Joint-Venture Management is under consideration.

Orissa State Export Development Corporation

As the corporation has been established in 1990 and has been continuing in preoperative stage and the Directorate of EPM is looking after the export promotion activities of the state, it has been decided to wind up the corporation.

Experiences with Disinvestment and Restructuring

The State of Orissa has taken some very meaningful measures in the direction of privatisation. It has made a detailed review of its SPSUs for identification of such units. The whole affair has been discussed a couple of times at the Cabinet-level and the inputs for such discussion were prepared intensively by the State Bureau of Public Enterprises. The SPSUs have been transferred to the private sector on the basis of outright sale, lease and management contract. The Charge Chrome division of Orissa Mining Corporation was sold to Tata Iron & Steel Company (TISCO) in 1991. The Baramba Cooperative Sugar Mill was handed over to Shakti Sugar Management of Tamil Nadu on management contract in 1991. The Nayagarh Sugar Mills was taken over by Dharni Sugars & Chemicals. The Baragarh Cooperative was handed over to Ponni Sugar Management Industries on a management contract in 1991. The East Coast Breweries was leased to United Breweries in 1993.

The Baminipal Charge Chrome Plant of the Orissa Mining Corporation was handed over to Tatas. Privatisation of this plant became the talk of the day as it created tornado of public and legal controversies resulting into a public interest litigation (PIL) in the Orissa State High Court. The plant initially started as a State Government project with a cost estimation of Rs. 28.62 crores, which escalated to
Rs.59.08 crores in 1991. Its installed capacity was 50,000 tonnes and it had 100 acres of land. The project started making losses right from the first day. By 1991, it had accumulated a loss of Rs.50 crores. The State Government was no more in a position to fund further losses and therefore decided to privatise the plant. On the basis of the report by concerned departments, the Government privatised the plants on September 23, 1991. It is alleged that the State Government lost Rs.57.71 crores due to faulty valuation and inappropriate transfer procedures. However, the productivity of the labour has gone up fourfold, the plant has wiped out accumulated losses and the labour harmony has been restored. The Government of Orissa have sought the services of the Adam Smith Institute to restructure and privatise its ailing SPSUs.

Case Studies on Power & Transport Sector Public Corporations

Orissa has been the first State to privatise the power sector and has emerged as the pioneering State in power sector reforms in the country. The reforms process initiated in 1992 with the proposed financial assistance from the World Bank unbundled the Orissa State Electricity Board into two entities viz., the Orissa Grid Corporation and the Orissa Hydel Power Corporation, the former to take over the transmission and bulk supply assets whereas the latter was the take over the hydro power generation assets. The thermal generation assets had been earlier formed into a government corporation called the Orissa Power Generation Corporation. A Regulatory Commission was set up in 1995 consequent to the enactment of Orissa Electricity Reforms Act, 1995 to regulate the transmission and distribution business. The Orissa State Electricity Board was found to be unequal to match the demand for power. It incurred huge losses. It suffered from heavy overstaffing. Its tariff policies were found to be irrational and the energy losses were unparalleled. The Government therefore restructured the Board and unbundled it into Transmission, Generation and Distribution Companies. Whereas the Government has made commendable progress with regard to the privatisation of generation and distribution, it is making all efforts to enlist private participation even with regard to transmission. One of the advantages of the unbundling of the power sector is the initiation of a regime of transparency, which for the first time revealed that 50% of the power consumed in the capital city of Bhubaneswar was not metered and that the existing tariffs have to provide for the transmission and distribution losses. The Commission pegged the loss figures at 35% for the determination of tariff for the year 2000. During the course of reform the transmission and distribution losses have come down from 15% to about 43%. In Orissa, entire distribution system concerning power has been privatised with the formation of five companies viz.. Western Supply Corporation (WESCO), North-Eastern Supply Corporation (NESCO), Southern Supply Corporation (SOUTHCO), Central Supply Corporation (CESCO). This WESCO, NESCO and SOUTHCO have been taken over by BSES whereas the CESCO has been taken over by AES-JYOTI. In terms of 51% equity holdings. The 51% equity offered for sale was estimated to give Rs.1147.19 crores. However the money yielded was Rs.1590.09 crores. The offered price per share on an average yielded Rs 3.86 against the face value of Rs. 10 per share.
The regulator as a surrogate to the market mechanism claims that it has effectively ensured efficient working of the industry by issuing license, codes, standards and practice directions. The Commission claims to have rationalised the tariff structure which has moved towards a cost based tariff giving due regard to performance of the licensee, cost conditions, growth of State and per capita incomes, inflationary situation, ability to pay the personnel, fuel price hikes, economic use of energy, gradual reduction of cross subsidy and near elimination of general subsidy. The Commission has successfully hiked tariffs in 1996 (17%), 1997 (10.33%), 1998 (9.3%) and 1-2-2000 (4-5%). The Commission formulates supply regulations and publicises consumer rights statements which play a vital role in safeguarding consumer interests. However, the Commission has not been able to achieve reduction in unacceptably high level of transmission & distribution losses, improve commercial practices and the consumer service of distribution companies and elimination of accumulated losses of more than Rs.900 crore creating a situation of high debt, unusually high interest liability, cash crunch an impending bankruptcy. Some of the bottlenecks encountered by the Commission include lack of financial support. The Orissa model is being implemented by several States. The PWC have done the entire restructuring of the power sector. The power sector reforms have resulted in the during transition for government, massive debt service condition of GRID corporation improving quality of service, upgradation of system performance, optimal use of energy, rational tariff for customers, increased realisation of revenue and greater private sector involvement, inadequacy of inter-State grid to allow export of power and long term and rigid allocations of power from Central stations without reference to demand and capability to pay. The government has not ploughed back money received through disinvestment in the power sector. Finally, the different departments of the government are not moving in tandem. The silver lining is provided by the disinvestment in Orissa Power Generation Corporation Limited (OPGC) which was a 420MW coal fired power station having a lean employee structure with only 839 regular employees. The divestment was affected by an empowered committee constituted by the Government of Orissa. The Committee comprised officials from the energy, finance and public enterprises departments and the Managing Director and Director Finance of the OPGC. Its decisions were cleared by the project appraisal committee and wherever required by the cabinet. The DSP Merryl Lynch, the merchant banker invited global tenders for divestments of 26 percent of share holdings. After due diligence with regard to the bids submitted by six parties from India and abroad, the share holdings were unloaded to AES (India) for Rs. 603.40crores. The existing shareholdings reflects 51 percent of the total share holdings with the Government of Orissa and the rest 49 percent with AES (Mauritius and India). The World Bank in its mid term review (March 31, 2000) observed that power sector reforms in Orissa need to be applauded particularly the reforms with regard to regulation which have set a precedent of independent functioning, efficient performance and transparency for other regulatory agencies now being established in the power sector at the central and state level, however, the fact of matter is that privatisation of power could become a
complete success only when the generation is privatised fully which requires, a considerable financial accommodation on the part of the Government of Orissa.

The Orissa Road Transport Corporation is another major enterprise awaiting privatisation. The Corporation as on March 31, 2000 accumulated losses of Rs.232.41 crores against the paid up capital of Rs. 130.37 crores. Its bus fleet has come down to a mere 500 buses of which about 250 always remain off the roads. Despite the recommendations of the Cabinet Sub-Committee (1996) for its rejuvenation the situation has not improved. The bus -staff ratio is 16:1. As money for the VRS is not available this ratio cannot be brought in line with the general ratio of 6:1 for the country as a whole. The Chief Minister reviewed the position of the Corporation on July 5, 2000 and has appointed a Committee under the Chairmanship of the Additional Chief Secretary to recommend suitable strategies. The general opinion of the management of the Corporation and the policy makers is to windup the Corporation. The DFID is being approached for extending financial support to provide VRS.

Conclusion

The SPSUs in Orissa need to be privatised and restructured at a brisk pace. There is a considerable unanimity among political parties and the bureaucracy to hasten the face of reforms in SPSUs. The Department of Public Enterprises, Government of Orissa has already created the basic framework. The appointment of an expert agency is expected to provide a fillip to this task. The insolvency procedures in the case of the SPSUs are radically different from the procedures existing in relation to the private corporates in as much as the fact that the SPSUs have to comply not only with the legal framework concerning the insolvency and restructuring equally applicable to their counterparts in private sector but also have to adhere to the compulsions of the social regulation in terms of which appropriate institutional structures and machinery are created for the formulation and implementation of the ideas in this realm. Some implementation issues such as insolvency and corporate restructuring with a human face, the nature of the enterprise in terms of its providing public/ non-public good and use of local resources need to be provided a special attention.

Note: This paper is based on the study of Orissa SPSUs as a Member of the Study Group on Disinvestment and Restructuring of SPSUs in India appointed by the Planning Commission. The Author had extensive interaction with several experts, policy makers and public enterprise managers in the course of writing this paper. However, he alone is responsible for the facts and opinions expressed herein.