



REVIVAL OF SICK UNITS AND THE NEW COMPANIES ACT

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ABSTRACT

The Companies Act, 2013 is enacted to replace the Companies Act, 1956. The Companies Act, 1956 was not in tune with emerging present needs and globalization. Therefore, there was a strong need to replace it. The Companies Act, 2013 is a significant milestone in Corporate Law. The new Act contains 470 sections, 29 Chapters and 7 Schedules. But, it is not fully operational. It introduces significant changes in the provisions related to Governance, e- Management, Compliance and Enforcement. It also introduced the new concepts such as One Person Company, Small Companies, Dormant Company, Corporate Social Responsibility and Insider Trading. The new Act, 2013 is expected to facilitate more business-friendly corporate regulations, improve corporate governance norms, enhance accountability on the part of corporate and auditors, raise levels of transparency and protect interests of investors, particularly small investors. The new Act also provides for Revival of Sick Units in chapter XIX under sections 253 to 269. Presently, the revival of sick companies is governed by the Sick Industrial Companies (special provisions) Act, 1985 (SICA). World Bank ranked India 121st in terms of setting up business and 140th in terms of closing business. It shows that India has been ranked quite low by international agencies for ease of setting up, closing or revival of business is concerned. It is expected that New Act would revive the Sick Units at a speedier pace and be on par with other States Laws. In this article, author tried to find out whether the new Act would be able to revive at speedier pace or not. It would be done by analyzing the opinion of Advocates and Company Secretaries.

Keywords: Sick Companies, Sica, Revival, National Company Law Tribunal, The Companies Act, 2013, Reference, Administrator, Scheme.

1. INRODUCTION

The Policy of the British Government was against encouraging Industrial Development in India. No incentives were offered to Indian Industries for their growth and development. Whatever Industrial Development took place in India was in spite of the negative and hostile attitude of the British Government.¹

After India became independent in 1947, the country started an ambitious plan of Industrial development and encouraged the setting up of new industries and the expansion of existing industries. The efforts were made to augment the supply of goods and services by establishing new industries and increasing efficiency and production in the existing industries to improve the economic conditions of the country.²

In the process of Industrial Development, Industrial sickness has also crept in. Industrial sickness has emerged as a natural corollary of Industrial Development. Sickness in Industries is a matter of serious concern as its repercussion are quite pervasive and ever-growing, affecting the health of the National Economy and having serious unpleasant social effects. These are loss of production, reduced availability of goods and services to the customer, loss of employment opportunities, loss of revenue like taxes and duties to the government and local authorities and non recovery of loans and advances made by lenders like Financial Institutions and banks.³

The sickness in Indian Industry is spreading at an alarming rate and the policy maker and academicians are rightly concerned about it not only because billions of rupees are locked up in thousands of sick units, but because the fortunes of millions are affected by the phenomenon of

¹ Report of the Second National Commission on Labour, "Industrial Development and Progress after Independence" 146 (June , 2002).

² See the Industrial Policy Resolution, 1948, The Industrial Policy 1956, the Industrial Policy statement 1973, Industrial Policy Statement, 1977 and Industrial Policy Statement, 1980.

³ See Srivastava S.S. and Yadav R.A. (1986), *Management and Monitoring of Industrial Sickness*, Concept Publishing Company, New Delhi, p.10 ,the Sixth Plan Document and the Seventh Plan Document.

sickness which pulls down the index of Industrial production below the targets fixed by the planners.⁴

There have been a number of suggestions made from various quarters regarding the measures which should be adopted to combat sickness. The Rehabilitation Programmes and soft loan schemes have not made much dent. Therefore, Sick Industrial Companies (Special Provisions), Act was enacted to deal with sickness.

Under the new Act Central Government had established Board for Industrial and Financial Construction and Appellate Authority for Industrial and Financial construction. But, it failed to achieve the desired objectives. Therefore, the Sick Industrial Companies (Special Provisions) Repeal Act, 2003 is passed and the provisions relating to Revival and Rehabilitation of sick units has been incorporated in the Companies Act, 1956 . The powers of the Board will be exercised by National Company Law Tribunal and the Powers of Appellate Authority will be exercised by National Company Law Appellate Tribunal.

The Government of India constituted an expert committee in 2004 to simplify and review the Companies Act, 1956.⁵ The Committee submitted report in 2005. After several debates and discussions, the report gave way to a new bill to replace the Companies Act. Therefore the Companies Bill, 2008 was introduced in Lok Sabha in Oct 2008. It could not be passed as Lok Sabha was dissolved on account of the general elections in the country.⁶

The new Government reintroduced the bill as the Companies Bill 2009 in Aug 2009.⁷ But, the Government withdrew the bill to make large amendments to the bill arising out of the

⁴ There were 1,71,376 sick industrial units comprising 3396 large and medium sick units and 1,67,980 small units with Rs. 34,816 crores of outstanding bank credit with Rs. 29,110 crores locked up in large and medium sick units and Rs. 5,706 crores locked up in Small Sick Units as on March 2003.

⁵ The committee was appointed under the Chairmanship of Dr.Jamshed J Irani. *See also* Chandran, Dr. K. S. Ravi (2008) ,” Insolvency Practice. Emerging Issues and Opportunities”, *Chartered Secretary*, July , p.903. *See also* Israni, Dr. (2008) ,”Developments in Insolvency Law in India – A Story of Fits and Starts” , *Chartered Secretary* , July , p.901 , Bhasin, Lalit (2008), “ Corporate Insolvency ” , *Chartered Secretary* , July , p.894 and Kumar, Naresh (2008), “ Corporate Insolvency and Restructuring – Legal and Regulatory Framework “,*Chartered Secretary*, July, p.918.

⁶ Bill No.57 of 2008.

⁷ Bill No.59 of 2009.

recommendations of the Parliament standing committee on finance and suggestions of stakeholders.

In Dec 2011, the Companies Bill, 2011 was tabled in Parliament after incorporating the recommendations. It has been presented with 470 clauses and 7 schedules. The provisions relating to sick units are incorporated in it in chapter XIX under clauses 253 to 269.⁸ The Companies Bill, 2011 was passed by Lok Sabha on 18th December 2012 as The Companies Bill, 2012. This bill was passed by Rajya Sabha on 8th August 2013. The Act received the assent of President on 29 August, 2013. The new Act provides for Revival of Sick Units in chapter XIX under sections 253 to 269.

There are many deficiencies in the operation of SICA. The important ones are , delay in Revival and Winding up of Sick Units ,excessive protection is given to Sick Units by suspending legal proceedings against sick unit and the Board has been also characterized as toothless tiger. It is because of the discretionary powers of the parties which provide financial assistance to accept the scheme or not. Some industrialists called it “Board for Industrial Funeral Rites.”

2. THE SICK INDUSTRIAL COMPANIES (SPECIAL PROVISIONS) ACT, 1985

A committee, under the chairmanship of T. Tiwari, was appointed in 1981. It recommended a special legislation to deal with sick industries. On the basis of recommendations of the committee The Sick Industrial Companies (special provisions) Act, 1985 was passed⁹.

The main objectives of the above mentioned Act were Timely detection of sick units, Speedy determination of required measures for the revival of sick units, Speedy or expeditious enforcement of these measures.¹⁰

⁸ Bill No.121 of 2011. See also Padma, Dr. T. (2012) , “Companies Bill, 2011—Highlights”, *Supreme Court Journal* , pp. 27-50 and Apurva and Ayush (2012) , “National Company Law Tribunal: The Way forward”, *Comp LJ*, July, pp. J 1-9.

⁹ It received the assent of the President on 8 January, 1986 and all provisions came into effect from 12 January, 1987 except ss. 15-34 while Sections 15 to 34 became operative only from 15 May, 1987.

¹⁰ See Statement of Objects and Reasons to the Sick Industrial Companies (Special Provisions) Act, 1985 and Guidelines of Board for Industrial and Financial Reconstruction, 1992, Introduction. See also *Navnit R. Kamani v. R.R. Kamani* AIR 1989 SC 9: (1988) 3 Comp LJ 62 (SC) : JT 1988(3) SC 700, (1988) 4 SCC 387).

The Act specified the authorities like Board for Industrial and Financial Reconstruction and Appellate Authority for Industrial and Financial Reconstruction. These authorities have the jurisdiction of Civil Court. Consequently, proceedings before these authorities are Judicial.¹¹

These authorities have jurisdiction over sick Company. And, sick company means a company registered for five years and has accumulated losses equal to or exceeding the entire net worth at the end of any financial year.¹² According to layman “Net worth” means shareholder funds.¹³ Thus, sick company need to satisfy two parameters. First, the age of company should be 5 years and second, erosion of shareholder funds.

When a company satisfies the two parameters of sickness mentioned above, the reference is to be made by Board of Director’s of company to BIFR. This may be done before or after the finalization of audited accounts of the company.¹⁴ The reference may also be made by other Agencies i.e., Reserve Bank of India, State Government, Public Financial Institution’ State Level Institution and Scheduled Bank¹⁵.

After receiving reference, the Board makes enquiry for determining whether the referred company has become sick or not.¹⁶ The Board may also make inquiry upon receiving

¹¹ The Sick Industrial Companies (Special Provisions) Act, 1985, (Act 1 of 1986), ss. 4(1), 5 (1) and 14.

¹² *Id.* Section 3(1)(o). This definition is substituted by the Sick Industrial Companies (Special Provisions) Amendment Act, 1993. see also *Krimpex Synthetics Ltd. v. Board* (1996) 4 Comp LJ 7 (AAIFR).

¹³ Kesavan A. C. and Vasudevan V. , (1988) “Net Worth under Sick Industrial Law”, *Comp LJ*, Vol. 3 , p.17. See the Sick Industrial Companies (Special Provisions) Act, 1985, (Act 1 of 1986), s. 3(1)(ga).

¹⁴ The Sick Industrial Companies (Special Provisions) Act, 1985, (Act 1 of 1986), s. 15(1). See also. Pandey, T.N. (1996) “Why Reference to Board be Made only on the Basis of Financial Year Accounts?” *Comp LJ*, Vol. 5, pp. 8-9.

¹⁵ The Sick Industrial Companies (Special Provisions) Act, 1985, (Act 1 of 1986), s. 15(2). See *Bellary Spinning and Weaving Co Ltd v Syndicate Bank* (1993) 76 Comp Cas 426 (Kar).

¹⁶ The Sick Industrial Companies (Special Provisions) Act, 1985, (Act 1 of 1986), s. 16(1)(a). See also Board for Industrial and Financial Reconstruction Regulations, 1987, Regulations 21(a).

information that the company has become sick or a suo moto inquiry.¹⁷ Besides Board, Operating Agency may make enquiry.¹⁸

It is mandatory for the Board to conduct inquiry.¹⁹ Therefore, it is important to know when inquiry commences. The inquiry commences as soon as the registration of reference is completed after scrutiny.²⁰ To protect the interest of company during enquiry, the Board may appoint Special Directors.²¹ After conducting inquiry, the Board may pass any of the following mentioned order

1. Sick company is allowed itself turnout into to become profit earning company²² or
2. The operating agency prepares a scheme to turn sick company into profit earning company.²³

When a scheme is prepared, the parties providing financial assistance must agree to the proposed scheme.²⁴ The scheme may include financial reconstruction of company, takeover of management of company, amalgamation of sick units with profit making company, sale of company, rationalization of working staff.²⁵

¹⁷ The Sick Industrial Companies (Special Provisions) Act, 1985, (Act 1 of 1986), s. 16(1)(b).

¹⁸ The Sick Industrial Companies (Special Provisions) Act, 1985, (Act 1 of 1986), s.16(2). See also Board for Industrial and Financial Reconstruction Regulations, 1987, Regulation 21(b).

¹⁹ *Real Value Appliances Ltd. v. Canara Bank & Others* AIR 1998 SC 2064. See also *Industrial Finance Corporation v. Maharashtra Steels Ltd.* (1990) 67 Comp Cas 417 (All).

²⁰ See the Sick Industrial Companies (Special Provisions) Act, 1985, (Act 1 of 1986), explanation to s.16(3) and *Real Value Appliances Ltd. v. Canara Bank & Others* AIR 1998 SC 2064 : (1998) 93 Comp Cas 26 (SC).

²¹ The Sick Industrial Companies (Special Provisions) Act, 1985, (Act 1 of 1986), s. 16(4).

²² *Id.* s. 17(1).

²³ *Id.*, s. 17(3).

²⁴ *Id.* s. 19. See also *Ranka Cables Ltd. v. AAIFR* (2001) 103 Comp Cas 30 (AP).

²⁵ The Sick Industrial Companies (Special Provisions) Act, 1985 (Act 1 of 1986), s. 18 (1).

After examining the scheme the Board sanctions the scheme.²⁶ But sanctioned scheme cannot be challenged on the ground that the provisions of the Act are not complied with.²⁷ Moreover, the scheme will be binding on all the concerned persons.²⁸ It is also important to note when property of sick company is transferred under the scheme, stamp duty is not required. The rationale behind it is that transfer of property is by operation of law.²⁹ Thus the transfer of property of a company under the sanctioned scheme is less costly than ordinary transfer of property.

If sick company could not be turned into profit making company, the Board may decide winding up of a sick unit. It means winding up of a sick company is the last resort which is a welcome step. This is done after giving each concerned party a right to put forth its views. But the Board is not empowered to order winding up of a sick company by its own. Therefore, they forward its opinion to concerned High Court for winding up of sick company.³⁰ But the opinion given by the Board is not binding on the concerned High Court. The High Court may investigate into the opinion given by the Board and decides.³¹

But the Act does not provide how a sick company can be wound up. Therefore the sick company winds up according to the provisions of the Companies Act.³² Moreover, the officers of the operating agency may be appointed as the liquidator of sick companies. And the liquidator has the same powers which the official liquidator has under the Companies Act, 1956.³³ Even the

²⁶ *Id.* s. 18(3).

²⁷ *Id.* s. 18(7). See also *Trust Mai Lachhmi Silakoti Bradari v. Amritsar Improvement Trust*, AIR 1963 SC 976.

²⁸ The Sick Industrial Companies (Special Provisions) Act, 1985 (Act 1 of 1986), s. 18(1).

²⁹ *T.T. Krishnamachari & Co. v. Joint Sub-Registrar* (2008) 144 Comp Cas 708 (Mad.).

³⁰ The Sick Industrial Companies (Special Provisions) Act, 1985, (Act 1 of 1986), s. 20(1). See *Maharashtra Tubes Ltd. v. State Industrial and Investment Corporation of Maharashtra Ltd. and Shah, M.V.* (1988) "Winding Up of Sick Industrial Companies", *Indian Judicial Report*, Vol. 28, pp.388-392.

³¹ *V.R. Ramaraju v. Union of India* (1997) 89 Comp Cas 609 (SC) affirming *J.M. Malhotra v. Union of India* and *Ramaraju v Union of India* (1997) 89 Comp Cas 600 (Mad).

³² The Sick Industrial Companies (Special Provisions) Act, 1985 (Act 1 of 1986), s. 20(2). See also s. 22 A (b).

³³ *Id.* s. 20(3).

sick company in the clutches of winding up may be pulled out. It can be done by formulating a scheme for the Revival of Company and presenting it to the High Court.³⁴

Moreover, the revival of incipient sick units is also being dealt with under the Act. These units are termed as potentially sick units. It means the company whose accumulated losses have resulted into erosion of 50% of shareholder funds in the preceding of four financial years.³⁵ Under these circumstances the company is required to do two things. Inform the Board about sickness and hold the General meeting of shareholders.³⁶

If any party is not satisfied by the decision of the Board, party may appeal to the Appellate Authority within 45 days of the order of Board.³⁷

Last, but not the least, there is a special provision to protect the assets and funds of a sick company during formulation and implementation of a scheme. This is suspension of legal proceedings against sick unit unless the Board allows them. The provision is applied in three circumstances. These are when the inquiry is pending or scheme is under preparation or appeal is pending. The suspended proceedings are winding up of company, execution proceedings against the property of sick company, appointment of receiver, suit for recovery of money and suit for enforcement of any security.³⁸ But, object of the provision is not to hamper the revival procedure.³⁹

³⁴ *V.R. Ramaraju v. Union of India* (1997) 3CLJ 221 (SC), See also Goswami, Delep,(2008) “Some Court Rulings on Approval of Scheme of Revival of a Company in liquidation”, *Chartered Secretary*, July, pp.910-913.

³⁵ The Sick Industrial Companies (Special Provisions) Act, 1985 (Act 1 of 1986), s. 23(1).

³⁶ *ibid.*

³⁷ The Sick Industrial Companies (Special Provisions) Act, 1985, (Act 1 of 1986), s. 25(1).

³⁸ The Sick Industrial Companies (Special Provisions) Act, 1985, (Act 1 of 1986), s. 22.

³⁹ See *Andhra Printers Ltd. v. Arjun Rao* (2008) 141 Comp Cas 7 (AP), *Apollo Finance Ltd. v. GSL (India) Ltd* (2002) 108 Comp Cas 184 (Del).

The suspension also applies to proceedings regarding recovery of sales tax dues and excise duty,⁴⁰ arrears of land revenue⁴¹ and purchase of goods after making reference to Board.⁴² But the suspension does not apply to proceedings regarding guarantors to the sick units,⁴³ Wages and gratuity of employees,⁴⁴ deposits with company,⁴⁵ hire purchase agreements,⁴⁶ eviction proceedings⁴⁷ and prosecutions.⁴⁸

3. THE COMPANIES ACT, 2013

The procedure for the revival of Sick Units under the New Act is as follows:

3.1 Reference

The Companies Act, 2013 provides that if a company fails to pay debt or offer security, the secured creditors may apply to Tribunal for declaring defaulting company sick company.⁴⁹ Besides Secured Creditors, Company or Central Government or State Government or A Public Financial Institution or State Level Institution or Scheduled Bank can make reference.⁵⁰ If

⁴⁰ *Tata Davy Ltd. v. State of Orissa* (1998) 93 Comp Cas 1 (SC). See also *Aluminium Industries Ltd. v. Commercial Tax Officer* (1991) 72 Comp Cas 323 (AP) and *Reliance Ispat Industries Ltd. v. Commissioner of Sales Tax* (1993) 77 Comp Cas 381 (MP).

⁴¹ See *Mining and Allied Machinery Corpn. Ltd. v. State of West Bengal* 2002) 108 Comp Cas 396 (Cal) and *Aluminium Industries Ltd. v. State of Kerala* (2006) 133 Comp Cas 530 (Ker).

⁴² See *Southern Steel Ltd. v. Jindal Vijaynagar Steel Ltd.* (2008) 143 Comp Cas 460 (SC).

⁴³ See *Kailash Nath Agrawal v. Pradeshiya Industrial and Investment Corporation of U.P.* (2003) 114 Comp Cas 4 (SC) : (2003) 4 SCC 305.

⁴⁴ *Mideast India Ltd. v K.M. Unni Ors.* (2003)115 Comp Cas 184 (Del). Ahuja, M.M (1996). "The Sick Industrial Companies (Special Provisions) Act, 1985 and the Industrial Dispute Act, 1947 and the Doctrine "Generallia Specialibus Non Derogant : A case for Bed and Board together", *Lab I.C.*, Aug , pp. 78-79.

⁴⁵ *Deepak Insulated cable Corporation Ltd. v. Union of India*(2001) 104 Comp Cas 401 (Kar). See *Usha D. Rohra v. Electrex India Ltd.* (2001) 106 Comp Cas 406 (CLB).

⁴⁶ *Ananta Udyog Pvt. Ltd v. Cholamandalam Investment and Finance Co. Ltd.* (1995) (1995) 83 Comp Cas 498 (Mad).

⁴⁷ *Shree Chamundi Mopeds Ltd. v. Church of South India Trust Association*(1992) 75 Comp Cas 440 (SC).

⁴⁸ *BSI Ltd. v. Gift Holdings Pvt. Ltd.* 2000) 2 Comp LJ 13 (SC) . See also *Kusuk Ingots & Alloys Ltd. v. Pennar Peterson Securities Ltd.* (2000) 100 Comp Cas 755 (SC).

⁴⁹ The Companies Act, 2013, (Act 18 of 2013), s. 253 (1).

⁵⁰ *Id.* ss. 253 (1), 253 (4) and 253(5).

tribunal is satisfied that it is feasible for the sick unit to pay debts, it would give time to make repayment of debt.⁵¹

Moreover, Secured Creditors and Company could apply to Tribunal to determine measures for Revival of Sick Unit. The application would be accompanied with immediately preceding audited financial statement, duly authenticated documents with prescribed fee and a draft scheme of revival.⁵²

3.2 Appointment of Interim Administrator

On receiving the application, the Tribunal would fix a date for hearing and appoint an interim administrator to convene a meeting of creditors⁵³ and consider whether it is possible to revive the sick company or not. If draft scheme is not filed by the company, the Tribunal might direct the interim administrator to take over the management of the company.⁵⁴

3.3 Appointment of Company Administrator

If the Tribunal is satisfied that the creditors, representing three-fourths in value of amount outstanding against the sick unit, have approved that the company may be revived, it would appoint company administrator⁵⁵ to prepare a scheme.⁵⁶ The company administrator may be asked to prepare complete inventory of all assets and liabilities and all books of accounts, registers etc, a list of shareholders, a list of creditors and a list of workmen of the company and their dues etc.⁵⁷

3.4 Approval of Scheme

The company administrator prepares a scheme of revival of sick unit.⁵⁸ The prepared scheme is to be put before creditors. If unsecured creditors, representing one-fourths in value of amount

⁵¹ · *Id.* s.253 (9).

⁵² *Id.* s. 254.

⁵³ *Id.* s. 257. The maximum no. of members of committee is seven and procedure is to be decided by Interim Administrator.

⁵⁴ The Companies Act, 2013(Act 18 of 2013), s. 256.

⁵⁵ The Interim Administrator or Company Administrator may be appointed by the Tribunal from the data bank maintained by central government or any authorized institute. The Company Administrator may be asked to take over the assets or management of the company. See, The Companies Act, 2013, (Act 18 of 2013), s. 259.

⁵⁶ The Companies Act, 2013, (Act 18 of 2013), s. 258

⁵⁷ · *Id.* s.80.

⁵⁸ *Id.* s. 261

and secured creditors, representing three-fourths in value of amount due, approve the scheme, the scheme is to be submitted to tribunal for its sanctioning. The tribunal might make necessary changes to incorporate suggestions and objections received form Company Administrator, Sick Company and Transferee Company before sanctioning the scheme. The copy of sanctioned scheme is to be filed with the registrar by Sick Unit.⁵⁹ The sanctioned scheme would be binding on company creditors, employee shareholders and guarantors.⁶⁰

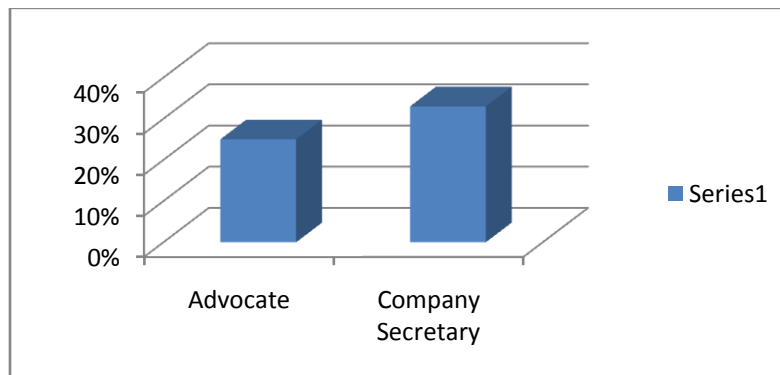
When the scheme is not approved by the creditors, the company administrator would submit a report to Tribunal for winding up of sick unit.⁶¹

3.5 Punishment

If any person violates the provisions relating to sick companies, he would be punished with imprisonment up to 7 years and fine upto 10 lakh.⁶²

4. ANALYSIS & INTERPRETATION OF DATA

The research is Doctrinal and Non-Doctrinal. Research Method is Sample Survey. Research Technique is Questionnaire. Population/Universe is Lawyers and Company Secretaries Expertise in Corporate Sector.



GRAPH I: PERFORMANCE OF BIFR

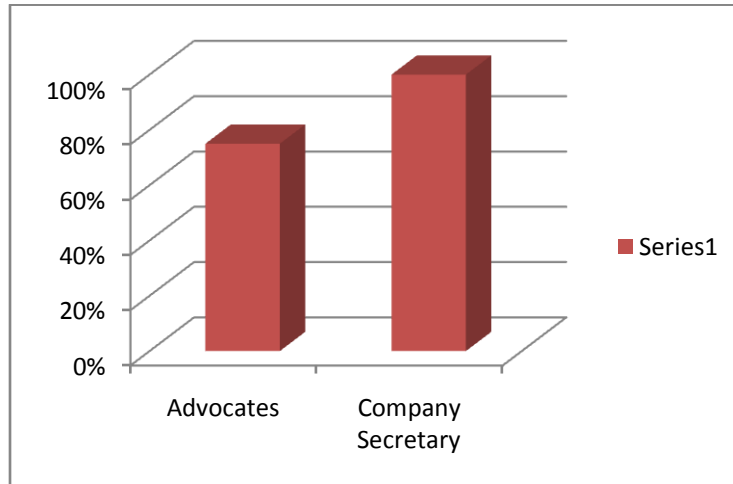
⁵⁹ *Id. s. 262.*

⁶⁰ *Id. s. 263.*

⁶¹ *Id. s. 265*

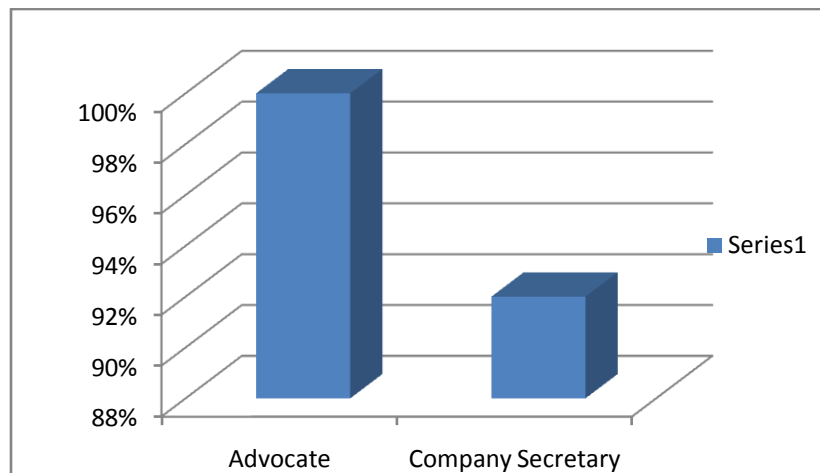
⁶² *Id. s. 268.*

The graph I provides that only 25% Advocates and 33% Company Secretary are satisfied with the performance of the BIFR. Therefore, it can be said that incorporation of provisions relating to Sick Units into the New Act is required



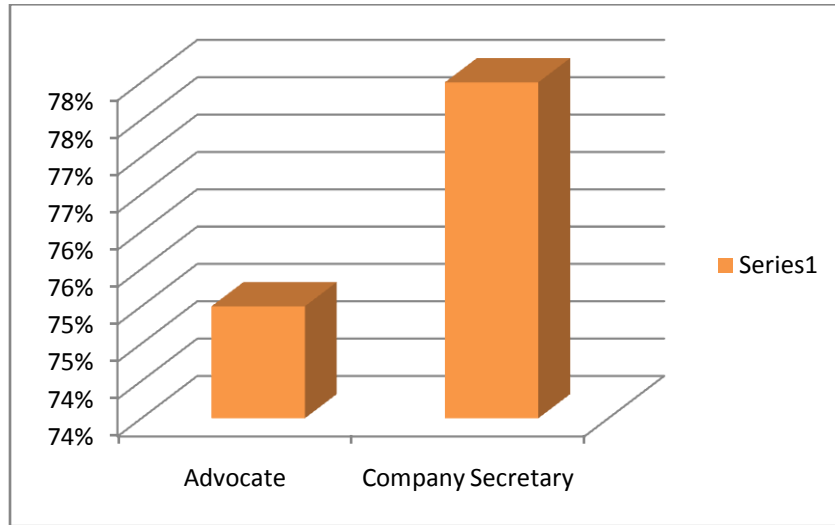
GRAPH II: SIMPLE NATURE OF DEFINITION OF SICK UNITS

The graph II provides that only 75% Advocates and 100% Company Secretary are agreed that under the New Act definition of sick Unit is very simple. But, SICA provides for very complicated definition of Sick Unit.



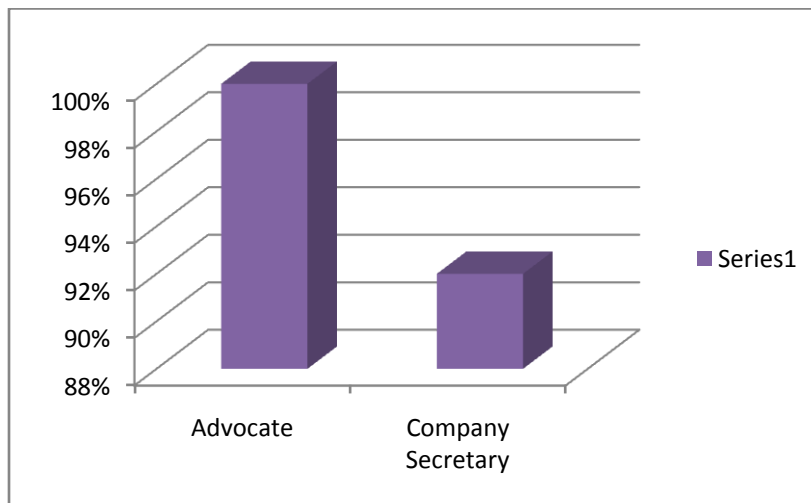
GRAPH III: FAST REVIVAL PROCESS

The graph III provides that only 100% Advocates and 92 % Company Secretary are agreed that under the New Act Revival Process under the New Act would be fast. But, SICA provides lengthy and slow Revival Process.



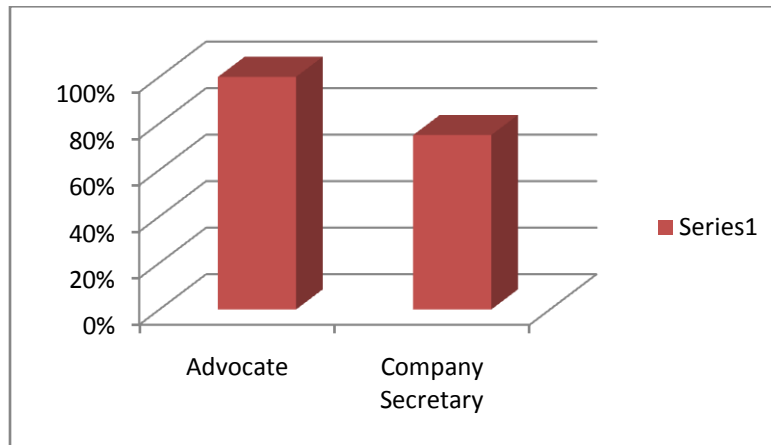
GRAPH IV: NEW RULES AT PAR WITH GLOBAL INSOLVENCY LAW

The graph IV provides that 75% Advocates and 78 % Company Secretary are agreed that under the New Rules are in tune with Global Insolvency Law. It means closing process of business would be fast



GRAPH V: PERFORMANCE OF NCLT

The graph V provides that 100% Advocates and 92 % Company Secretary are agreed that NCLT would be successful in fast Revival of Sick Units. It means revival of Sick unit under New Act is going to be very fast.



GRAPH VI: WIDER POWERS TO CREDITORS

The graph VII provides that all Advocates and 75 % Company Secretary are agreed that conferring wider powers to Creditors would speed up the process of Revival or Winding up of Sick units. This would help in the fast revival process.

5. CONCLUSION

In the paper, the effectiveness of new provisions of Sick Units in the New Act is tried to find out. It can be inferred from the analysis and interpretation of data that new provisions would speed up the process of revival of Sick Units. Thus, it seems new provisions would succeed in achieving the objectives for which it is framed.

But, there is one apprehension that under The Sick Industrial Companies Act, BIFR has been conferred powers to deal with all the matters relating to sick company only. But it is supposed not to be working as efficiently as expected. Such circumstances raise a serious question **“Can NCLT, which has been conferred powers to deal with all the matters from the formation of company to winding up of company, work more efficiently than BIFR for Revival of Sick Units?”**