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Economy

# TWO BIGGEST BANK FRAUDS IN INDIA IN THE LAST DECADE THAT HAVE IMPACTED THE ECONOMY. AN IN-DEPTH ANALYSIS.

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ABSTRACT The paper is an attempt to understand the manner in which the above three industrialists took advantage of the loopholes in the banking system, as well as government regulations to build an empire based on credit that they took from the banks. This was aided by the incorporation of shell companies and rotating the same set of funds, thus generating fictitious company balance sheets, leading to large sums of money being siphoned out of the banking system. This had an adverse impact on the money supply of the economy. The paper concludes with measures that have to be taken both by the government as well as the banks to prevent such a disaster again.

KEYWORDS :

## 1. INTRODUCTION

The paper would attempt to understand under what conditions did the financial market reforms take place. All major financial activities were being undertaken by the nationalized banks. The ownership pattern was such that the major stakeholders was the government. It is only after the reform process of 1991 that the RBI allowed private banks and foreign banks to come up and expand their branches. In recent years the government has diluted its stake in these banks and allowed them to function as a private entity. They have also moved towards consolidating these banks. For example, State Bank of Patiala, State Bank of Travancore etc were merged with State Bank of India.

## 2. BACKGROUND

The monetary framework in India has evolved over the past few decades in response to various financial developments and changing macro conditions present in the economy. Soon after independence the central bank, that is the RBI, was primarily concerned with synchronizing with the five year plans. The five year plans were initiated under the chairmanship of prime minister Jawaharlal Nehru with the sole aim of achieving development at the fastest pace possible. The first five year plan was from 1951 to 1956. It mainly focused on the development of the primary sector which is the agricultural sector. The second five year plan was from April 1956 to March 1961, under the vice chairmanship of Professor Mahalanobis. The emphasis under this plan was strengthening the economy's industrial base. The main objective of this plan was to increase real income by 25% from 1956 to 1961. The third five year plan from 1961 to 1966 emphasized on a GDP (Gross domestic product) growth rate of 5%. This required a pattern of investment and saving such that this could be achieved and sustained. The fourth plan from 1969 to 1974 was aimed primarily at sustaining GDP growth as well as reducing the inequalities of income. Under this the monetary policy adopted by the RBI (Reserve bank of india) was in maintaining liquidity through open market operations (OMO), bank rate, and the cash reserve ratio (CRR).

Banks were nationalized in 1969, the main reason was that the government felt that not enough credit was going to the agricultural, small industry, and the export sector. The bankers were skeptical in lending to these sectors as they were not sure that the lender would be able to repay the amount. This would lead to a large number of defaulters putting pressure on the bank's balance sheet. For this reason the banks were brought under government control and the government would bear the brunt of non payment of loans. This was done as the economy was facing an agrarian crisis and there was not enough food for its people. It is in the same year that 'green revolution' took place which helped the economy tide over the shortage of food to some extent. This period till the 80s was one where there was rampant monetization of debt. This essentially means that the deficit of the government and the state governments were being funded by the RBI. This was primarily achieved by printing of notes, further leading to an inflationary situation in the economy. In 1991 when the reform took place, they also took place in the financial sector. It is during this time period that interest rates were deregulated and the Indian economy was being increasingly integrated with the world economy. During this time, the RBI decided on a multiple indicator approach which meant that all economic and financial variables that influence the major objectives outlined in the preamble of the RBI act were to be undertaken. A formal transformation was made in 2016 towards flexible inflation targeting.

Instruments that the central bank has control over and those that are used to achieve the goals of the monetary policy are open market operation, reserve requirement, discount policy, lending to banks, and policy rate.

Elements of financial sector reforms included removal of automatic monetization, dismantling of the complex administered interest rate structure to enable the market to decide on the interest rate (the equilibrium position between demand and supply of loanable funds). This provided operational and functional autonomy to the economy when India had opened up the external sector. The RBI made a conscious effort in creating a favorable policy environment. This meant that there was a serious attempt to widen and deepen the monetary market. An attempt was made to provide as many instruments as possible for investors to invest their money (this is known as widening of the market). Provisions were attempted to take the banking sector to the last village in India so that they could take advantage of various schemes that were being provided by the central and the state government. The spread of digitalisation and the use of smartphones helped in tapping the saving potential in the economy. This further helped in enhancing investment.

## 3. CASE STUDY

It is with this particular background that an attempt would be made to study the major defaulters of the banking system. What route did they choose? How did they manage to beat all the checks that the banks had put in place? How was it discovered? What are the steps that the bank and the government have had to follow to recover the money? How far have they progressed?

Kingfisher Airline Limited (KAL) the poster company of one of the biggest liquor tycoons of India, Vijay Mallya. His ambition was to become an industry leader. He wanted to be known worldwide through the airline hospitality business. He started off by gaining customer satisfaction and by offering the greatest flying experience at minimum cost. At that time as there were a large number of airlines vying for airspace, each one was trying to outdo the other by offering quality services at the cheapest price.

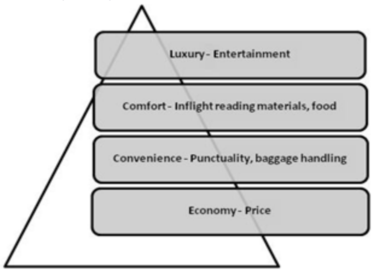
### 3.1 VIJAY MALLYA

**Figure 1 Vijay mallya**

Source: https://www.business-standard.com

His idea of the fliers needs can be seen in the figure below:

**Figure 2 Hierarchy of flyer needs**




Source: https://tejas.iimb.ac.in/articles/34.php

When KFA was incorporated the above was taken into account and addressed. It was on the basis of this that the airline functioned. It gave importance to all the indicators stated in the figure.

During the year 2012 the impact of the first global fuel price hike was felt by the Indian economy resulting in a crisis in the financial market leading to an economic slowdown. The global recession of 2008 did not have an adverse impact on the Indian economy due to prudent decisions taken by the government. This essentially means that there should be adequate funds for business enhancement even if this meant that to achieve it the government was minting more money. Initially the economy did not show any major downturn but slowly inflation started increasing which in turn impacted the growth prospects of the economy. Inflation as one knows is desirable to a point, as it leads to an incentive to the producers. But after a particular range it is detrimental for the economy. This is exactly what happened when the downturn started occurring in India from 2012 onwards. The government could no longer subsidize the fuel component, it had to pass on the increase to the consumers. Thus it is during this time period that petrol and subsequently diesel prices were linked to the import prices. The imported price of fuel was also passed on to the aviation sector.

Kingfisher airlines wanted to maintain its standard and its customer base so was reluctant to pass on this increase of fuel prices to its travelers. The slogan on which it based its business venture was 'The King Of Good Times', which it wanted to continue at all costs. As it did not want to increase the price of tickets the deficit for the company continued to balloon. Kingfisher airlines was an extension of Vijay Mallya's jovial nature and the lifestyle that he lived.

Some of the reasons for its downfall were the misguided government policies which in fact made the entire Indian domestic aviation suffer from serious market failures. It was at this time that the airline asked for life support from the government as well as the banking sector to manage the airline. It was from 2005 that it started claiming losses. Most of the routes that were offered were on metro sectors as was the case with all other airlines in india. In this scenario kingfisher airline took over AIR Deccan which may not have made good business sense as the airline was already suffering a loss. This further added to the deficit of kingfisher airlines. Thus the problems as one sees it are:

- Impact of global recession, post 2008
- Faulty government policies
- High imported aviation turbine fuel costs
- Buying of AIR Deccan, a loss making concern (it was the worst decision that kingfisher airlines could have made leading, to a rapid decline in fortunes of the parent company)
- Lifestyle of its owner, Mr Vijay Mallya (He was well known for his luxurious lifestyle).

**Table 1 Marketing Expansion & Branding Initiatives**

| Market Expansion ~ Acquisition of Air Deccan | Branding Initiatives |
|---|---|
| • Added a flanker product to its portfolio to serve the price-sensitive market segment<br>• Entered into a new market segment – the international sector, one of the prime reasons for its acquisition of Air Deccan.<br>• Its coverage to more cities, especially the Tier II cities, through its newly acquired fleet of Air Deccan, which it rechristened as Simplify Deccan.<br>• Improved the offering of Deccan significantly and communicated the same to its customers | • Cobranding initiatives with American Express Corporate Card, Airtel, Goa tourism and Malaysia tourism<br>• Launched aggressive adventising campaigns to debase competitor's marketing initiatives<br>• Marketed itself extensively by becoming channel partner for NDTV Good times, India's first lifestyle channel<br>• Signup of new brand ambassador for the airlines - Bollywood rage Deepika Padukone |

Source: https://tejas.iimb.ac.in/articles/34.php

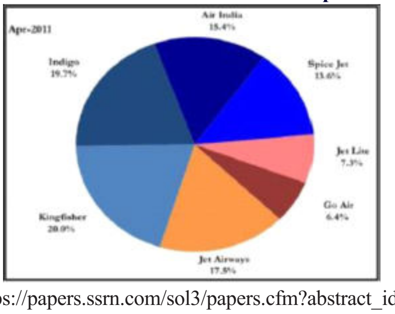
But this step added to the already existing woes of the airline.

Vijay Mallya thought that the taking over of AIR DECCAN would enhance the overall airline's marketing and branding presence in the manner which is indicated in table 1.

Vijay Mallya's path in this venture is a reflection of his life. He took over the business at a young age of 28 and achieved great success at this young age. In his own words he has stated that "my own lifestyle got intervined with brand personality and so without really planning it that way I became almost my brand ambassador of and that's just the way it kept on developing". This essentially meant that the more flamboyant he became the more glamorous the airline became.

On 9th of May, 2005 is when they started their operations giving their passengers a lifestyle experience of luxury travel. By 2006 the airline achieved a 5 star status and became the most popular amongst the business class travelers. It started its international travels on 3 september 2008 and again it was very well known for rendering excellent flight services. In fact in 2009 it was one of 7 airlines that got a 5 star rating by Skytrax (one of the most authenticated review system for airlines). In may 2009 kingfisher airlines got the highest share in the aviation market in India by carrying more that 1 million passengers. The market share of Kingfisher airlines as on April 2011 was a huge 20%. This is indicated in the figure below.

**Figure 3 Market share of aviation sector as on April 2011**




Source: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3417107

In the year 2011 it was again awarded the best indian airline of the year despite the fact it reported a loss of 1 crore rupees for three consecutive years. By 2011 rumors and doubts of the company's existence had started emerging. The first indications were seen when they started defaulting on TDS (tax deducted at source) and provident fund contributions. By 25th April 2012 the kingfisher share hit an all time low of Rs 13/-. In the same year the company had a loss of over Rs 7000 crores along with the fact that half its aircrafts were grounded and a large number of its employees were on strike (basically due to non payment of their dues). As all operations were suspended the airline came to a halt. Mr Mallya asked for support from the government for a bail out but was refused and DGCA (Directorate General of Civil Aviation) suspended its flying license on 20th September 2012 and it had to shut down its operation.

Some of the causes for the distress in kingfisher's financial status could be

- Due to decrease in safe operating standards or evidence of cutting corners
- Fall in training standard
- Significant turnover of personnel
- Delayed wage payments
- Inadequate aircraft maintenance
- Decrease in frequency of flights
- Sales or repossession of aircraft and other major equipment

Beside these, the main problem was when kingfisher brought over AIR DECCAN. They named AIR DECCAN Kingfisher Red which was a cheaper alternative to Kingfisher airlines. The other reasons could be higher operational cost compared to other competitive airlines. For example, the employee cost of Kingfisher Airlines (KFA) was higher than any other airline. Maintenance, navigation, and landing cost of KFA was 3% more than jet airways. The value added service cost of KFA was very high (they did not pay attention to cleanliness, connectivity, scheduling which were the basic requirements of Indian customers.) Besides the above, increased fuel cost added to their woes, as Aviation Turbine Fuel (ATF) in India is approximately 51% higher than international standard. The reasons for this being devaluation of the rupee, high cost of landing fee, airline taxes, and price cutting by other airlines like Air India.

The reason that KFA merged with AIR DECCAN was to circumvent the rule that the airline had to have 5 years of domestic travel before they could service destinations abroad. AIR DECCAN had the required number of years and KFA wanted to take advantage of this. The result was disastrous. Consumers did not take kindly to the merger as they wanted a luxurious experience which KFA had given them while AIR DECCAN was a low cost brand. Instead of upgrading AIR DECCAN, what occurred was a downgrading of KFA. In 2012 Kingfisher Red shut down and was under a debt of Rs 7057.08 crores.

Vijay Mallya failed to understand that Indians were very price conscious and there would be very few who would be willing to pay a high price for luxury travel. He did not understand that people were willing to pay extra for alcohol but would not do the same for travel. On taking over AIR DECCAN he renamed it Kingfisher Red. The airline business required Mr Mallya's attention but he did not think so. His liquor business was run by professionals on its own and he thought he could replicate the same model in airlines.

In 2011 salaries to the employees were delayed by 4 to 5 months. The employees reacted by refusing to sign the mandatory (tech log). This was their way of protesting against delayed payments. This further added to the problems of an already struggling airline. Besides this the world recession which started in 2008 added to the issues of an already beleaguered airline. The whole idea of Vijay Mallya giving the airline as a gift to his son Siddharth further added to the problems being faced by the airline, as Siddharth was a complete novice and a misfit in trying to understand how to grapple with the problems being faced by this huge venture.

Indian express reported in November of 2015 that Mr Mallya had suffered a total loss of Rs 9091.40 crores. He took a loan from 17 banks. If one looks at the banks from which he took these loans from one would realise that they are mostly nationalised banks example State Bank Of India (SBI) Punjab National Bank (PNB),IDBI , Bank Of India, Bank Of Baroda, Central Bank, Corporation Bank, United Bank Of India among others.

The question that arises is how did a consortium of 17 banks extend loans to KFA. There seemed to be disbursement of loans by the bank on the basis of the brand value of KFA. KFA is basically an intangible asset. The authorities probing into the default of loans have questioned the basis on which the loans were extended. How can one disperse loans on the brand value? Who decides the brand value? All the agencies which are probing this default have questioned banks as to how they accepted intangible assets like brand value as collateral. This obviously raises the question on how the national banks can be manipulated, either through influence (both personal and political). This indicates that nationalized banks are still influenced by government officials as well as politicians. It is this lacunae in the system which Vijay Mallya took advantage of.

As of now he is a fugitive in the UK (United Kingdom) and the Indian government is working very hard in getting him repatriated so that he can pay for his financial crimes in the country that he committed it. A large number of his shares in the liquor business as well as his luxurious houses and bungalows have been auctioned and the banks have recovered a large sum. But in spite of the recovery of money the government is very keen to get him extradited back to India as he would then be made a poster boy for all Indian evaders. He is still in the UK and hopefully soon he will be repatriated.

**3.2 Nirav Modi and Mehul Choksi**

**Figure 4 Nirav Modi**

**Figure 5 Mehul Choksi**

Source: https://images.indianexpress.com/2020/02/nirav-modi-1200.jpg

Source: https://bsmedia.business-standard.com/_media/bs/img/article/2018-08/04/full/1533393832-0664.jpg

Nirav modi had a burning desire and ambition to build a global brand by the name of 'Asian fashion jewelry' which would have boutiques on the high streets of capital fashions of the world. Nirav, which literally means silent, is a soft spoken business man, so unlike the fun loving gregarious Vijay Mallya. He was born in Antwerp and came to Bombay at the age of 19. He worked for Mehul Choksi, who is his uncle for 10 years, before he ventured out in the year 2000 and started Firestar Diamond International. In 2005 he bought a jewelry distribution and marketing business from his largest jewelry customer Fredrick Goldman in the US. This opened up for him account codes of the retailers in the US, which meant that he obtained an opening to the retailers in the American market. In 2007 he bought another company called Sandberg & Sikorsky which was the oldest bridal jewelry manufacturer who sold to independent retailers and was also into distribution to the US armed forces. The recession of 2008 led him to further expand his footprints even though the financial climate was chaotic. This led him to opening marketing offices in Dubai, Hong Kong, and sourcing of diamonds from Antwerp, manufacturing plants in Moscow and Johannesburg. It was a chance meeting with a friend who wanted him to design a high end pair of earrings which inspired him to start an Indian global luxury jewelry brand. At the end of 2010 when he was making the 'hero jewelry piece', Christies heard of it and they put it up for auction. It was sold for Rs 16 crores against a base price of Rs 12 crores. This worked very well for him and he obtained worldwide recognition. In December 2010 he launched the Nirav Modi brand and in March 2014 he ventured into retail stores, the first one at Defence Colony, New Delhi. There on, he opened 15 stores in Mumbai, Hong Kong, New York, London, Las Vegas, Honolulu, Beijing, and Singapore amongst many. His aim was to open 100 stores by 2025 out of which 25 would be outside India. Nirav Modi's clientele were amongst the 'who's who' of the world including those who walked the red carpet at the Oscars. Most of his collection was priced between Rs 5 lakhs and Rs 20 lakhs and he competed with Cartier and Tiffany. He popularized jewelry which was stretchable. This is where he said he amalgamated art with science, for example, stretchable bangles and stretchable rings.

Here again we find that Nirav Modi banked with a nationalised bank, Punjab National bank (PNB). The fraud involved the issuance of fraudulent letters of undertaking (LOUs) by the bank after Choksi and Modi colluded with the bank officials. An LOU is a guarantee by the issuing bank to the receiving bank and the companies, that it would undertake to pay a certain amount of money on a specific date. Thus the onus of payment was on the bank and in this case it was the nationalised bank PNB. PNB, the second biggest public sector bank, stunned the country's financial sector when it announced in 2018 that it had discovered a fraud worth Rs 11400 crores at a single branch of the bank in Mumbai. This involved both Nirav and Mehul Choksi. By the time the scam was detected both had absconded. The LOUs were issued to Modi's and Choksi's businesses without any cash margin or security. The bank said that two of its employees at the Brady House branch in Fort Mumbai was where the fraud was hatched and detected. This was a collusion between the bank officials and partners and directors of Nirav Modi and Choksi's firms. The bank said that two of its employees bypassed the bank's core banking system when they issued LOUs to oversee branches of other Indian banks. These included Allahabad bank, Axis bank, and Union bank of India using the international financial communication system called SWIFT (Society for Worldwide Interbank Financial Telecommunication). The transactions were noticed by a new employee of the bank. The deputy manager Gokulnath Shetty and clerk Manoj Kharat repeatedly issued LOUs to Nirav Modi's companies without securing cash reserves or collateral and without recording the transactions in the bank's core banking software.

Nirav and his companies leveraged these LOUs to secure buyers credit from local branches of Allahabad bank, Union bank, Axis bank, Bank of India, State bank of India. These suspect bank officials issued the LOUs and informed these branches via the international cash transfer service called SWIFT. This service connects all international banks worldwide. The bank officials knew that that particular branch of PNB had not integrated its SWIFT network with the bank's core network. This was the major lacuna in the system. The scam came to surface when three firms wanted to import rough stones from overseas in January 2018 via an LOU. The concerned official (who had just been transferred to that post) asked for 100% cash margin (100% collateral) as there was no pre sanction limit for these firms. The firms contested this and said that they have been doing it for a long time and have never given any margin. When the bank tried to trace the transactions undertaken by these firms, they did not find any details regarding their transactions. This raised an alarm and forced the bank to launch an internal investigation.

Both Nirav Modi and his uncle Mehul Choksi used letters of undertaking (LOUs) and foreign letters of credit (FLCs) by bribing officials of the PNB branch at Brady house in Mumbai. These bankers used fake letters of undertakings. They were opened in favor of branches of Indian banks for import of pearls for a period of one year. The RBI guidelines had stipulated the time period of 90 days from the date of shipment. This guideline was ignored by overseas branches of Indian banks and they failed to share any document with PNB at the time of availing credit.

Nirav Modi got his first fraudulent guarantee from PNB on march 10th, 2011 and he managed to get 1212 more such guarantees over the next 74 months. The investigative agencies recovered bank token devices of the foreign dummy companies used by Nirav Modi and his uncle in their modus operandi. It was later discovered that they had destroyed a large amount of stored information on various transactions. They had even secured a server which was eventually located in the United Arab Emirates (UAE). These dummy companies had been receiving the fraudulent PNB LOUs and were based out of the British Virgin Island and other such tax havens. Below is a table indicating the extent of money which is owed by Vijay Mallya, Nirav Modi, and Mehul Choksi.

**Table 2 Amount siphoned off :-**

| | |
|---|---|
| Vijay mallya | Rs 9000 crores |
| Nirav modi and Mehul choksi | Rs 13000 crores |

Source: own source

### 4. Impact on the banks

In the two cases that have been discussed above, one thing in common amongst them was that the main banks involved were nationalised banks. This indicates that these banks were those where the majority ownership is the government of India. The officials can still be influenced by politicians/important business tycoons/influential individuals. This makes the banks more vulnerable to fraudulent measures. The first and foremost impact is on the bank's balance sheet. This huge amount of non performing assets (NPA) leads to a significant dent on the working of the bank. It prevents the bank from loaning out funds to borrowers with good credit standing, not because of the fear that they will not repay the loan but because they do not have enough funds to loan out. This is due to a large sum being caught up in litigation with various business men who have committed fraud with the bank and are absconding, leading to a huge liability for the bank. Till the bank recovers this amount it would be considered as money lost for the bank. Besides this it would lead to lowering of dividend declared by the bank and this would impact all the shareholders of the bank. The bank would be over cautious in lending money. Over and above the strictures which are suggested by the central bank, they would impose additional ones so that they are not caught on the backfoot again. This further leads to tightening of credit by the bank and this would impact the economy as a whole.

### 5. Impact on the economy

As was seen in the above two cases, it was mainly nationalised banks that were involved in these scams. Majority of the banking in India is being undertaken by nationalized banks (75% of the credit in the Indian economy is from these banks). The dependency is in terms of the loans that are availed from them, indicating that the growth of GDP in the economy is dependent on the credit provided by these banks. If a large number of them are grappling with huge NPAs, the available finance to be loaned out reduces. Besides reduction, the increased stringent conditions that have been imposed on borrowers makes it even more difficult for businesses to flourish. This means that funds are borrowed at a very high rate of interest, putting pressure on the producer to produce higher amounts of profits. India provides a large amount of funding to the corporate sector from nationalized banks. Any stress on the balance sheet of the bank automatically impacts the corporate sector. Increasing NPAs leads to banks taking extremely cautious decisions in disbursement of credit to various borrowers. Thus reducing the extent of investment which further impacts the economy's GDP.

### 6. Corrective measures taken by

### 6.1 Government

The government has used the agencies under its control namely the enforcement directorate (ED), the Central bureau of investigation (CBI) as well as the income tax to recover the amount that had been siphoned off by the absconders. All three of them managed to escape Indian soil. The government is actively pursuing their extradition from various countries. The government is fighting legal cases in those countries and is working extremely hard in bringing them back to India. Most of their properties have been attached and auctioned to recover the funds they had siphoned off.

All of this required a lot of time and legal sanctions before the money was recovered. The absconders are trying to seek political asylum in the countries that they are hiding. The government is working with the country's government in question at a diplomatic and political level to help in bringing the absconders to book. The country in question is the United Kingdom for Vijay Mallya and Nirav modi and Antigua and Barbuda for Mehul Choksi.

### 6.2 Banks

The government directed the central bank (the RBI) to bring out rules and regulations which have to be followed strigintly, especially after the Nirav Modi, Vijay Mallya, and Mehul Choksi scam came to light. All transactions of the banks have to go through proper security checks and none of the banks can bypass any hierarchy of punching in the security of any transaction. As it goes through a number of people, if by chance there is a fraud it would be automatically detected. Responsibility of transactions were fixed, and any official who was found indulging in fraudulent measures would be suspended. The government/ RBI plugged the loopholes that existed in the Brady house branch of PNB and any branch of any other bank. The manner in which the Brady house branch of PNB was allowed transactions, without the SWIFT code, was effectively plugged. Banks were instructed that they should have frequent transfers of their employees, so that familiarity between the debtor and the official is not nurtured. Banks were only allowed to disperse funds if sufficient collateral existed. There had to be physical collateral of sufficient value that had to be given to the bank before a loan could be sanctioned. Brand value was not considered a collateral.

### 7. Conclusion

The scams that the Indian economy has witnessed in recent years have brought to light the lacuna in the banking system and especially in the nationalized banks. It has been an expensive learning curve as a lot of hard earned money has been siphoned off by a handful of influential businessmen. The result has been that the RBI is constantly on its toes to plug the loopholes that debtors take advantage off. But this is not the end as people will always find loopholes. Thus there is a cat and mouse game that is played between the authorities and the debtors. The authorities always have to be a few steps ahead to prevent such large scale siphoning of funds. The aim of the government is not only to recover the money but they also want to impose stringent punishment on the debtor so that it acts as a deterrent, and others think a hundred times before attempting a financial fraud. This is why the government is extremely keen to bring the absconders back to India.

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