Shepherding Valuation Profession

As compared to price discovered by the market, value estimated by a valuer is a more authentic reflection of worth of an asset. In a perfectly competitive market, price converges with value.

Market usually discovers price, which reflects the worth of an asset (or liability). It discovers different prices for the same asset in different contexts. Thus, price is not absolute; it is context specific. Often, it is neither feasible nor desirable to pass an asset through the market to discover its worth. In such cases, worth of an asset is estimated in a simulated context. The person who estimates the worth is valuer, the process of estimation is valuation and the worth so estimated is value. If value of an asset is what the price ought to be in the given context, the valuation is perfect.

A professional typically competes with co-professionals and at times, with professionals of other disciplines. With extensive use of artificial intelligence around, she competes with machines as well. Additionally, a valuer competes with market, the most powerful force on earth, to ascertain the worth of an asset. While market may discover a dirty price occasionally failing to reflect the accurate worth of an asset, a responsible valuer with capability and integrity always estimates an authentic value. If price converges with value in the simulated context, the price discovery is perfect.

A market economy needs valuations of assets to facilitate a variety of transactions. Different statutes and authorities in India require valuation of assets for different purposes and prescribe the manner of such valuation. For example, the corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016 envisages estimation of fair value and liquidation value of the assets of the corporate debtor. These values serve as reference for evaluation of choices, including liquidation, and selection of the choice that decides the fate of the corporate debtor and consequently of the stakeholders. In sync with the role of valuation in processes under the Code, the regulations assign valuation to a cadre of valuers registered under the Companies Act, 2013.

A valuer thus has an important responsibility. She must estimate value which is more authentic than price. She must possess the required capability and integrity for the job. This calls for an institutional framework comprising three key elements, namely, standards for valuation, development of profession, and regulation of profession of valuers. These three elements feed on one another in a virtuous circle. Building a cadre of competent and accountable valuers, therefore, requires work on all three fronts simultaneously.

Most jurisdictions require registration of individuals with the required qualification, usually a basic degree in the relevant discipline, and certain years of experience. Some also require pre-registration training and a screening examination, and post-registration continuing professional education. Valuers have voluntarily organised themselves into associations which promote their calling and prescribe valuation standards. Such associations and market offer a variety of courses and programmes to develop the capacity of would-be-valuers as well as practising valuers. They also regulate conduct of their valuer-members. There are thus 'n' associations in any jurisdiction and each such association has a unique model of developing and regulating the profession of valuers.

The valuation profession has a long history in India. I had the opportunity to address the 48th Indian Valuers Congress at Nagpur on 28th December, 2017, hosted by the Institution of Valuers established in 1968. There have been several attempts in the past to holistically institutionalise an arrangement that develops and regulates the profession of valuers who can estimate the value of an asset with full responsibility. It took a concrete shape with the enactment of the Companies Act, 2013. Section 247 of the Act originally provided that where valuation is required under the provisions of the Act, it shall be valued by a person having such qualifications and experience and registered as a valuer.

A reform succeeds if it is least disruptive and builds on the existing institutional framework. It was observed that there were several organisations engaged in development and regulation of valuation profession in the country and they had considerable expertise and experience which must be used. Further, it would be difficult to regulate valuers by direct registration with a central authority. Government, therefore, amended section 247 of the Companies Act, 2013 to provide that only a valuer member of a recognised valuer organization (RVO) would be registered with the authority. It designated the IBBI as the authority for this purpose and notified the Companies (Registered Valuers and Valuation) Rules, 2017 (Rules) to provide a comprehensive framework for development and regulation of the profession of valuers.

The IBBI, as the authority, recognises RVOs and registers valuers, and monitors their conduct and performance in accordance with the Rules. It publishes syllabus, format and frequency of the valuation examination for all three Asset Classes, namely, (a) Land and Building, (b) Plant and Machinery, and (c) Securities or Financial Assets, in consultation with the stakeholders. It conducts computer-based online valuation examinations every day from several locations across the country for all three Asset Classes. With effect from 1st February, 2019, every valuation required under the Companies Act, 2013 and the Insolvency and Bankruptcy Code, 2016 needs to be conducted by valuers registered with the authority.

The approach followed for regulation and development of the valuation profession is quite distinct as compared to other professions in the country. Only fit and proper persons are eligible for registration as valuers, given the responsibilities they discharge. For determining if a person is fit and proper, the IBBI considers various aspects, including (i) integrity, reputation and character, (ii) absence of convictions and restraint orders, and (iii) competence and financial solvency. Further, valuers are subject to a two-tier, regulated self-regulation where they are enrolled with an RVO as a member, and thereafter registered with the IBBI as a valuer. This combines the benefits of statutory regulation and self-regulation and promotes competition among the RVOs.

In the space of development of valuation profession, the RVOs compete with one another and also with the market. However, they are, alongwith IBBI, monopolist in the sphere of regulation of the profession, though they compete among themsleves. They must compete with one another to ensure that their members fetch a premium in the market over members of other RVOs.

Development and regulation are traditional responsibilities of the State. While discharging these responsibilities, the RVOs must conduct themselves as the State. They must exercise quasi-legislative, executive and quasi-judicial functions with independence and without intra-institutional bargaining and, thereby, avoid potential public law concerns. If they conduct well, their role and relevance would only increase over the time.

RVOs and valuers are being watched very closely by the stakeholders. Their action and conduct would determine the future of the profession. They have a collective responsibility to build and preserve the reputation of the fledgling profession. They must not allow a few undesirable elements to tarnish its reputation, as it is difficult to mend it once lost. They are uniquely positioned today to nurture the profession, with respect for values, to make the valuation profession the most valued profession.

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