Sebi can't find Sahara depositors, so change law to use this money to pay other hapless investors

Given how tough the Supreme Court (SC) has been with Sahara chairman Subroto Roy, chances are it will recover all the money it has asked the group to pay since the alternative is for Roy to go back to prison. Last week, SC gave Roy 15 days in which to deposit Rs 552 crore, failing which it would order the commencement of the auction process of Aamby Valley. The problem, however, as Mint points out, is that while Sahara may pay up all the money it collected from investors—two Sahara group firms had collected Rs 24,000 crore from 30 million investors—it is proving impossible to find these investors. According to Mint, while Sahara has already deposited Rs 11,798 crore so far—this has risen to Rs 14,487 crore thanks to the interest that has accrued on it—Sebi has managed to refund a mere Rs 85 crore to investors till the end of FY17; in FY15, a total of Rs 42 crore was repaid and this rose to Rs 55 crore according to Sebi's annual report for FY16. Under the circumstances, presumably the government will have to start investigating whether the deposits were, in fact, benami.

While doing so, the government should consider the possibility of using this money for repaying lakhs of investors who have lost their money in various dubious investment schemes such as Saradha and Rose Valley. Under normal circumstances, this cannot be done since the Sahara money has to be kept in an escrow account on the off-chance that a depositor, or an heir, turns up and claims the funds several decades later. But the government had, in the Companies Act, envisaged the possibility of investors not turning up to collect their dues. So, while companies are supposed to open 'unpaid dividend accounts' to deposit unclaimed dues, after a period of seven years of remaining unclaimed, these are to be transferred to the Investor Education and Protection Fund (IEPF) run by the central government—apart from unclaimed dividends, even unclaimed shares are to be transferred to this account.

While the IEPF is meant to pay for class action suits and other such expenses like investor education that is meant for the larger body of investors, if the amount in it gets truly large, chances are it will remain unutilised for the most part. In which case, the government must consider changing the law to say that, if seven years after money has accrued to (IEPF)—that is, after it has remained unclaimed for 14 years—it will be transferred to stranded investors on a pro rata basis; if there are investors with claims of Rs 500,000 crore and the fund has Rs 50,000 crore, each investor will get a tenth of their claims. Indeed, since the IEPF only applies to, right now, listed companies, an amendment should be made to include all investors including those in collective investment schemes such as Saradha. The way things are, right now, if the government is able to prove the deposits were benami, it will seize them—but rather than just seizing them and transferring the money to the general exchequer, it would be more meaningful if lakhs of small investors were able to get back some part of their life savings.