

LEGAL UPDATES

NCLT ORDERED APPROVAL OF RBI'S APPLICATION TO START THE INSOLVENCY PROCESS AGAINST RELIANCE CAPITAL

Reliance Capital Ltd.'s request for the start of a CIRP under Section 227, read with Section 239(2) (zk) of the IBC, was accepted by NCLT because there is a debt and default involving more than Rs. 1000 Cr.;

It was noted that -

- (i) Due to defaults to several creditors, RBI replaced the Respondents' Board of Directors and designated an Administrator, and

- (ii) There were no ongoing legal procedures against the administrator regarding an appeal of the appointment order.

A reference to Rule 5(a)(i) of the IB (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules (the "Rules") is made by NCLT in response to RBI's submission regarding the necessity of launching CIRP in light of the default committed and the public interest in the matter. *"...no CIRP shall be initiated against an FSP which has committed a default under section 4, except upon an application made by the appropriate regulator by rule 6 of the Rules. Sub-clause (ii) thereof specifies that an application under sub-clause (i) shall be dealt with in the same manner as an application by a financial creditor under section 7 of the Code."*

Taking note of the total amount of debt and the date of default, The Hon'ble NCLT declared that the petition is complete in all material respects as required by law, demonstrates the existence of debt and default as required by IBC Section 7, and emphasizes that the debt in question is a financial debt that exceeds the limit of Rs. 1 Cr. as specified by IBC Section 4(1).

As a result, after establishing the default and concluding that there is no justification to reject the petition, NCLT approved RBI's request to start the CIRP and ordered that the Administrator would be in charge of the Respondent during the CIRP term.