

LEGAL UPDATES

NCLAT: NCLT IS NOT OBLIGATED TO DEFER CIRP PROCEEDINGS IF LENDERS CONSIDERING A RESTRUCTURING PROPOSAL

An appeal was filed in NCLAT for the order given by NCLT for admitting the application filed by a financial Creditor (Respondent) against Corporate Debtor (Appellant) and initiating the Corporate Insolvency Resolution Process (CIRP). The issue was raised by the Suspended Director when he came to know about the default committed by Corporate Debtor, the application was complete and no disciplinary proceeding was conducted against RP. Justice Jarat Kumar Jain (Member – Judicial) and Dr. Ashok Kumar Mishra (Member – Technical) headed this appeal. The applicant argued that the debt was wrong and time-barred, the cause of action was improperly joined since the dates of default were different, and the monetary debt was not payable in fact or under the law. NCLAT made it clear that there is no such outline in Sec. 9 of IBC where more than one creditor can together file a joint application and thus the default dates could differ. NCLAT noted that the Financial Creditor (Respondent) sanctioned 3 types of loans, namely Working Capital Facility, Rupee Term Loan Facility I and Rupee Term Loan Facility II. In default case scenarios, the Creditor sent a loan recall or notice to the Debtor mentioning that his account was categorised as Non-Performing Asset (NPA). NCLAT further observed that only two installments were neither due nor payable. Earlier, installments were owed and payable but not paid by Corporate Debtor. The tribunal opined that it is not right to say that a corporate debtor has not made any default with respect to the aforementioned loans and therefore, debt is not payable. Thus, NCLAT upheld the order of NCLT.