

## LEGAL UPDATES

### **NCLAT: A LOAN GIVEN BY A CORPORATE DEBTOR'S FORMER DIRECTOR IS A 'FINANCIAL DEBT'**

The Chennai NCLAT bench, composed of Justice M. Venugopal and Shri. K. Narahari dismissed the order of NCLT which had rejected the application filed by the former director ('Appellant') u/s. 7 of IBC/Code which sought for the initiation of the CIRP against the corporate debtor contending that the Appellant's loan cannot be termed as a 'financial debt'. NCLAT directed the NCLT to admit the sec.7 application. The contentions of the appellant were (i) that the NCLT order was wrong and erroneous wherein the tribunal held that the debt reflected in the ledger cannot be termed as a 'financial debt', (ii) The books of accounts of the debtor indicated the outstanding dues of the Appellant of INR 4.10 Cr., (iii) Corporate debtor in reply to a legal notice from the appellant admitted the loan granted by Appellant and asked for some more time in order to repay the amount. The bench ruled that the 'financial debt' and 'default' being the essentials for admitting an application have been established by the appellant. Hence, the appellate authority ruled that NCLT opined a contrary view whereas they found loan by ex-directors cannot be treated as financial debt borrowed by the debtor while simultaneously holding that such borrowing can be reflected as a loan in the balance sheet of the appellant and such contrary view is invalid and untenable. The appellate tribunal observed that the debtor failed to honour the payment despite numerous assurances being made to the appellant by the debtor and the conversations between the parties establishes the fact that the debtor had admitted to their outstanding liability to repay the principal amount along with the interest. Thereby, in conclusion, the debt in question is indisputable and hence, the bench allowed the appeal.