Swift e-Bulletin

Swift e-Bulletin
Edition 17/21-22
Week – July 26th to July 30th

<u>Quote for the week:</u>

“Lead from the back – and let others believe they are in front”

-Nelson Mandela

Introduction

We welcome you to our weekly newsletter!

The ‘Swift e-Bulletin’ - weekly newsletter, covers all regulatory updates and critical judgements passed during the week. We hope that you liked our previous editions and found it to be of great value in its content. We want this newsletter to be valuable for you so, please share your feedback and suggestions to help us improve.

Further, various regulatory authorities have been proactive in bringing significant regulatory changes in recent challenging times. This week's newsletter covers various Circulars/notifications issued by certain regulatory authorities such as the Ministry of Corporate affairs ("**MCA**"), the Securities and Exchange Board of India ("**SEBI**") and the Insolvency and Bankruptcy Board of India ("**IBBI**"), and critical judgements and orders passed by the National Company Law Tribunal **("NCLT")**, National Company Law Appellate Tribunal **("NCLAT")** SEBI, High Court and Supreme Court.

The Regulatory authorities provided various updates/relaxations, some of which being:

- **MCA issues Clarification on spending of CSR funds for COVID-19 vaccination**

- **SEBI mandates Registrar and Transfer Agents of Mutual Funds ("RTAs") to implement inter operable platforms**

- **IBBI directs Insolvency Professional Agencies ("IPA") to amend their bye laws in respect to provisions regarding monetary penalty**

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements / orders issued during the week of July 26, 2021 to July 30, 2021.

Thank you,
Swift team

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REGULATORY UPDATES

MCA UPDATES

1. **MCA issues Clarification on spending of CSR funds for COVID-19 vaccination vide General Circular No 13/2021 dated July 30, 2021**

- The Ministry vide General Circular No. 10/2020 dated March 23, 2020 clarified that spending of CSR funds for COVID-19 is an eligible CSR activity.

- In continuation to the said circular, MCA has further clarified that spending of CSR funds for COVID-19 vaccination for persons other than the employees and their families, is an eligible CSR activity under item no. (i) of Schedule VII of the Companies Act, 2013 relating to promotion of health care including preventive health care and item no. (xii) relating to disaster management.

- The companies may undertake the aforesaid activity subject to fulfillment of Companies (CSR Policy) Rules, 2014 and the circulars related to CSR issued by this Ministry from time to time

To read the Circular, please click here.

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SEBI UPDATES

1. **SEBI mandates Registrar and Transfer Agents of Mutual Funds ("RTAs") to implement inter operable platforms vide Circular dated July 26, 2021**

- In order to make it more convenient for investors to transact and avail services while invested in Mutual Funds, SEBI pursuant to discussions with various stakeholders such as Association of Mutual Funds in India ("**AMFI**"), Depositories and the Registrar and Transfer Agents ("**RTAs**") have prescribed certain measure, some of which are as below:

    - *RTAs shall implement standardized practices, system interoperability amongst themselves to jointly develop a common industry wide platform that will deliver an integrated, harmonized, elevated experience to the investors.*
    - *Such platforms shall enable a user-friendly interface for investors for execution of mutual fund transactions, initiation and tracking of queries and complaints and access investment related reports etc. Investors will also be able to access these services for all Mutual Funds in an integrated manner.*
    - *The platform may also over time, provide services to the distributors, registered investment advisors, Asset Management Companies ("**AMCs**"), Stock Exchange platforms and digital platforms for transacting in mutual funds.*
    - *The Platform should be scalable with robust cyber security protocols and supported through an API-based architecture. The platform shall adopt the Cyber Security and Cyber Resilience framework specified by SEBI from time to time to Market Infrastructure Institutions ("**MIIs**") such as Stock Exchanges, Depositories and Clearing Corporations and "Qualified RTAs" ("**QRTAs**").*

- RTAs have been directed to make the aforesaid platform operational in a phased manner (starting with non-financial transactions) and that it should be fully operational by December 31, 2021.

    To read the Circular in detail, please click here.

2. **SEBI brings modifications in Deployment of unclaimed redemption and dividend amounts and Instant Access Facility in Overnight Funds vide Circular dated July 30, 2021**

- SEBI Circular dated October 6, 2017 has permitted overnight scheme under debt schemes category. Following modifications have been approved based on discussions with the industry representatives:

- ***Deployment of unclaimed redemption and dividend amounts:*** *In partial modification to SEBI Circular dated February 25, 2016, the following para shall be read as under:*

  Para A (1):

  a) "The unclaimed redemption and dividend amounts, that are currently allowed to be deployed only in call money market or money market instruments, shall also be allowed to be invested in a separate plan of only Overnight scheme / Liquid scheme / Money Market Mutual Fund scheme floated by Mutual Funds specifically for deployment of the unclaimed amounts. Provided that such schemes where the unclaimed redemption and dividend amounts are deployed shall be only those Overnight scheme/ Liquid scheme / Money Market Mutual Fund schemes which are placed in A-1 cell (Relatively Low Interest Rate Risk and Relatively Low Credit Risk) of Potential Risk Class matrix as per SEBI Circular dated June 07, 2021.

  b) AMCs shall not be permitted to charge any exit load in this plan and TER (Total Expense Ratio) of such plan shall be capped as per the TER of direct plan of such scheme or at 50bps whichever is lower."

- ***Instant Access Facility in Overnight Funds:*** *In partial modification to SEBI circular dated May 8, 2017, the following para shall be read as under:*

  Para A (b) (ii): "MFs/ Asset Management Companies (AMCs) can offer Instant Access Facility (IAF) only in Overnight and Liquid Schemes of the MF."

- All the Mutual Funds/AMCs are advised to comply with the changes referred above from December 01, 2021. Modifications to Instant Access Facility in Overnight Funds is applicable with immediate effect.

  To read the Circular, please click here.

3. SEBI issues clarification with respect to Intra-Day Net Asset Value (NAV) for transactions in units of Exchange Traded Funds directly with Asset Management Companies vide Circular dated July 30, 2021

- SEBI, vide Circular dated October 11, 2006 has prescribed guidelines for applicability of 'closing NAV of the day' in respect of transactions in units of mutual fund schemes.

- Based on the feedback received from industry transactions in units of Exchange Traded Funds (ETFs) by Authorized Participants / large investors directly with the Assent Management Companies ("**AMCs**"), 'closing NAV of the day' may not be relevant as these transactions are based on price at which the securities representing the underlying index or underlying commodity(ies), are purchased or sold.

- In line with the feedback and recommendations of the Mutual Fund Advisory Committee, SEBI has decided to clarify that for the above mentioned transactions, intra-day NAV, based on the executed price at which the securities representing the underlying index or underlying commodity(ies) are purchased / sold, shall be applicable.

- Appropriate disclosure in this regard shall be provided in the Scheme Information Document, Key Information Memorandum and Common application form.

  To read the Circular, please click here.

4. SEBI amends the SEBI (Infrastructure Investment Trusts) Regulations, 2014 vide Gazette Notification dated July 30, 2021.

- These regulations shall be called the SEBI (Infrastructure Investment Trusts) (Amendment) Regulations, 2021.

- Some of the changes that have been brought into effect vide this amendment are as follows:

  - *In Regulation 14 (issue of units and allotment) of Infrastructure Investment Trusts ("**InvIT**"), if any funds are raised by way of public issue the minimum subscription amount from any investor in initial or follow on offer shall now fall within the range of ten thousand rupees to fifteen thousand rupees from the earlier amount of one Lakh.*
  - *In Regulation 16 (Listing and Trading of units) in respect to listing of publicly offered units, the minimum trading lots for the purpose of trading of units on the designated stock exchange shall now be one unit rather than the earlier hundred units*
  - *In Regulation 26 B (Framework for Private Placement of Units of Invits which are not Listed a new sub section has been inserted whereby the minimum number of unit holders in an InvIT, other than the sponsor(s), its*
  - *related parties and its associates, shall be five, together and collectively holding at least twenty-five per cent of the total units of the InvIT, at all times*

To read the Gazette Notification in detail, please click here.

5. **SEBI amends the SEBI (Real Estate Investment Trusts) ("REIT") Regulations, 2014 vide Gazette Notification dated July 30, 2021**

- These regulations shall be called the SEBI (Real Estate Investment Trusts) (Amendment) Regulations, 2021.

- Some of the changes that have been brought into effect vide this amendment are as follows:

  - *In Regulation 14 (Issue and Allotments of Units) the minimum subscription from any investor in initial and/or public offer shall now fall in the range of ten thousand rupees to fifteen thousand rupees rather than the earlier amount of fifty thousand*
  - *In Regulation 16 (Listing and Trading of units) Trading lot for the purpose of trading of units of the REIT shall now be one unit rather than hundred units;*

To read the Gazette Notification in detail, please click here.

6. **SEBI amends the SEBI (Bankers to an Issue) Regulations, 1994 vide Gazette Notification dated July 30, 2021**

- These regulations shall be called the SEBI (Bankers to an Issue) (Amendment) Regulations, 2021.

- Some of the changes that have been brought into effect vide this amendment are as follows:

  - *A new definition has been introduced to define who is an banker to an issue and now other banks other than schedule banks can also be registered as an banker to an issue*
  - *In regulation 22 (Action on inspection or investigation report) The Board shall, after consideration of inspection or investigation report, take such action as it may deem fit and appropriate including action under Chapter V of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008*

To read the Gazette Notification in detail, please click here.

7. **SEBI issues relaxations in timelines for compliance with regulatory requirements vide Circular dated July 30, 2021**

- In view of the situation arising due to COVID-19 pandemic, lockdown imposed by the Government and representations received from Stock Exchanges, SEBI had earlier provided relaxations in timelines for compliance with various regulatory requirements by the trading members / clearing members/ depository participants, vide circular dated April 16, 2020, April 21, 2020 and April 24, 2020.

- Later, vide Circulars dated May 15, 2020, June 19, 2020, June 30, 2020, July 29, 2020, October 01, 2020, December 01, 2020, December 31, 2020, April 29, 2021 and June 30, 2021, timelines / period of exclusion were further extended for certain compliance requirements.

- SEBI has decided to further extend the timelines for compliance with the following regulatory requirements by the Trading Members / Clearing Members / KYC Registration Agencies, as mentioned in the table given in the circular.

  To read the Circular in detail, please click here.

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IBBI UPDATES

1. **IBBI amends Guidelines for Technical Standards for the Performance of core services and other services vide Notification dated July 26, 2021**

- These amendments shall be called the Guidelines for Technical Standards for the Performance of Core Services and Other Services (Amendment), 2021 and shall come into immediate effect.

- Some of the amendments notified are as follows:

  - *The amendment defines the term* ***Identity Details*** *which means C-KYC number in the Central KYC (****Know Your Customer****) (“****C-KYC****”) database maintained by Central Registry of Securitisation Asset Reconstruction and Security Interest of India (“****CERSAI****”) or identification number of any Officially Valid Documents (“****OVD****”) of a person who is resident of India.*
  - *A new term has been introduced know an OVD which shall include PAN, Passport, Driving License, Voter’s Identity Card and Aadhaar card.*
  - *In respect to the registration process it shall be completed with PAN (legal entity) and PAN or CKYC number (individual), in the absence of PAN or C-KYC number any other ID shall be used.*
  - *Under the Principle guidelines, in clause 2.2 henceforth Aadhaar number shall not be used as a Unique Identification Number (“****UIN****”).*

  To read the Notification in detail, please click here.

2. **IBBI directs Insolvency Professional Agencies (“IPA”) to amend their bye laws in respect to provisions regarding monetary penalty vide Circular dated July 28, 2021.**

- Under IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016, the Disciplinary Committee of an **IPA** may impose monetary penalty on its professional members.

- In relation to the aforesaid monetary penalties, it has been decided that an IPA shall amend its Bye-laws to provide for the maximum and minimum monetary penalty while imposing such penalties on its members as under:

SR NO	CONTRAVENTION	MONETARY PENALTY
1	Fails to submit disclosures, returns, etc. to IPAs or submits inadequate or incorrect disclosures, returns, etc., relating to any assignment, as required under the Code and Regulations made thereunder or Bye-laws of the IPA or called upon by the Board or the IPA.	Up to INR 1,00,000 or 25% of fee, whichever is higher, subject to a minimum INR 50,000
2	Accepts an assignment having conflict of interests with the stakeholders.	Up to INR 2,00,000 or 25% of fee, whichever is higher, subject to a minimum INR 1,00,000.
3	Fails to maintain records properly relating to any of his assignments.	Up to INR 1,00,000 or 25% of fee, whichever is higher, subject to a minimum INR 50,000.
4	Rejects a claim(s) without giving any proper reason while undertaking an assignment or fails to exercise due diligence in claim verification. Up to INR 2,00,000 or 25% of fee, whichever is higher, subject to a minimum 1,00,000.	Rejects a claim(s) without giving any proper reason while undertaking an assignment or fails to exercise due diligence in claim verification. Up to INR 2,00,000 or 25% of fee, whichever is higher, subject to a minimum INR 1,00,000.
5	Fails to comply with directions issued by Adjudicating Authority or the Appellant Tribunal.	Up to INR 2,00,000 or 25% of fee, whichever is higher, subject to a minimum INR 1,00,000
6	Outsources his duties and obligations.	Up to INR 2,00,000 or 25% of fee, whichever is higher, subject to a minimum INR 1,00,000.
7	Fails to appoint registered valuers, wherever required, under the Code or Regulations made thereunder, for conducting valuation.	Up to INR 2,00,000 or 25% of fee, whichever is higher, subject to a minimum INR 1,00,000.
8	Fails to supply the information called for or to comply with the requirements of information sought by the IPA, Board, Adjudicating	Up to INR 1,00,000 or 25% of fee, whichever is

	Authority or the Appellant Tribunal or does not cooperate with the inspection or investigating authority.	higher, subject to a minimum INR 50,000.
9	Fails to make public announcement in the manner provided for in the relevant Regulations	Up to INR 2,00,000 or 25% of fee, whichever is higher, subject to a minimum INR 1,00,000.
10	Fails to provide notice regarding meetings of creditors	Up to INR 1,00,000 or 25% of fee, whichever is higher, subject to a minimum INR 50,000.
11	Fails to reject resolution plan from ineligible resolution applicants	Up to INR 2,00,000 or 25% of fee, whichever is higher, subject to a minimum INR 1,00,000.
12	Fails to take action in respect of Preferential, Undervalued, Fraudulent or Extortionate transactions.	Up to INR 2,00,000 or 25% of fee, whichever is higher, subject to a minimum INR 1,00,000.
13	Enters into contract or agreement with professionals in an incomplete and improper manner.	Up to INR 1,00,000 or 25% of fee, whichever is higher, subject to a minimum INR 50,000.
14	Contravenes any provision of the Bye-laws, or Regulations for which no specific penalty has been provided.	Up to INR 1,00,000 or 25% of fee, whichever is higher, subject to a minimum INR 50,000.”

To read the Circular in detail, please click here.

NCLT

1. **National Company Law Tribunal allows the Restoration of M/s Dawar Builders Private Limited**

National Company Law Tribunal, Delhi and Haryana **("Tribunal")** accepted an appeal filed by the directors and shareholders of M/s. Dawar Builders Private Limited **("Appellant Company")** under section 252 of the Companies Act, 2013 **("the Act")** and allows the restoration of the Appellant Company.

The Appellant submitted that the Registrar of Companies Delhi and Haryana **("RoC")**, struck off the Appellant Company from the RoC due to default in statutory compliances and non-filing of financial statements and annual returns from long period thereby giving rise to the surmise that it was not carrying on any business operation for a for a long period of time in accordance with section 248 of the Act and had not filed application under section 455 of the Act for obtaining status of Dormant Company.

The learned counsel of Appellant Company submitted that the default in statutory compliance and non-filing of statutory returns was due to lack of professional advice on the same. Further, the Appellant Company did not receive any show cause notice from the Respondent nor any opportunity of being heard was given to explain the reason of the said default in statutory compliance and non-filing of statutory returns. In support of the said plea, the learned counsel of Appellant Company had placed before the Tribunal the copy sale deed, and copies of orders passed by various courts upon the Appellant Company as an evidence that the Appellant Company was acting as a going concern during the relevant period. He further affirmed that the Appellant Company now has all the remaining documents ready and prepared and is willing to file the same before the RoC, if so permitted by the Tribunal.

Based on facts presented, the Tribunal was satisfied that during the relevant period the Appellant Company was in fact in operation and passed the restoration order subject to their filing of all statutory returns for the defaulting years as required by law and completion of all formalities and on payment INR 25,000 /- to Prime Minister's Relief Fund.

To read the order in detail, please click here.

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NCLAT

1. **National Company Law Appellate Tribunal (NCLAT) New Delhi dismisses the appeal made ANR International Pvt. Ltd. (Corporate Debtor) under section 61 of Insolvency and Bankruptcy Code, 2016 (Code)**

An appeal was filed by the Corporate Debtor with NCLAT, New Delhi under Section 61 of the Code against the order dated April 19, 2021 passed by the 'Adjudicating Authority' (National Company Law Tribunal), New Delhi Bench. The Adjudicating Authority had initiated 'Corporate Insolvency Resolution Process' (CIRP) based on the observation that the 'Operational Creditor' has elaborately explained the faulty procedure followed by the Corporate Debtor in sending the invoices in a different company address, lack of proof of delivery of material, sending the material on a single day which is humanly impossible, using the cranes instead of trucks and offences committed by the 'Corporate Debtor' in the CGST Act which amounts to committing fraud on the Operational Creditor besides misleading the Tribunal.

The NCLAT gone through the submission made by Parties including the citations and observed that in this case there is no confirmation of counter claim of corporate debtor from operational creditor, even in the reply to the demand notice, it was unsupported by the invoices, delivery challans and GST payments. Truck Number – one of the consignment number is not correct and all the invoices and deliveries are of one day. Simply making GST payment cannot prove that they have supplied the material to the other side. The Corporate Debtor has never raised that they have due recoverable from the operational creditor prior to the issue of the reply to the demand notice.

Further the Corporate Debtor is a healthy company, not substantiated by the corresponding balance sheet of the company as they have not filed the same nor alone this cannot be a sole basis to substantiate that it does not require to go to CIRP. High turnover with positive net worth may reflect good fund flow but it does not substantiate a good cash flow. Hence the Corporate Debtor is unable to pay its debt which is legally due and default has occurred. Accordingly Corporate Debtor requires CIRP and Adjudicating Authority invoking provisions of code is in right spirit and appeal made was dismissed.

To read the order in detail, please click here

SEBI

1. **SEBI imposes penalty on M/s. ABT Investments (India) Private Limited ("Company") on account of failure to make disclosures under Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("LODR 2015")**

Securities and Exchange Board of India (**"SEBI"**) carried out an examination to ascertain compliance status of the Company, whose non-convertible debentures **("NCDs")** were listed on Bombay Stock Exchange **("BSE")** with relevant provisions of LODR 2015. During the examination SEBI Observed that various regulations of LODR 2015 were not complied which were applicable to company that has listed its NCDs on BSE.

The Adjudicating officer **("AO")** sent Show Cause Notice **("SCN")** to the Company stating the alleged violations of regulations under LODR 2015, against which the Company and Debenture Trustees submitted their comments/Responses. Considering which the AO granted the Company a personal hearing on the principles of natural justice. At the personal hearing, authorized representative of the Company submitted additional documents and explained their responses on the alleged violations.

The AO analyzed the provisions of the LODR 2015 and observed that Chapter III of LODR Regulations enumerates obligations which are common to all listed entities thus need to be complied by every listed entity and contention of the Company that "technical violations were not intentional and did not have any ultimate effect on the transaction in question, since the entire amount along with interest has been fully repaid" cannot be considered as disclosures under LODR 2015 are mandatory in nature and will attract penalty if non complied with. Aforesaid contention is also without any merit, because, all these factors are mitigating factors and these factors do not obliterate the obligation to make disclosures.

To read the order in detail, please click here

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HIGH COURT

1. **Delhi High Court refers dispute between Altrade Hospitality and VA Tech Ventures to Delhi International Arbitration Centre (DIAC)**

Altrade Hospitality private Limited	**Petitioner**
VA Tech Ventures Private Limited	**Respondent**

Date of Judgement: July 27, 2021

Petition filed by M/s Altrade Hospitality Private Limited, under Section 11 (5) and (6) of the Arbitration and Conciliation Act, 1996, seeking appointment of an arbitrator, in accordance with Clause 45 of the Office Service Agreement, was allowed and disposed off by the Delhi High Court as there has been no appearance on behalf of the respondent either on the last date of hearing and for current hearing.

Due to an arbitrable dispute which exists between the parties, and in view of the arbitration clause, the Court appoints an arbitrator under Section 11 (6) of the Arbitration and Conciliation Act, 1996. The Court thereafter referred the dispute between the parties to the Delhi International Arbitration Centre (DIAC) for appointment of an arbitrator to arbitrate thereon.

To read the Judgement in detail, please click here.

2. **Larsen & Toubro Limited files petition in grievance of erroneous interpretation of Section 28 of the Contract Act, 1872.**

Larsen & Toubro Limited & ANR.	**Petitioners**
Punjab National Bank and ANR.	**Respondents**

Date of Judgement: July 28, 2021

Writ Petition was filed by M/s Larsen & Toubro Limited which centers around the interpretation of Section 28 of the Indian Contract Act, 1872, where the grievance is based on an erroneous interpretation of Section 28 of the Contract Act, 1872, where the respondent bank forces a mandatory and an unalterable claim period of a minimum 12 months for the bank guarantee.

It is stated that the claim period is a time-period contractually agreed upon between the creditor and principal debtor, which provides a grace period beyond the validity period of the guarantee to make a demand on the bank for a default, which occurred during the validity period. This claim period may or may not even exist in a bank guarantee.

Para 15 of the writ petition shows that a claim period has been explained as a time-period contractually agreed between the creditor and the principal debtor which provides a grace period beyond the validity period of the guarantee to make a demand on the bank for a default which has occurred during the validity period. Further, Section 28 of the Contract Act does not deal with the said claim period, whereas it deals with right of the creditor to enforce his rights under the bank guarantee in case of refusal by the guarantor to pay before an appropriate court or tribunal.

The Court disposed of the present petition and all pending applications by stating that, the bank charges as prescribed by the Bank and the period for retention of security are matters of contract and the Court cannot interfere in such contractual matters especially as they are not contrary to any rules or regulations or stipulation framed by RBI. It may be noted that, no relief is sought by the petitioner pertaining to the bank charges to be charged by the banks or the duration for which the bank may seek to maintain collateral security

To read the Judgement in detail, please click here.

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SUPREME COURT

1. **Orator Marketing Private Limited preferred an appeal to the Supreme Court under Section 62 of the Insovency and Bankruptcy Code, 2016, against the final judgment and order of the National Company Law Appellate Tribunal (NCLAT), New Delhi.**

M/s. Orator Marketing Private Limited	**Appellant(s)**
M/s. Samtex Desinz Private Limited	**Respondent(s)**

Date of Judgement: July 26, 2021

M/s. Orator Marketing Private Limited, have filed an appeal to the Supreme Court under Section 62 of the Insolvency and Bankruptcy Code, 2016 **("IBC")**, preferred against the final judgment and order of the National Company Law Appellate Tribunal **("NCLAT")**, New Delhi. The NCLAT has been pleased to dismiss the appeal of the Appellant and confirmed the order of the Adjudicating Authority i.e., the National Company Law Tribunal **("NCLT")**, New Delhi. The NCLT had dismissed the petition filed by the Appellant under Section 7 of the IBC with the finding that the Appellant is not a financial creditor of the respondent, but an assignee of the debt in question.

The Original Lender, M/s. Sameer Sales Private Limited, had advanced term loan to the Corporate Debtor for a period of 2 years to enable the corporate debtor to meet its working capital requirement.

The Appellant had filed a petition under Section 7 of the IBC in the NCLT for initiation of the Corporate Resolution Process, for the loan which was due to be repaid by the Corporate Debtor, which was rejected by a judgement and order of the Adjudicating Authority.

The Supreme Court allowed the appeal by setting aside the judgement and order of the Adjudicating Authority by dismissing the petition filed under Section 7 of the IBC. It was further ordered that, the petition under Section 7 stands revived and may be decided afresh, in accordance with law and based upon the findings that had triggered for initiation of the Corporate Insolvency Resolution Process by a Financial Creditor under Section 7 of the IBC, which is the occurrence of a default by the Corporate Debtor.

The findings of the Supreme Court were truly based upon the interpretation of term 'Default', which means non-payment of debt in whole or part when the debt has become due and payable and debt means a liability or obligation in respect of a claim which is due from any person and includes financial debt and operational debt. Further the findings were based upon the definition of 'debt', which is also expansive and the same includes inter alia financial debt. And the definition of 'Financial Debt' in Section 5(8) of IBC, which does not expressly exclude an interest free loan. 'Financial Debt' would have to be construed to include interest free loans advanced to finance the business operations of a corporate body.

To read the Judgement in detail, please click here.

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