



17<sup>th</sup> April 2023 – Issue 404

***Reserve Bank of India vide circular dated April 03, 2023, has issued Master Circular on Bank Finance to Non-Banking Financial Companies (NBFCs)***

- RBI vide circular dated April 03, 2023, has issued Master Circular on Bank Finance to Non-Banking Financial Companies (NBFCs).
- The Master Circular is herein attached.

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***Securities Exchange board of India vide circular dated April 13, 2023, has issued Contribution by eligible Issuers of debt securities to the Settlement Guarantee Fund of the Limited Purpose Clearing Corporation for repo transactions in debt securities***

- SEBI vide circular dated April 13, 2023, has issued Contribution by eligible Issuers of debt securities to the Settlement Guarantee Fund of the Limited Purpose Clearing Corporation for repo transactions in debt securities.
- A well-functioning repo market contributes to the development of the debt securities market, inter alia, by way of boosting the liquidity of the underlying debt securities and providing a facility to market participants to monetize their debt holdings without selling the underlying, thus meeting their temporary need for funds. The development of an active repo market in debt securities may also be beneficial to the Issuers as the enhanced liquidity may positively impact the yield, thereby resulting in reduced costs of raising funds to the issuers in the primary market.
- A framework for upfront collection of amounts as charges from eligible issuers at the time of allotment of debt securities.



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- The provisions of this circular shall come into force for the offer documents filed on or after May 01, 2023, for private placement/ public issues of debt securities by such eligible issuers as specified by the LPCC.

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***Securities Exchange board of India vide circular dated April 17, 2023, has issued Dispute Resolution Mechanism for Limited Purpose Clearing Corporation (LPCC)***

- SEBI vide circular dated April 17, 2023, has issued Dispute Resolution Mechanism for Limited Purpose Clearing Corporation.
- LPCC shall adopt the dispute resolution mechanism for settlement of disputes or claims arising out of transactions cleared and settled by it as mentioned in the attached notification.

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**DATE OF DECLARATION OF NPA CANNOT BE IDENTIFIED AS A DATE OF DEFAULT WHEN SUBSEQUENTLY TIME HAS BEEN GIVEN FOR DISCHARGING LIABILITY: NCLAT CHENNAI**

The Hon'ble National Company Law Appellate Tribunal, Chennai Bench (NCLAT) comprising of members Justice M. Venugopal (Judicial Member) and Ms. Shreesha Merla (Technical Member) has held that a date of declaration of NPA of Corporate Debtor's loan account cannot be identified as the date of default when subsequently time has been given to the Corporate Debtor to discharge its liability.

**BRIEF FACTS OF CASE**

Air Travel Enterprises India Private Limited ("Corporate Debtor") had availed



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financial services from 3 financial institutions, one of them being, Union Bank of India (“Financial Creditor”). The Corporate Debtor had been servicing interest on the loan account up till the middle of 2017, subsequent to which the COVID-19 pandemic hampered the project site and the Corporate Debtor had to incur additional cost of INR 61.40 cr. The contention of the Corporate debtor was that the loan account was classified as NPA on 30.09.2015 and the Financial Creditor had only filed the Application under Section 7 on IBC on 30.09.2022, which is time barred. The Financial Creditor had contended that the Section 7 Application was maintainable as the Corporate Debtor had earlier challenged the order by which the Financial Creditor’s application was earlier admitted on 15.10.2020 and CIRP of Corporate Debtor was commenced. The Appellate Tribunal had set aside the order dated 15.10.2020 vide its Order dated 09.09.2021 and gave the Corporate debtor six months time to settle the amount, which was subsequently challenged before the Hon’ble Apex Court. The appeal before Apex Court was dismissed as withdrawn. The Financial Creditor submitted that despite sufficient time being given to the Corporate Debtor, the debt was not settled and in light of fresh cause of action, the Section 7 Application was maintainable.

#### **NCLT’S DECISION**

The NCLAT dismissed the petition and held that the date of NPA i.e. 30.09.2015 is not the actual date of default but the six months period granted vide Order dated 09.09.2021.

Case Title: ***Air Travel Enterprises India Limited & Anr.***

Case No: ***Comp.App. (AT)(CH)(Ins) No. 70 of 2023***



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