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Securities Exchange Board of India vide circular dated July 08, 2024, has introduced Streamlining of prudential norm for passive schemes regarding exposure to securities of group companies of the sponsor of Mutual Funds for ease of doing business

- SEBI vide circular dated July 08, 2024, has introduced Streamlining of prudential norm for passive schemes regarding exposure to securities of group companies of the sponsor of Mutual Funds for ease of doing business.
- It has been decided that Equity oriented ETFs and Index Funds, based on widely tracked and non-bespoke indices, can make investments in accordance with the weightage of the constituents of the underlying index. However, such investments shall be subject to an overall cap of 35% of net asset value of the scheme, in the group companies of the sponsor and Widely tracked and non-bespoke indices shall be indices that are tracked by passive funds or act as primary benchmark for actively managed funds with collective Assets under Management (AUM) of INR 20,000 Cr. and above.
- Passive schemes based on underlying indices, other than those indices mentioned at Annexure A of this circular, shall be rebalanced within 30 business days from the date of issuance of this circular.
- The circular is herein attached.

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Reserve Bank of India vide circular dated July 10, 2024, has issued amendments in Remittances to International Financial Services Centres (IFSCs) under the Liberalised Remittance Scheme (LRS)

- RBI vide circular dated July 10, 2024, has issued amendments in Remittances to International Financial Services Centres (IFSCs) under the Liberalised



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Remittance Scheme (LRS).

- It has been decided that Authorised Persons may facilitate remittances for all permissible purposes under LRS to IFSCs for:
 - i. Availing financial services or financial products as per the International Financial Services Centres Authority Act, 2019 within IFSCs; and
 - ii. All current or capital account transactions, in any other foreign jurisdiction (other than IFSCs) through an FCA held in IFSCs.
- For these permissible purposes, resident individuals can open Foreign Currency Account (FCA) in IFSCs.
- The circular is herein attached.

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THE DATE ON WHICH AN INTERIM MORATORIUM APPLICATION IS REGISTERED IS IMPERTINENT U/S 96 OF IBC, 2016: NCLAT PRINCIPAL BENCH

Overview and Brief Facts

In the matter of *Ms. Sangita Arora vs IFCI Ltd. and Anr.*, the Appellant, Ms. Sangita Arora filed an appeal before the NCLAT against the impugned order pronounced by NCLT on the grounds that the application to grant interim moratorium was filed by PNB Housing Finance Ltd. (“**PNBHFL**”) against the personal guarantor, which was registered on August 02, 2021 it stood complete and interim moratorium was enforced on such application, hence, no order could have been passed by the adjudicating authority in the application filed by Industrial Finance Corporation of India (“**IFCI**”).

The point of contention in this case is whether the filing of such application U/S 95 of IBC shall be treated from the date of e-filing or from the date such application is



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registered and numbered by the registry.

NCLAT Judgement

In the case at hand, the Appellant had entered into a Deed of Personal Guarantee in favour of IFCI to secure a Rupee Term Loan of corporate debtor, Supertech Limited. The corporate debtor defaulted on the payment of loan, post which, IFCI pulled back both the loans and the respective personal guarantees issued by the Appellant and a demand notice was served. Furthermore, IFCI moved an application before the NCLT on June 06, 2021, which was then registered on August 09, 2021 in order to initiate CIRP proceedings against the Appellant. To add to this, another creditor, PNBHFL turned in an application U/S 95 of IBC on July 24, 2021, as registered on August 02, 2021. Henceforth, the NCLT proclaimed the impugned order with reference to the application filed by IFCI by which the adjudicating authority had appointed a resolution professional to submit a report U/S 99 of IBC, 2016. The aggrieved party then moved the NCLAT against such order. That thereby, the NCLAT relied on its verdict in the case of *Krishan Kumar Basia Vs. State Bank of India (2022)* and opined that the IFCI had filed the application ahead of time and the mere fact that the application filed by PNBHFL was registered earlier is inconsequential and moratorium shall commence on such filing of the application by IFCI. That basing its opinion on the matter *Jeny Thankachan Vs. Union of India and Ors. (2023)*, the date of filing an application shall be ascertained in accordance with the Rules governing such filing of application under Section 95 of IBC, 2016.

Conclusion

In light of the judgement and the provisions of the Insolvency and Bankruptcy Code 2016, it is hence as plain as day that the timing of the filing of an application U/S 95 is crucial. The adjudicating authority will consider the application as valid from



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the date it is e-filed rather than merely the date it is registered. This principle was upheld in the case in question herein, where the NCLAT underlined the importance of procedural compliance with the IBC Rules. Therefore, under similar circumstances, **creditors must ensure that their applications are duly filed to benefit from the protections and proceedings under IBC, 2016.**

Case Title: Sangita Arora vs Ifci Ltd

Case No.: Company Appeal (AT) (Insolvency) No.1102 of 2024

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