



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

(Company formed by ICAI under Section 8 of the Companies Act 2013)

IBC Case Law Capsule

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**SMALL SCALE INDUSTRIAL MANUFACTURES ASSOCIATION (REGD.) VS UNION OF INDIA AND OTHERS.
WRIT PETITION (C) NO. 476 OF 2020 WITH ORS.
DATE OF JUDGMENT: MARCH 23, 2021 (SUPREME COURT)**

“What is best in the national economy and in what manner and to what extent the financial reliefs/ packages be formulated, offered and implemented is ultimately to be decided by the Government and RBI.”

Facts of the Case: -

This Petition has been filed by Petitioner under Article 32 of the Constitution of India against the notification of RBI for an appropriate writ, direction or order directing the respondents to take effective and remedial measures to redress the financial strain faced by the industrial sector, particularly MSMEs due to the Corona Virus Pandemic. The petitioner was not satisfied with the steps taken by the RBI vide notification dated 27.03.2020, regarding the Covid19 regulatory package notified insofar as the terms loans, working capital facilities and restructuring of stressed account is inadequate, ineffective and does not offer any substantial relief, aid or assistance to the industries particularly MSMEs. The Petitioner further mentioned regulatory package will not in any manner salvage the MSMEs and help them recover from financial losses that have been caused due to the unforeseen circumstances. The relief sought by the petitioners can be broadly bifurcated into four parts, waiver of compound interest during the moratorium period, waiver of total interest during moratorium period, extension of moratorium period and sector wise economic packages/reliefs.

Supreme Court's Observations: -

The Court stated that no Country can have unlimited resources to spend on any of its projects. That is why it only announces the financial reliefs/packages to the extent it is feasible. Whether



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the Court can consider waiver of interest during moratorium period or extension of same or sector-wise relief package and/or RBI should have issued directions which are sector specific and addressing such sector specific issues or the last date of invocation of resolution mechanism should be extended, are all in the realm of the policy decisions. Not only that, if such reliefs are granted, it would seriously affect the banking sectors and it would have far reaching financials implications on the economy of the country. The Court also stated that it is not normally within the domain of any court to weigh the pros and cons of the policy or to scrutinize it and test the degree of its beneficial or equitable disposition.

The Court dismissed the reliefs sought in petition and connected IAs for total waiver of interest during the moratorium period, to extend the period of moratorium, to extend the period for invocation of the resolution mechanism, to provide sector wise reliefs provide by the RBI, to provide further relief by the Central Government/RBI.

However, the court stated that there shall not be any charge of interest/penal interest for the period during the moratorium and any amount already recovered under the same shall be refunded to the concerned borrowers and to be given credit/adjusted in the next instalment of the loan account.

Order: -

The petition was disposed of by the Court stating that Circular of RBI shall be applicable to all the banks, nonbanking financial companies, housing finance companies and other financial institutions compulsorily and mandatorily.

Verdict- Appeal Dismissed