

IBC Sec 10A - As per Sec 10A, no IBC proceedings can be initiated against the Corporate Debtor for the default which has occurred between the period from 25/03/2020 till 24/03/2021, keeping in view of the extended period of Sec 10A - There exists a financial debt and the debt is in default - Date of default is 01.10.2020 as mentioned in the NESL Report - Petition, therefore, falls within the period of enforceability of Sec. 10A of IBC, 2016 - The proviso to the Section 10A of the IBC prescribes that no insolvency proceedings can ever be instituted against any entity whatsoever for the default caused/committed in the period between 25.03.2020 to 24.03.2021 - Petition is therefore liable to be dismissed - Further the FITL provided by the Financial Creditor was from the period of January, 2020 to September, 2020 - The default in the payment of interest on the Principal Amount is therefore from 01.10.2020.

Held further ,

.Further, the Corporate Debtor in its written submissions submitted the copies of a summary statement along with the ledger account and Bank Statement evidencing the opening of new loan accounts for refinancing the interest between 01.01.2020 to 31.08.2020. It is clearly reflected that the FITL provided by the Financial Creditor was from the period of January, 2020 to September, 2020. The default in the payment of interest on the Principal Amount is therefore from 01.10.2020 and not 01.01.2020 as the Financial Creditor himself had funded the interest on term loan to the Corporate Debtor from January, 2020 to September, 2020. The interest until the period of December,2019 has already been paid by the Corporate Debtor and the same is also reflected in the Bank Statement annexed on the page numbers mentioned hereinabove. Further, from the account statements of the 13 new loan accounts opened for the purpose of disbursing amounts under the FITL, amounts have been disbursed through 4 accounts, it is abundantly clear that the loan for FITL was disbursed on 01.09.2020 and the default is outstanding from the period commencing from 01.10.2020. Therefore, because of insertion of Sec 10A in IBC as mentioned above, this case is clearly attracted by the provisions of Sec 10A as the date of default in this case is 01/10/2020. As per Sec 10A, no IBC proceedings can be initiated against the Corporate Debtor for the default which has occurred between the period from 25/03/2020 till 24/03/2021, keeping in view of the extended period of Sec 10A, the application filed by the Operational Creditor against the Corporate Debtor cannot succeed and is hereby dismissed with a liberty granted to the Operational Creditor to pursue his case before the appropriate forum.

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