Between the lines...

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Key Highlights

I. NCLAT: Moratorium under Section 14 of Insolvency and Bankruptcy Code, 2016 is no bar for initiation of proceedings under Section 66 of the IBC.

The National Company Law Appellate Tribunal, Principal Bench, New Delhi ("**NCLAT**") has in its judgment dated August 4, 2022 in the matter of ***Rakesh Kumar Jain v. Jagdish Singh Nain and Others [Company Appeal (AT) (Ins.) No. 425 of 2022]*** held that the moratorium imposed under Section 14 (*Moratorium*) of the Insolvency and Bankruptcy Code, 2016 ("**IBC**") is not a bar for initiation of proceedings against the resolution professional of a company undergoing Corporate Insolvency Resolution Process ("**CIRP**") under Section 66 (*Fraudulent trading or wrongful trading*) of IBC.

Facts

Mr. Rakesh Kumar Jain ("**Appellant**") is the resolution professional of HBN Homes Colonizers Limited, a company undergoing CIRP. Mr. Jagdish Singh Nain ("**Respondent**") is the resolution professional of HBN Foods Limited, a company which is also undergoing CIRP.

Respondent had preferred an application bearing number IA/2844/2020 before the National Company Law Tribunal, New Delhi (**"NCLT"**) under Section 66, 68, 69, 70 and other relevant provisions of the IBC, whereby the Appellant was one of the respondents. In IA/2844/2020, Respondent had, inter alia, sought the reliefs as set out herein below:

"...

a. *Allow the present Application;*

b. *Declare the transactions entered by/with the Corporate Debtor with the Non-Applicants/ Respondent from the period 01.03.2013 and 21.10.2019 as sham and fraudulent transactions, therefore null and void;*

c. *Direct the respective Non-Applicants/Respondents to contribute to the assets of the Corporate Debtor in terms of Section 66 of the Code by reimbursing/refunding the amount with an interest @12% as mentioned in ANNEXURE A-4 (Colly) till the date of payment; ...*"

During the lockdown imposed on account of Covid-19 pandemic, the Appellant was served with a copy of IA/2844/2020, but he could not keep track of the aforesaid application and represent himself during the proceeding. By virtue of order dated July 13, 2021, the NCLT forfeited the right of the Appellant to file reply to the aforesaid application.

Thereafter, by virtue of order dated December 13, 2021, the NCLT allowed IA/2844/2020 and inter alia held that the respondents in IA/2844/2020 (including the Appellant herein) have misappropriated INR 2687.27 Lakhs and they are jointly and severally liable to make such contribution to the assets of HBN Foods Limited. The NCLT further directed Respondent to institute criminal prosecution against the respondents (including the Appellant herein) in IA/2844/2020 under Section 69 (*Punishment for transactions defrauding creditors*) of the IBC.

Aggrieved by the impugned order dated December 13, 2021 passed by the NCLT, the Appellant preferred an appeal before the NCLAT.

Issue

Whether the adjudicating authority is competent to pass order under Section 66 (*Fraudulent trading or wrongful trading*) of IBC during subsistence of moratorium under Section 14 (*Moratorium*) of IBC.

Arguments

Contentions raised by the Appellant:

The Appellant submitted that HBN Homes Colonizers Limited is undergoing CIRP and is under the protection of moratorium as envisaged under Section 14 (*Moratorium*) of the IBC. In view of the aforesaid, it was further submitted that no proceeding could be initiated against HBN Homes Colonizers Limited and hence, NCLT committed a serious error in passing the impugned order, inter alia, against HBN Homes Colonizers Limited in IA/2844/2020 filed under Section 66 (*Fraudulent trading or wrongful trading*) of the IBC, which is *ex-facie* erroneous and bad in law.

Contentions raised by the Respondent:

The Respondent contended that HBN Homes Colonizers Limited entered into fraudulent transactions which is against the interests of the creditors.

The Respondent further submitted that Section 14(1)(a) of the IBC has no application to the facts and circumstances of the present case, whereas Section 60(5) of the IBC provides for adjudication of issues pertaining to corporate debtor during the course of the CIRP or liquidation process. Hence, the Respondent contended that Section 14(1)(a) is not a bar to pass an appropriate order under Section 66 (*Fraudulent trading or wrongful trading*) of the IBC, and therefore, the impugned order passed by NCLT while exercising power under Section 60(5) of the IBC requires no interference.

Observations of the NCLAT

The NCLAT observed that the Appellant has not challenged the impugned order dated December 13, 2021 passed by the NCLT on merits, but has limited his contentions to the issue of legality of the order passed under Section 66 (*Fraudulent trading or wrongful trading*) of the IBC against a company which is undergoing CIRP and is under the protection of moratorium envisaged under Section 14 (*Moratorium*) of the IBC.

The NCLAT observed that Section 14(1)(a) of the IBC prohibits institution and continuation of adjudication of suits or proceedings including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority against the corporate debtor. However, it does not prohibit passing any order by the NCLT during CIRP or liquidation process against resolution professional and its suspended directors and related parties.

The NCLAT further observed that Section 66 of the IBC empowers the NCLT to pass appropriate orders in case of fraudulent transactions against the suspended board of directors or resolution professional and related parties.

The NCLAT further observed that the contention of the Appellant that, the prohibition under Section 14(1)(a) of the IBC is applicable to Section 66 of the IBC, cannot be accepted because these two provisions are independent of each other and incorporated for different purposes. Section 14 of the IBC is intended to prevent claims by third parties to realize an amount from the corporate debtor by execution of orders, decrees etc., whereas Section 66 of the IBC is intended to prevent fraudulent trading or business by the corporate debtor. In view thereof, the NCLAT observed that Section 14(1)(a) and Section 66 of the IBC should be construed harmoniously in order to give effect to the intendment of the IBC and to make it workable.

Hence, the NCLAT arrived at the conclusion that the contention raised by the Appellant that during the course of moratorium, the NCLT shall not pass any order under Section 66 of the IBC, is not sustainable. The NCLAT further observed that Section 60(5)(a) of IBC permits the NCLT to pass any order on any application or proceeding by or against the corporate debtor or corporate person notwithstanding anything to the contrary contained in any other law for the time being in force.

Decision of the NCLAT

The NCLAT held that the impugned order dated December 13, 2021 passed by the NCLT deserves no interference and the appeal is liable to be dismissed.

VA View:

The NCLAT has rightly held that upon a harmonious construction of Section 14(1)(a), Section 60(5) and Section 66 of the IBC, it can be inferred that NCLT is not precluded from passing an appropriate order or direction under Section 66 of the IBC against a company undergoing CIRP since the protection of moratorium does not apply to an application filed before NCLT under Section 60(5) of the IBC with allegations of fraudulent transactions in terms of Section 66 of the IBC.

This judgment will provide much needed clarity in adjudication of many such applications pertaining to fraudulent avoidance transactions filed by the resolution professional or liquidator of a company against another company or its resolution professional or liquidator which other company is also undergoing the CIRP or liquidation process under the relevant provisions of the IBC.

II. NCLAT: Re-agitating an issue which has attained finality is an abuse of the process of law.

The National Company Law Appellate Tribunal ("**NCLAT**"), in ***Vikas Dahiya v. Arrow Engineering Limited [Company Appeal (AT)(Insolvency) No. 699 of 2022]*** ("**Appeal No. 699 of 2022**") and ***Oval Investment Private Limited v. Arrow Engineering Limited [Company Appeal (AT)(Insolvency) No. 812 of 2022]*** ("**Appeal No. 812 of 2022**"), held that re-agitating an issue which has attained finality is an abuse of the process of law.

Facts

Vikas Dahiya, the Appellant in Appeal No. 699 of 2022 ("**Appellant No. 1**") is an ex-director of Golden Tobacco Limited (**"Corporate Debtor"**) and Oval Investment Private Limited, the Appellant in Appeal No. 812 of 2022 ("**Appellant No. 2**") is claiming to be shareholder of the Corporate Debtor (collectively, "**Appellants**").

Arrow Engineering Limited ("**Financial Creditor**") filed an application bearing number 268 of 2020 before the National Company Law Tribunal, Ahmedabad ("**NCLT**") to initiate Corporate Insolvency Resolution Process ("**CIRP**") of the Corporate Debtor under Section 7 of Insolvency and Bankruptcy Act, 2016 ("**IBC**"). The aforesaid application was dismissed by the NCLT by order dated January 25, 2021 on various grounds.

Aggrieved by the order dated January 25, 2021 passed by the NCLT, the Financial Creditor preferred an appeal bearing number 183 of 2021 ("**First Appeal**") before the NCLAT. By way of order dated December 2, 2021, the NCLAT set aside the aforesaid order of the NCLT dated January 25, 2021, and directed the NCLT to pass consequential orders including the order of moratorium within one month from the date of copy of the NCLAT order being produced before the NCLT, during which period it would be open to the parties to endeavour to enter into settlement.

Aggrieved by the order dated December 2, 2021 passed by the NCLAT, the Appellant No. 1 preferred a civil appeal bearing number 7715 of 2021 before the Supreme Court ("**SC**"). By order dated May 5, 2022, SC dismissed the appeal and declined to interfere with the order dated December 2, 2021 passed by the NCLAT.

Thereafter, the Financial Creditor approached the NCLT by way of filing an application bearing number 830 of 2021, thereby praying for initiation of CIRP of the Corporate Debtor, in light of the above-mentioned order dated May 5, 2022 passed by the SC. By way of order dated June 7, 2022, the NCLT allowed the commencement of CIRP of the Corporate Debtor and appointed an Interim Resolution Professional ("**IRP**") namely Mr. Vichitra Narayan to carry out the CIRP of the Corporate Debtor.

Aggrieved by the aforesaid order dated June 7, 2022 passed by the NCLT, the Appellants filed Appeal No. 699 of 2022 and Appeal No. 812 of 2022 before the NCLAT, which were decided by a common order dated August 5, 2022.

Issues

i. Whether the Appellants in both the appeals, that is, Appeal No. 699 of 2022 and Appeal No. 812 of 2022 are competent to challenge the order dated June 7, 2022 passed by the NCLT when the findings recorded by the NCLAT by order dated December 2, 2021 in the First Appeal had attained finality in view of the judgment passed by the SC.

ii. Whether the order passed by the NCLT suffers from any illegality or irregularity warranting interference of the NCLAT while exercising power under Section 61 of the IBC. If so, whether the order passed by the NCLT in I.A. No. 830 of 2021 commencing CIRP of the Corporate Debtor is liable to be set aside.

Arguments

Contentions raised by the Appellants:

The Appellants contended that the order of the NCLT is silent as to the pleas raised by the Appellants regarding relationship of the Financial Creditor and Corporate Debtor, limitation and acknowledgement of any debt, etc. In absence of any specific findings on the issues raised by the Appellant No. 1 in the Appeal No. 699 of 2022, the order passed by the NCLT is *ex facie* erroneous.

It was also contended that a civil appeal was preferred before the SC, only challenging the order of remand and not against the findings recorded by the NCLAT in the First Appeal. Therefore, the question of application of principle of *res judicata* does not arise.

Specific contention of the Appellants was that there was no operational or financial debt and the claim of the Financial Creditor does not fall within the definition of 'financial creditor' or 'financial debt' as defined under sections 5(7) and 5(8) of the IBC respectively. The Appellants also contended that there was no acknowledgment of debt and statement of accounts, particularly, balance sheet of the Corporate Debtor mentioning debt of the Financial Creditor does not amount to acknowledgment of debt. These aspects were not considered in detail by the NCLT and it simply passed an order admitting application under Section 7 of IBC and appointing the IRP to carry out the CIRP of the Corporate Debtor. Therefore, the Appellants contended that the admission of application of Financial Creditor is illegal and requested to set aside the same.

The Appellants contended that in the absence of any findings recorded by the NCLT as to the subsisting legally enforceable Financial Debt and its acknowledgment by the Appellants herein, the order is illegal. Apart from that, the adjudicating authority did not consider the question of limitation. Therefore, the order of the adjudicating authority is *ex facie* erroneous and deserves to be set aside.

The Appellant No. 2 in Appeal No. 812 of 2022 contended that the Appellant No. 2 is a shareholder of the Corporate Debtor and merely because there is no appeal against the findings of the NCLAT, the Appellant No. 2 is not debarred from challenging the legality of the order as it would seriously affect the rights of the shareholder in the Corporate Debtor. It was further contended that as the Appellant No. 2 was not a party to the First Appeal and before the SC, the Appellant No. 2 is entitled to assail the findings recorded by the NCLT by filing an appeal under Section 61 of IBC in collateral or incidental proceedings. The judgment in an application for initiation of insolvency resolution process is a judgment-in-rem and the third party whose interests are affected may file appeal at any time.

In the written submissions, the Appellant No. 1 contended that application under Section 7 of the IBC is not maintainable as the debt cannot be construed as financial debt as defined under Section 5(8) of IBC. The basis for this contention is that the MOU was signed by the Corporate Debtor and the Financial Creditor which clearly states that there was an arrangement between the Corporate Debtor and Financial Creditor to carry on joint venture and development of project, while the Corporate Debtor agreed to provide land to the Financial Creditor who was to provide financial assistance for the development of project. There was no relationship between the Corporate Debtor and Financial Creditor and in the absence of proof that the debt due was a financial debt, as defined in Section 5(8) of IBC, the application is not maintainable.

Contentions raised by the Financial Creditor:

The Financial Creditor contended that the NCLAT recorded its findings and considering that all contentions raised in the First Appeal were answered and the order attained finality in view of the judgment of the SC, the Appellants are debarred from raising similar contention which attained finality.

Observations of the NCLAT

The Appellant No. 1 in the earlier round, contested the application before the NCLT, which after considering entire material, dismissed the application filed by the Financial Creditor. The same was assailed in the First Appeal, where the NCLAT reversed the order passed by the NCLT and allowed the appeal, thereby directing the NCLT to initiate CIRP of the Corporate Debtor, appoint IRP and impose moratorium. The order of the First Appeal attained finality in view of the judgment delivered by the SC. The NCLAT recorded its findings as to the acknowledgment of debt and concluded that the debt due to the Financial Creditor, that is, the Respondent No. 1 in both the present Appeals, is a financial debt within the

meaning of Section 5(8) of the IBC and the claim of the Financial Creditor is within limitation and that the default is within the period of limitation. These findings were assailed by an appeal before the SC and the SC affirmed the judgment of the NCLAT.

The judgment of the NCLAT in the First Appeal cannot be held to be erroneous as the same was affirmed by the SC. If, for any reason the judgment of the NCLAT in the First Appeal is held to be erroneous, it would amount to reviewing not only the judgment of the NCLAT but also the judgment of the SC. The NCLAT is incompetent to exercise a jurisdiction to review its own judgment or judgement of the SC. Hence, the NCLAT is unable to accede to the request of the Appellants.

The NCLAT referred to the judgment in ***Satyadhyan Ghosal v. Deorajin Debi [(1960) 3 SCR 590]***. In view of the principle laid down in the aforesaid judgment, it was observed that the doctrine of *res judicata* is applicable even to the proceedings under the IBC and challenge to the findings in incidental or collateral proceedings amounts to an abuse of process of Court. In any view of the matter, when the Appellant No. 1 raised a specific ground before the NCLT and before the NCLAT in the First Appeal, then raising similar grounds again against the order passed by the NCLAT in the First Appeal and subsequently affirmed by the SC, is nothing but an abuse of process of Court.

The Appellant No. 1 contended that the appeal before the SC only challenged the order of remand to the NCLT passed by the NCLAT in the First Appeal. However, the NCLAT observed that, assuming that such was the case, still the findings recorded by the NCLAT on various other contentions raised by the Appellant No. 1 became final. In fact, the Appellant No. 1 did not place on record the grounds of appeal before the SC and in absence of the appeal grounds, the NCLAT has no other alternative except to reject the contention that the Appellant No. 1 only challenged the remand order.

Decision of the NCLAT

The NCLAT held that the contentions of the Appellants were liable to be rejected. The findings recorded by the NCLAT in the First Appeal attained finality. Those findings cannot be challenged in incidental or collateral proceedings. The claim of Appellants is hit by doctrine of *res judicata* and abuse of process of law, as the NCLAT had adverted to all the contentions of both the parties and recorded specific findings.

VA View:

This judgment will provide much needed clarity in adjudication of similar litigations before the adjudicating authority that the doctrine of res *judicata* is not merely a technical doctrine confined to the procedural laws, that is, the Code of Civil Procedure, 1908; but it is a fundamental doctrine that all Courts should follow so as to put an end to litigations.

It is in immense public interest that the Appellate Authority, that is, the NCLAT, has reiterated that re-agitating an issue which has attained finality is an abuse of the process of law.

III. NCLT: Section 14 of the Insolvency and Bankruptcy Code does not differentiate between assessment, quasi-judicial or judicial proceedings.

The National Company Law Tribunal, Mumbai ("**NCLT/ Adjudicating Authority**") has in its judgement dated July 29, 2022 ("**Judgement**"), in the matter of ***M/S Ravi Infrastructure and Projects v. KSS Petron Private Limited [CP (IB) 1202/MB/C-II/2017]*** held that Section 14 (*Moratorium*) of the Insolvency and Bankruptcy Code, 2016 ("**IBC**") does not differentiate between assessment, quasi-judicial or judicial proceedings and moratorium is imposed on all proceedings irrespective of its nature.

Facts

M/s Ravi Infrastructure and Projects ("**Operational Creditor**") had filed a petition under Section 9 (*Application for initiation of corporate insolvency resolution process by operational creditor*) of the IBC seeking initiation of Corporate Insolvency Resolution Process ("**CIRP**") against KSS Petron Private Limited ("**Corporate Debtor**"). Admitting the petition of the Operational Creditor, the Adjudicating Authority initiated CIRP against the Corporate Debtor in its order dated August 1, 2017, and a moratorium was imposed under Section 14 (*Moratorium*) of the IBC.

Thereafter, pursuant to issuance of the resolution professional's public announcement, the Assistant Provident Fund Commissioner and Recovery Officer and the Regional Provident Fund Commissioner ("**Respondent**") submitted its claim on June 22, 2018 for an amount INR 47,25,682/- for the period from March 2012 to October 2015 and June 2015 to March 2017. The resolution professional admitted the claim of the Respondent under the list of creditors of the Corporate Debtor.

Subsequently, the Respondent initiated inquiry under Section 7A (*Determination of moneys due from employers*) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ("**EPF Act**") based on a report prepared by an enforcement officer. The said inquiry was initiated through notice dated January 30, 2019 for the period from April 2015 to December 2018.

Despite being informed of the pendency of the CIRP against the Corporate Debtor and imposition of moratorium by the resolution professional, the Respondent continued its proceeding and issued summons on June 04, 2019 and July 02, 2019 under Section 7A (*Determination of moneys due from employers*) and 14B (*Power to recover damages*) of the EPF Act. In the meanwhile, the Adjudicating Authority had passed an order for liquidation of the Corporate Debtor on June 28, 2019.

Thereafter, the Respondent had passed orders dated July 05, 2019 ("**Orders**") under:

1. Section 7A (*Determination of moneys due from employers*) of the EPF Act demanding a payment to the tune of INR 14,40,58,888/-;

2. Section 7Q (*Interest payable by the employer*) of the EPF Act demanding a payment to the tune of INR 6,43,84,526/- towards interest component; and

3. Section 14B (*Power to recover damages*) of the EPF Act demanding a payment to the tune of INR 13,02,25,964/- towards damages and penalty.

The Respondent also issued notices dated June 28, 2020 and July 7, 2020 seeking recovery of the amounts mentioned in the Orders ("**Recovery Notices**").

On account of the foregoing, Mr. Vineet K. Chaudhary, the liquidator of the Corporate Debtor ("**Applicant**") preferred an application challenging the Recovery Notices and the Orders passed by the Respondents.

Issue

Whether Section 14 (*Moratorium*) of the IBC differentiates between assessment, quasi-judicial or judicial proceedings.

Arguments

Contentions raised by the Applicant:

The Applicant submitted that the Orders and Recovery Notices have been passed in violation of the moratorium imposed under Section 14 (*Moratorium*) of the IBC.

In order to support its submissions, the Applicant relied on the following judgements:

1. ***Anand Rao Korada v. Varsha Fabrics Private Limited and Others [AIR 2020 SC 222]*** wherein the Hon'ble Supreme Court ("**SC**") rejected the orders passed by the Hon'ble High Court of Odisha which had directed for carrying out auction of assets of the corporate debtor during moratorium.

2. ***Dewan Housing Finance Limited v. SEBI [Appeal No. 206 of 2020]***, wherein the learned Securities Appellate Tribunal, Mumbai while quashing the show cause notice and assessment orders which were issued after moratorium, had held that where a moratorium had been declared under Section 14 (*Moratorium*) of the IBC, the Securities and Exchange Board of India (being the authority in the said matter) would have no jurisdiction to institute any proceedings.

The Applicant further contended that the Respondent had failed to provide details such as names and provident fund numbers of the employees and workmen in respect of whom the alleged provident fund dues were being claimed. The Applicant had also averred that in absence of details of identified employees and workmen, no dues could exist.

Lastly, the Applicant urged that no claims had been submitted by the Employee Provident Fund ("**EPF"**) authorities towards claiming any dues under the EPF Act and that in the event of any claims being submitted by such authority, the Applicant would deal with it in accordance with the provisions of the IBC and the law enunciated by the Courts.

Contentions raised by the Respondent:

The Respondent countered the application made by the Applicant that challenged the Recovery Notices and the Orders, by submitting that determination of the amounts of provident fund dues are assessment proceedings and are not barred under Section 14 (*Moratorium*) of the IBC. It is only on completion of the said assessment proceedings that a claim can be filed under the provisions of the IBC.

It was further submitted that the dues of the Respondent were required to be paid in priority over all dues provided under Section 11 (*Priority of payment of contributions over other debts*) of the EPF Act, as the said dues are excluded from the liquidation estate under Section 36 (*Exclusions to liquidation estate assets*) of IBC.

Moreover, the dues claimed by the Respondent were social welfare dues and actions have been taken for the benefit of the employees and workmen.

Observations of the NCLT

The NCLT observed that the purpose of imposition of a moratorium had been expounded in the case of ***P. Mohanraj and Others v. Shah Brothers Ispat Private Limited [Civil Appeal No.10355 Of 2018]*** ("**Mohanraj Case**"), wherein the SC had held that moratorium is imposed to shield the corporate debtor from pecuniary attacks to enable it to get a breathing space so that it can continue as a going concern to ultimately rehabilitate itself.

Section 14 (*Moratorium*) of IBC imposes complete prohibition on the institution of suits or continuation of proceedings against the corporate debtor, including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority.

The NCLT further observed that Section 14 (*Moratorium*) of the IBC does not differentiate between any proceedings, whether they are assessment, quasi-judicial or judicial in nature. In fact, a moratorium is imposed on all proceedings irrespective of the nature.

In the instant case, the proceedings initiated by the Respondent are not mere assessment proceedings but legal proceedings. The initiation of proceedings by the Respondent would entail imposition of a pecuniary liability on the corporate debtor and that is exactly what is prohibited by the IBC.

Moreover, claims during CIRP are required to be filed within fourteen (14) days from the date of appointment of the interim resolution professional in terms of Regulation 6 (*Public Announcement*) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. Thus, a claim which is not alive on the insolvency commencement date, cannot indirectly be permitted to be ascertained, as it would lead to numerous proceedings against the corporate debtor which would in turn frustrate the object of the IBC and the completion of the CIRP in time.

The NCLT further observed that the Applicant had rightly pointed out that the Respondent had passed Orders in haste without identifying the name of any employee or workman in respect of whom the alleged provident fund dues were being claimed.

Decision of the Supreme Court

In view of entirety of the foregoing, the NCLT set aside the Orders passed by the Respondent as the said Orders were in violation of the moratorium imposed under Section 14 (*Moratorium*) of the IBC. Consequently, the Recovery Notices that sought recovery of the amounts mentioned in the said Orders were also set aside.

The NCLT further held that setting aside of the Orders passed by the Respondent would not curb employees or workmen from filing their respective claims, if any, with the Applicant under the provisions of the IBC, in respect of dues towards provident fund, pension fund and gratuity fund and that the Applicant would be duty bound to prioritize the payments of the social welfare dues.

VA View:

Through this Judgement, the NCLT examined the legality of the Orders and Recovery Notices issued by the Respondent and if the said Orders and Recovery Notices were issued in breach of moratorium period under Section 14 of the IBC.

The Judgment upheld the view laid down in the Mohanraj Case, wherein the SC held that "*...While section 14(1)(a) refers to monetary liabilities of the corporate debtor, Section 14(1)(b) refers to the corporate debtor's assets, and together, these two clauses form a scheme which shields the corporate debtor form pecuniary attacks against it in the moratorium period so that the corporate debtor gets breathing space to continue as a going concern in order to ultimately rehabilitate itself. Any crack in this shield is bound to have adverse consequences, given the object of Section 14, and cannot, by any process of interpretation, be allowed to occur.*"

Therefore, the principle emerging from this Judgement is that Section 14 of the IBC does not differentiate between assessment, quasi-judicial or judicial proceedings and moratorium is imposed on all proceedings irrespective of its nature.

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