

Investments or advances made with an element of commercial return satisfy the test of "time value of money" and qualify as financial debt under IBC

The NCLT New Delhi in the case of **Kaliber Associates Pvt Ltd vs J.R. Modi Associates Pvt Ltd [Company Petition No. (IB)-1122(ND)/2020]** dated July 10, 2025, has held that investments or advances made with an element of commercial return or benefit satisfy the test of "time value of money" and qualify as financial debt under the Insolvency and Bankruptcy Code, 2016 (IBC).

Thus, when the amount disbursed by the Applicant to the Corporate Debtor (CD) as an advance against property squarely falls within the ambit of "financial debt" as defined under Section 5(8)(f) of the IBC, as the transaction bears the commercial effect of borrowing, the NCLT observed that the Applicant qualifies as a "Financial Creditor" under Section 5(7) of the IBC.

Since the documents establish the existence of a financial debt, as well as the default committed by the CD in repayment thereof, the NCLT admitted the application filed u/s 7 of the IBC seeking initiation of the CIRP against the CD.

The NCLT referred to the submission of the respondent that it has never availed any loan facility from the financial creditor, and no agreement was signed between them concerning any loan, and also as per the audited accounts, there is an advance against property, which has been received by it at arm's length price for the transfer of property. For such submission, the NCLT observed that the disbursement is not disputed and rather it has been acknowledged by the CD in the financial statements. Therefore, referring to the decision of the Supreme Court in the case of *M/s Orator Marketing Pvt Ltd. vs M/s Samtex Desinz Pvt Ltd. [Civil Appeal No. 2231 of 2021]*, the NCLT reiterated that even an interest-free advance can qualify as financial debt if the transaction bears the commercial effect of borrowing.