

Deposits accepted by the company under the Companies Act shall be considered as Financial Debt under the IBC: NCLAT

CASE TITLE	Sh. Satish Chand Gupta v. Servel India Private Limited ¹
CASE CITATION	Company Appeal (AT) (Insolvency) No. 502 of 2020
DATE OF ORDER	29.01.2021
COURT/TRIBUNAL	NCLAT, New Delhi
CASES REFERRED	<i>Sanjay Kewalramani' V. 'Sunil ParamanandKewalramani&Ors. ShaileshSangani v. Joel Gardoso&Anr</i>
SECTION/REGULATION REFERRED	Section 5(7), 7of IBC

Brief of the case:

An appeal was filed against the impugned order of NCLT, New Delhi on the ground his claim was that of a 'Deposit' and not of a 'Financial Debt' was never brought out by either the Respondent or the Adjudicating Authority as such. The version of the Appellant was that merely because an amount is described as 'Deposit', it will not be excluded from the definition of 'Financial Debt' per se.

Decision:

Hon'ble NCLAT allowed the appeal and held that,

"The term deposit includes any receipt of money by a company either as deposit or loan or in any other form by it, the meaning of Deposit is enlarged by covering receipts of money in any other form and after all, a deposit is something more than a mere loan of money.

... this Tribunal comes to an inevitable and inescapable conclusion that the Appellant's status is that of a 'Financial Creditor' as per Section 5(7) read with Section 5(8) of the Code and that there is a default in payment of the accepted amounts by the Respondent/CD and in short, the Respondent / Corporate Debtor comes within the purview of the definition of 'Financial Debt'"



QR CODE FOR FULL ORDER/JUDGEMENT:

¹<https://ibbi.gov.in/uploads/order/519b916b9cba0811e58a583cf9fedfea.pdf>