

**“Judgments and observations in judgments are not to be read as provisions of statute”;**

**SC dismisses review plea against Vidarbha Industries judgement which held NCLT to admit CIRP discretionary.**

<b>CASE TITLE</b>	Axis Bank Limited Vs. Vidarbha Industries Power Limited <sup>1</sup>
<b>CASE CITATION</b>	REVIEW PETITION (CIVIL) NO. 1043 OF 2022
<b>SECTIONS/ REGULATION</b>	Section 7 IBC
<b>DATE OF ORDER</b>	22.09.2022
<b>COURT/ TRIBUNAL</b>	Supreme Court
<b>CASE LAW REFERRED</b>	• E.S. Krishnamurthy & Ors. vs. Bharath Hi-Tech Builders Pvt. Ltd.

**Brief of the case:**

The Apex Court on July 12, 2022 had held that Section 7(5)(a) of IBC conferred a discretionary power on the adjudicating authority to admit an application for initiation of CIRP and such power is required to be exercised with caution. The ruling also held that loan defaults will have to be assessed to check if it was due to genuine business reasons or contingencies such as pending litigation. It had ruled that *“Based upon its decision, the adjudicating authority must then either admit or reject an application, respectively. These are the only two courses of action which are open to the adjudicating authority in accordance with Section 7(5). The adjudicating authority cannot compel a party to the proceedings before it to settle a dispute.”* Axis Bank filed this review petition challenging the judgement passed by the same bench.

**Decision:**

The Hon’ble Apex Court was of the view that the observations made in the Vidarbha judgment were in the context of facts of the case and should not be interpreted as the words of statute itself.

Hon’ble Supreme Court dismissed the review application and held that,

*“It is well settled that judgments and observations in judgments are not to be read as provisions of statute. Judicial utterances and/or pronouncements are in the setting of the facts of a particular case.*

*To interpret words and provisions of a statute, it may become necessary for the Judges to embark upon lengthy discussions. The words of Judges interpreting statutes are not to be interpreted as statutes.*

*There are no grounds for review of the judgment and order.”*

**QR CODE FOR FULL ORDER/JUDGEMENT:**



<sup>1</sup> [https://main.sci.gov.in/supremecourt/2022/25005/25005\\_2022\\_5\\_301\\_38576\\_Order\\_22-Sep-2022.pdf](https://main.sci.gov.in/supremecourt/2022/25005/25005_2022_5_301_38576_Order_22-Sep-2022.pdf)