



UPDATE ON SUPREME COURT'S RECENT STANCE ON ISSUE OF LOAN MORATORIUM

I. BACKGROUND

A Division Bench of the Hon'ble Supreme Court was hearing a plea filed by an Agra resident Gajendra Sharma, who has sought a direction to declare the portion of the RBI's notification dated 27/03/2020 as *ultra vires* to the extent it charges interest on the loan amount during the moratorium period, which create hardship to the Petitioner being borrower and creates hindrance and obstruction in 'right to life' guaranteed by Article 21 of the Constitution of India".

II. HIGHLIGHTS DURING THE SUPREME COURT'S HEARING ON 26/08/2020

- Berated the Central Government for not taking a crystal-clear stance the issue of interests payable on EMI loans during the COVID-19 induced moratorium period, set to expire on August 31.
- Directed the Ministry of Finance to file an affidavit clarifying their stance on the issue of loan moratorium, and it was the avowed view of the Supreme Court that the Central Government is “**hiding behind the RBI**” by not taking a clear stand from their end.
- The Supreme Court categorically specified on 26/08/2020 about two aspects which needs consideration in this matter –

- a) no interest on loan during the moratorium, and
 - b) no interest to be charged on interest
- The RBI in its reply clarified that in order to eviscerate the difficulties faced by the borrowers, had on 23/05/2020 announced that all the financial institutions at their discretion, convert the interest into funded interest loan (**FITL**), for the deferment period up-to 31/08/2020 which shall be not payable not before 31/03/2021.
- The **Supreme Court has given one week's time to the Central Government to clarify its stand on the matter.**
We will update about the matter in due course.

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