SC Verdict on Loan Moratorium Case

Why in news?

The Supreme Court (SC), on the loan moratorium case, declined to extend the 6 months loan moratorium, observing further that the waiver of complete interest is not possible.

What is the case on?

- The verdict came on a batch of petitions seeking –

i. waiver of all interest during the period of the pandemic-specific moratorium
ii. relief from compound interest for the period for all borrowers without distinction
iii. extension of the moratorium period itself

- The petitions had also challenged the decision of the Centre and RBI to restrict waiver of interest on interest to certain categories of borrowers who had availed loans of less than Rs 2 crore.

What was the Centre's stance?

- The Centre had earlier submitted before the top court in this regard.
- Accordingly, if interests are waived on all the loans and advances to all categories of borrowers for the 6-month moratorium period, then the amount foregone would be more than Rs 6 trillion.
- If the banks were to bear this burden, then it would necessarily wipe out a substantial part of their net worth.
- This would render most of the lenders unviable and raise a very serious question mark over their very survival.

What is the Court's ruling?

- The apex court said that the waiver of complete interest is not possible as it affects depositors.
- The Court has sought to limit the scope of its juridical intervention to the questions of -

i. whether any laws have been violated
ii. whether any actions that banks may have taken under the policy guidance of

the government and central bank likely violated any rights of the petitioners

- It observed that wisdom and advisability of economic policy were ordinarily not amenable to judicial review.
- The Bench thus denied all but one of the petitioners' pleas.
- It held that the government's decision to limit the waiver of compound interest to loans under Rs.2 crore was "arbitrary and discriminatory."
- It thus directed a refund of all compound interest levied during the moratorium period.
- The Court justly flagged the absurdity of levying the compound interest on any category of loans.
- This is because, by its very nature, it was a penal interest intended to impose a cost on wilful or deliberate default.
- However, a borrower's decision to defer repayment of instalment by availing of the moratorium could not be considered wilful default.
- Any amount collected as compound interest shall thus be adjusted to the next instalment payable instead of refunding it to the borrower, irrespective of the loan amount.
- This part of the ruling would surely come as a welcome relief to borrowers across categories and loan size.
- On the other hand, it would add a relatively smaller burden, estimated at about Rs.7,500 crore, on lenders (or the Centre, if the government decides to foot the bill and spare banks the cost).
- The verdict thus necessitates the policymakers to urgently come up with measures to help mitigate the crisis before lenders meet with more defaults.

Source: The Hindu, Business Standard

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