US bankruptcy court moratorium unenforceable in India

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In the recent case of *Uphealth Holdings, Inc. v. Dr. Syed Sabahat Azim*, the Calcutta High Court ("**CHC**") ruled on the enforceability of moratorium orders from non-reciprocating countries like the United States of America ("**US**") in Indian courts.

Uphealth Holdings, Inc., initiated an anti-arbitration suit in the CHC amidst ongoing bankruptcy proceedings against it in the US. The CHC noted that although the Insolvency and Bankruptcy Code, 2016 (the "**IBC**") provides for domestic insolvencies and their resolution, it does not have a framework to address cross-border insolvencies. In the absence of such a framework, Indian courts cannot automatically recognize or enforce moratorium orders from non-reciprocating jurisdictions like the US and are not obligated to stay ongoing proceedings in India. The CHC emphasized that while Indian courts are free to consider a US bankruptcy court's moratorium order in proceedings under Section 45 of the Arbitration and Conciliation Act, 1996, they are not bound to do so.

The CHC discussed Section 44A of the Code of Civil Procedure, 1908, and observed that only orders from reciprocating countries like the United Kingdom are executable in India. Although the US bankruptcy court's moratorium order mirrored Section 14 of the IBC, the IBC applies exclusively within India unless reciprocated through a Central Government notification under Section 44A of the Code of Civil Procedure. In so doing, the CHC underscored the importance of legislative recognition for the Doctrine of Comity of Courts.

In conclusion, the CHC dismissed the revision petition, emphasizing that while foreign moratorium orders may be considered, they are not binding on Indian courts to stay ongoing suits.

The rise in international transactions and the establishment of branches and offices by companies in various countries has made cross-border insolvency a significant issue in many jurisdictions. Recognizing foreign proceedings is crucial for an effective cross-border insolvency regime. While Indian courts recognize foreign judgments and decrees from reciprocating countries such as the UK and Singapore, they do not acknowledge foreign insolvency proceedings, especially those related to reorganizations. This decision reinforces the need for a more structured approach to cross-border insolvency under Indian law.

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