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Supreme Court refuses to extend loan moratorium

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4 min read . Updated: 23 Mar 2021, 11:43 PM IST

Shayan Ghosh, Gopika Gopakumar

The Supreme Court on Tuesday declined to extend the six-month loan repayment moratorium, saying the power to take such a decision lay with the government and Reserve Bank of India (RBI), in a ruling that allows banks to start recognizing loan losses.

Senior bankers said the judgement was a welcome development as the court's interim order that barred classifying loans as non-performing, in force since 3 September, is hurting banks as some borrowers are deliberately holding back from repaying their loans.

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On Tuesday, the apex court also declined to allow a total waiver of interest for the period of the moratorium or an extension of the date of invocation of resolution plans beyond RBI's 31 December deadline.

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However, in a relief to borrowers, the court said all borrowers, irrespective of how much they owed, must be eligible for a waiver of the compound interest—or interest on interest—which had emerged as a contentious issue.

RBI had on 27 March last year announced a loan moratorium scheme following the covid-19 outbreak, allowing lending institutions to grant temporary relief on payment of instalments of term loans falling due between 1 March and 31 May 2020. This moratorium was later extended till 31 August.

In the interim order in September, the Supreme Court directed banks not to classify loans as non-performing assets if they hadn't done so as of 31 August.

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The rulings on interest waivers will come at a cost.

Rating agency Icra Ltd estimated that the additional burden on the government will be about ₹7,000-7,500 crore if it reimburses lenders for the compound interest waiver.

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This is over and above the ₹6,500 crore it shelled out in the first round where retail and small business loans of up to ₹2 crore were eligible for the waiver of interest on interest. Others estimate the waiver bill to be higher.

Suresh Ganapathy, an analyst at Macquarie Capital said in a note on Tuesday that in case the government decides to foot the bill like last time, the bill will be an additional ₹10,000 crore.

The government opposed a complete waiver of interest during the moratorium, as sought by the petitioners, on the grounds of costs. However, it agreed to foot the bill for a compound interest waiver for some categories of borrowers. In October, it informed the court that if it were to consider waiving interest on all loans and advances to all classes and categories of borrowers, the estimated cost would be ₹6 trillion.

This refers to a complete interest waiver and not just compound interest.

Banks, meanwhile, continued declaring such loans as “pro forma bad loans", noting that these would have turned bad in the absence of the court order.

Around 22 banks declared such pro forma bad loans. Experts said gauging the real extent of bad assets in the system will require comparing the pro forma bad loan numbers for December with the reported numbers for 31 March.

“Some banks may have to do interest reversal on the NPA accounts, depending on how they have accounted for it. State Bank of India (SBI), for instance, has not recognized the income on NPA accounts during standstill," said Rajnish Kumar, former chairman, SBI. He added that the government will have to clarify if it will be funding the compound interest before 31 March while RBI will have to clear up its position on NPA classification.

Estimates by Care Ratings put the difference between reported and pro forma numbers as of 31 December at around ₹1.2 trillion. These are loans that are yet to be recognized by the banks.

“However, as most banks have provided provisioning on the pro forma gross NPAs, there won’t be any major impact in the following period," Care Ratings said in a note on Tuesday.

That said, banks are set to see their reported bad loan numbers rise as pro forma NPAs of ₹1.2 trillion are recognized in the books. Ironically, Indian lenders were just seeing a turnaround in bad loans as soured assets had declined to ₹7.5 trillion as of 31 December from ₹8 trillion in the September quarter. That number is now set to rise to at least ₹8.7 trillion, even as more loans are likely to turn bad between January and March.