



**IN THE NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH AT MANGALAGIRI
(Exercising Powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)**

IA(IBC)/418/2024
IN
CP(IB)/3/7/AMR/2024

**Under Section 7 of the Insolvency
and Bankruptcy Code, 2016**

IN THE MATTER OF:

M/s. Canara Bank Limited

..... Financial Creditor

Vs.

M/s. Vasavi Power Services Private Limited

..... Corporate Debtor

IN THE MATTER OF IA(IBC)/418/2024:

**Under Section 60(5) of the
Insolvency and Bankruptcy Code,
2016 read with Rule 11 of National
Company Law Tribunal Rules, 2016**

M/s. Vasavi Power Services Private Limited

Door No.4-13, Post, Ibrahim Patnam,

Vijaywada, Krishna District,

Andhra Pradesh- 521456

..... Applicant/ Corporate Debtor

Vs.

M/s. Canara Bank Limited

Rep. by Authorized Officer, Nagaraj C Meeshi,

Governerpeta Branch, Eluru Road,

Vijayawada -520002

.... Respondent/ Financial Creditor

Order dated on: 25.07.2025



CORAM: HON'BLE KISHORE VEMULAPALLI, MEMBER (JUDICIAL)
HON'BLE UMESH KUMAR SHUKLA, MEMBER (TECHNICAL)

Parties/Counsels Appearance:

For the Applicant/ Corporate Debtor : Mr. Amir Bavani, Advocate

For the Respondent/ Financial Creditor: Mr. Manav Gecil Thomas, Advocate

ORDER
[PER: BENCH]

The present Interlocutory Application (hereinafter referred to as the '**IA**') has been filed on 07.11.2024, bearing Diary No. 1618, by *Vasavi Power Services Private Limited* (hereinafter referred to as the '**Corporate Debtor**'), under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the '**IBC**' or the 'Code') read with Rule 11 of the National Company Law Tribunal Rules, 2016 (hereinafter referred to as the '**NCLT Rules**'), seeking inter alia dismissal of the Company Petition bearing CP(IB)/3/7/AMR/2024 (hereinafter referred to as the '**CP**') filed by M/s. Canara Bank Limited (referred to as the 'Financial Creditor' or 'Canara Bank') seeking initiation of the Corporate Insolvency Resolution Process (hereinafter referred to as the "**CIRP**") against the Corporate Debtor.

FACTS OF THE CASE:

2. The facts of the case, as stated in the IA, are summarized below:

- (i) The Financial Creditor had extended multiple loan facilities to the Corporate Debtor, supported by documents such as the Sanction Letter, Loan Agreement, Promissory Note, Letter of Renewal, etc. The loan account was classified as a Non-Performing Asset (hereinafter referred to as the '**NPA**') on 30.11.2015.



- (ii) One-Time Settlement (hereinafter referred to as the '**OTS**') was sanctioned on 19.05.2023 for Rs.32.60 Crores as full and final settlement. However, the Financial Creditor unilaterally withdrew the OTS vide letter dated 18.08.2023 and stated that recovery proceedings under the SARFAESI Act already initiated would resume from where they were deferred.
- (iii) The Financial Creditor has alleged 17.08.2023 as the date of default in the Section 7 Petition, on the ground that the OTS sanctioned on 19.05.2023 lapsed on that date. However, the letter withdrawing the OTS, annexed at page 1023 of the Petition, is dated 18.08.2023 i.e., after the alleged default date. Furthermore, at paragraph 27 of the Petition, the Financial Creditor admits that the last payment was made by the Corporate Debtor on 17.10.2023. This sequence of events reflects a careless and inconsistent approach by the Financial Creditor in determining the date of default. The Information Utility (hereinafter referred to as the '**IU**') records filed with the Petition further expose these inconsistencies: out of the 17 annexed records, 16 states that 18.03.2019 and one mentions 28.12.2015, as the date of default. It is trite law that the existence of a "debt" and a definite "date of default" are essential prerequisites under the IBC. The Financial Creditor's attempt to rely on conflicting dates is clearly misleading and appears designed to circumvent the limitation period. The Financial Creditor's assertion in the rejoinder filed in the CP that IU default dates are system-generated is factually incorrect. The IU only reflects data as



uploaded by the Financial Creditor; it does not auto-generate such dates. The Financial Creditor has, therefore, sought to mislead this Adjudicating Authority by furnishing contradictory and irreconcilable default dates.

- (iv) It is further evident from the CP that there is no certainty regarding the actual date of default. While the Corporate Debtor's account was classified as a NPA as early as 30.11.2015, the Financial Creditor has filed the CP only after the withdrawal of the OTS on 18.08.2023, alleging 17.08.2023 as the date of default. This alleged date not only predates the OTS withdrawal letter, but also substantially differs from the dates reflected in the IU records. Such inconsistency renders the claimed default date misleading, incorrect, and evidently fabricated. Accordingly, the CP lacks a valid foundation and deserves to be dismissed in limine.
- (v) The Financial Creditor has inconsistently claimed the date of default as 17.08.2023, which contradicts the NPA classification date of 30.11.2015 and the dates recorded in the IU. Such misleading and inconsistent assertions render the CP incomplete and legally untenable. As such, the CP deserves to be dismissed under Section 7(5) of the IBC.
- (vi) The Corporate Debtor's account was classified as NPA on 30.11.2015, and recovery proceedings were initiated through OA No. 205 of 2019 before the Hon'ble DRT on 11.03.2019. The Section 7 CP, however, was filed only on 27.01.2024, far beyond the three-



year limitation period prescribed under Article 137 of the Limitation Act, 1963. The right to apply accrued on the NPA date and expired by the end of 2018, rendering the CP ex facie barred by limitation.

- (vii) The Financial Creditor filed a Rejoinder on 16.10.2024 in the CP, well beyond the two-week period granted from 21.08.2024, without seeking condonation of delay. Additionally, new documents were annexed to the Rejoinder without prior leave of this Adjudicating Authority. These documents, admittedly available at the time of filing the CP, are now sought to be introduced belatedly to cure defects, which is impermissible.
- (viii) The Financial Creditor's reliance on Section 21A of the Banking Regulation Act, 1949 to justify exorbitant interest is misplaced. The Banks are bound by Reserve Bank of India (hereinafter referred to as the '**RBI**') guidelines, and any interest charged in violation thereof, is not recoverable under a Section 7 proceeding. This reflects that the CP is filed with the sole motive of debt recovery rather than for genuine resolution, defeating the very objective of the IBC.
- (ix) Notably, the CP was filed on 27.01.2024, whereas the consent in Form-2 from the proposed Interim Resolution Professional (hereinafter referred to as the "**IRP**") is dated 11.02.2023 and records expiry of the AFA on 25.10.2023. As on the date of filing, the proposed IRP did not hold a valid AFA, thereby rendering the Form-2 invalid. This non-compliance with the mandatory



requirement under Section 7 of the Code renders the CP incomplete and liable to be dismissed.

- (x) It is evident that the CP suffers from multiple legal infirmities including limitation, procedural defects, and impermissible attempts to supplement pleadings post-filing. The CP is not maintainable in law and deserves to be dismissed in limine. The Corporate Debtor therefore prays that the present IA be adjudicated in priority, in the interest of justice and equity.

REPLY OF THE FINANCIAL CREDITOR:

3. The Financial Creditor filed its reply vide Diary No. 1767 dated 10.12.2024, denying all material allegations in the IA and praying for its dismissal. The submissions are summarized below:

- (i) The main contention of the Corporate Debtor is that the Company Petition is barred by limitation. However, the Corporate Debtor has admitted to have made a payment on 17.10.2023. Even if, the limitation is computed from this date, the CP is well within the prescribed period. The date of default under Section 3(12) of the IBC need not be strictly construed as the date of NPA. The Financial Creditor has consistently relied upon the same date in the CP and has not introduced any new case through the Rejoinder in the CP and it merely reiterates the factual and legal basis to establish that the CP is within limitation. The Corporate Debtor is mischaracterizing the pleadings to delay the proceedings.



- (ii) Although the account was classified as NPA on 30.11.2015, the Corporate Debtor executed an acknowledgment of debt on 14.03.2016, extending limitation up to 14.03.2019. Further, multiple OTS proposals and restructuring requests were made by the Corporate Debtor, including the latest sanctioned on 19.05.2023 and cancelled on 18.08.2023. These acts amount to acknowledgments under Section 18 of the Limitation Act. Therefore, limitation is to be reckoned from 18.08.2023.
- (iii) There is no bar under Section 7(2)(5) of the IBC or the Adjudicating Authority Rules, 2016, against filing additional documents prior to the final order. The Hon'ble Supreme Court in ***Dena Bank vs. C Shivakumar Reddy and Anr, Civil Appeal No.1650/2020, dated 04.08.2021*** held that additional documents can be submitted to advance the cause of justice. The Rejoinder in the CP and annexures are consistent with the initial pleadings and are not introducing new grounds and no separate IA is required for filing documents, where liberty has been granted to file it. The Corporate Debtor raises frivolous objections without denying the occurrence of default.
- (iv) The rate of interest is not a matter to be examined by this Adjudicating Authority, unless it concerns the threshold. The Corporate Debtor never disputed the rate of interest during the OTS negotiations or at any earlier stage. The interest charged is as per the contractual terms and RBI guidelines.



- (v) Though the consent form for the proposed IRP initially mentioned expiry as 25.10.2023, it has been duly renewed and is currently valid till 31.12.2025. These extensions were granted prior to any objections from the Corporate Debtor and are annexed to the reply. The Financial Creditor complied with procedural requirements, and the objection regarding the validity of the consent form is baseless.
- (vi) No new case is made out in the Rejoinder in the CP. The OTS correspondences filed along with the Rejoinder in the CP are in furtherance of Para 27 of the CP, which already refers to such communications. The documents are within the knowledge of the Corporate Debtor. Thus, the IA lacks merit and is liable to be dismissed with exemplary costs.

REJOINDER FILED BY THE CORPORATE DEBTOR:

4. The Corporate Debtor filed its reply vide Diary No. 24 dated 09.01.2025, wherein all allegations made in the Counter Affidavit filed by the Financial Creditor have been denied. The submissions in the Rejoinder are summarized below:

- (a) The Corporate Debtor seriously disputes the authority of the individual, who has affirmed and filed the Counter Affidavit on behalf of the Financial Creditor. No document has been placed on record to demonstrate that the said individual is duly authorized to represent the Financial Creditor. In the absence of such authorization, the filing of the Counter Affidavit lacks legal validity.



Accordingly, the Counter Affidavit is not maintainable and ought to be returned for want of due authorization.

- (b) The date of default is the date, on which the Corporate Debtor first failed to service the debt, i.e., 90 days prior to the NPA date. In the present case, the account was declared NPA on 30.11.2015, and therefore, the default dates back to September 2015, whereas the Financial Creditor has now sought to assign an arbitrary default date of 17.08.2023 in the Section 7 CP- completely inconsistent with the dates mentioned in the IU records filed along with the CP. The Hon'ble NCLAT in ***Ramdas Dutta v. IDBI Bank Ltd. & Anr. [Company Appeal (AT) (Ins) No. 1285 of 2022]***, following the Hon'ble Supreme Court's judgment in ***Ramesh Kymal v. Siemens Gamesa Renewable Power Pvt. Ltd. [(2021) 3 SCC 224]***, has categorically held that the date of default cannot be changed. The Financial Creditor's reliance on acknowledgements and OTS proposals to revise the date of default is completely misplaced. Further, in ***Samrat Restaurant v. Brewcrafts Microbrewing Pvt. Ltd. [(2024) ibclaw.in 617 NCLAT]***, the Hon'ble NCLAT has held that the date of default and acknowledgement of debt are distinct and separate events. A mere acknowledgment cannot alter the original date of default. As per Section 3(12) of the IBC, default means non-payment of debt, when it becomes due and payable. Upon declaration of an account as NPA, the entire debt becomes due and payable, and the same constitutes 'default'. The reliance has also been placed on ***Milind Kashiram Jadhav v. State Bank***



of India & Anr. [Company Appeal (AT) (Ins) No. 1589 of 2023], upheld by the Hon'ble Supreme Court, reiterating that the NPA date is the determinative date of default. Moreover, the Financial Creditor's contradictory submissions first attributing the discrepancies in IU records to automated software and later attributing the inconsistencies to different account statements reflect clear confusion and lack of clarity on the actual date of default. Such inconsistent averments are indicative of an attempt to mislead this Adjudicating Authority and patch the lacunae in the Section 7 CP. Therefore, the CP is liable to be dismissed on this ground alone, as it suffers from incurable defects regarding the date of default.

- (c) The Financial Creditor's assertion that the limitation should be computed from the date of rejection of the OTS proposal is erroneous. While an OTS proposal or rejection may constitute an acknowledgment for the purpose of Section 18 of the Limitation Act, it does not alter the original date of default. The reliance has been placed on **Puneet P. Bhatia v. ASREC (India) Ltd. & Anr. [Company Appeal (AT) (Ins.) No. 139 of 2021]**, wherein the Hon'ble NCLAT held that acknowledgment may extend limitation, but the date of default is a fixed event, that cannot be altered. Furthermore, the Financial Creditor has not pleaded limitation in the Section 7 CP. It is settled law, as per the Hon'ble Supreme Court in **Babulal Vardharji Gurjar v. Veer Gurjar Aluminium Industries Pvt. Ltd. & Anr. [(2020) 15 SCC 1]**, that in the absence



of a specific plea on limitation, the Financial Creditor cannot claim benefit of limitation retrospectively. The Financial Creditor cannot now rely on facts or documents not pleaded in the original CP to overcome the limitation bar. Hence, the CP is ex-facie time-barred and is liable to be dismissed with exemplary costs.

- (d) The Rejoinder in the CP was filed on 16.10.2024 along with numerous additional documents, without obtaining leave of this Adjudicating Authority. As per this Adjudicating Authority order dated 21.08.2024, the Financial Creditor was permitted to file only a Rejoinder in the CP within two weeks. No permission was granted to place additional documents on record. The filing of documents without prior leave, especially documents not originally referred to in the Section 7 CP, alters the nature and character of the CP itself. In ***State Bank of India v. India Power Corporation Ltd. [Company Appeal (AT) (CH) (Ins) No. 87 of 2023]***, the Hon'ble NCLAT held that filing additional documents at a belated stage without leave of the Tribunal is impermissible. The Financial Creditor, in an attempt to cure the deficiencies in the original CP, has sought to introduce documents, which were well within its knowledge at the time of filing the CP. This amounts to an afterthought and renders the conduct of the Financial Creditor legally untenable. Even assuming that additional documents can be filed at a later stage, the same can only be done by seeking leave and by furnishing reasons for the earlier omission. No such reasons or application have been filed in the present case.



- (e) Further, the Financial Creditor has placed on record electronic correspondence without filing the mandatory certificate under Section 63 of the Bharatiya Sakshya Adhiniyam, 2023, which is a precondition for the admissibility of electronic evidence. In the absence of such certification, these emails cannot be read in evidence and are liable to be expunged. Rule 55 of the NCLT Rules, 2016, clearly provides that no subsequent pleadings shall be filed except with the leave of this Adjudicating Authority. The Financial Creditor has failed to comply with this Rule, and the additional documents ought to be rejected in limine.

5. During the hearing held on **25.03.2025**, the Counsel for the Corporate Debtor raised an objection to the date of default mentioned in Part IV of Form-1 of the CP. It was submitted that the actual date of default was **30.11.2015**, whereas the Financial Creditor had stated the date of default as **17.08.2023**, being the date of lapse of the OTS. However, the Counsel for the Financial Creditor sought one week's time to file an IA for rectification of the date of default mentioned in Part IV of the CP. This Adjudicating Authority, after considering the said request, granted the time as prayed for. In response, the Financial Creditor filed **IA(IBC)/98/2025**, seeking rectification of the date of default, which was allowed by this Adjudicating Authority vide its order dated **21.04.2025**, prior to the disposal of **IA(IBC)/418/2024** and the main CP. Thereafter, on 23.04.2025, both **IA(IBC)/418/2024** and **CP(IBC)/3/7/AMR/2024** were heard and reserved for orders. However, the Corporate Debtor preferred an appeal before the Hon'ble National Company



Law Appellate Tribunal (hereinafter referred to as the “**NCLAT**”). The Hon’ble NCLAT, vide order dated 30.04.2025 in Company Appeal (AT)(CH)(INS) No. 228/2025, set aside the order passed on IA(IBC)/98/2025 and remitted the matter to this Adjudicating Authority with a specific direction to decide IA(IBC)/418/2024 on merits, after allowing exchange of pleadings, particularly on the issue concerning the date of default and its bearing on limitation. The relevant extract of the Hon’ble NCLAT order dated 30.04.2025 is produced below:

9. In view of the aforesaid reasons, the Impugned Order as passed on IA (IBC) / 98 / 2025, would hereby stand quashed. The matter is remitted back with the request to the Learned Tribunal to decide the IA (IBC) / 418 / 2024 on merits, to which the parties may exchange their pleadings in which, the question of the date of default having its impact on limitation, if any, could be considered in accordance with law.

6. In compliance with the NCLAT's order, the matter was relisted and heard in detail on 30.05.2025, confined strictly to the issue of limitation. Both counsels agreed to restrict their submissions to this limited aspect. After hearing the arguments, the parties were directed to file memos with only the relevant judgments cited during the course of hearing that no further oral arguments would be entertained. The order dated 30.05.2025 has been reproduced below:



IA (IBC)/418/2024:

This IA has been filed by the Applicant seeking dismissal of the main Company Petition filed under Section 7 of the Insolvency and Bankruptcy Code, 2016, on the ground that the date of default has been incorrectly stated in Part-IV of the Petition.

2. This Adjudicating Authority had earlier heard both sides and reserved the matter for orders on 23.04.2025. However, in view of the directions issued by the Hon'ble National Company Law Appellate Tribunal (NCLAT), the matter has been reopened and listed today for fresh hearing, particularly confined to the issue of the date of default and its bearing on the question of limitation.

3. It was observed that the date of default mentioned the main petition at Part -IV is 17.08.2023, which is the date on which the compromise permitted period of One Time Settlement (OTS) lapsed. However, during the course of hearing held on 25.03.2025, the counsel of the CD raised an objection stating that the original date of default occurred on 30.11.2015, which is the date on which the loan account of the CD became NPA and the counsel for the FC subsequently filed an IA(IBC)/98/2025 to rectify the date of default in the petition from 17.08.2023 to 30.11.2015, which was allowed by this Adjudicating Authority vide its Order dated 21.04.2025.

4. During the hearing this Bench raised a specific query counsel for the CD that how shifting the date from 17.08.2023 to 30.11.2015 would adversely affect the CD with reference to its bearing on the question of limitation, as in the present case, shifting the date of default to an older date would provide additional opportunity to the CD for the point of limitation.

5. In response, the counsel for the CD submitted that any amendment with respect to the date of default cannot be permitted in section 7 Application. In support of his submissions, the Counsel relied upon the judgment of the Hon'ble National Company Law Appellate Tribunal in ***Ramdas Dutta vs. IDBI Bank Limited***, wherein the Hon'ble Appellate Tribunal, at paragraph 29, held as under:

19. The first question is as to whether the date of default can be changed by the Bank? In this regard, it has been held by the Hon'ble Supreme Court in the case of 'Ramesh Kymal Vs. Siemens Gamesa Renewable Power Pvt. Ltd., (2021) 3 SCC 224' that the date of default cannot be changed. It has also been held in the case of Laxmi Pat Surana (Supra), Babulal Vardharji Gurjar (Supra), B.K Educational Services Pvt. Ltd. (Supra) and Jignesh Shah (Supra) that the period of limitation would be attracted from the date when Company Appeal (AT) (Ins) No. 1285 of 2022 the default occurs and not from the date of declaration of NPA. Therefore, the date of NPA cannot be taken to be the date of default for the purpose of limitation.

6. He further relied on the judgment of the Hon'ble National Company Law Appellate Tribunal (Three-Judge Bench) in **Puneet P. Bhatia vs. ASREC (India) Ltd. & Anr.**, wherein it was held that the restructuring of loan does not change the date of default. The relevant portion of the judgment, as extracted, reads as under:

44. Furthermore, the respondent's reliance on a recall notice issued on 07.12.2020 highlights the prolonged financial distress of the corporate debtor. The appellant's argument that the restructuring agreement of March 2020 reset the default timeline lacks merit. Restructuring agreements, while providing temporary relief, do not negate pre-existing defaults unless explicitly stated. The evidence presented does not suggest that the restructuring agreement created a fresh default timeline or nullified the earlier default of 02.08.2019. This finding aligns with the principles established in precedent cases, where the courts have consistently held that restructuring efforts do not alter the classification of a loan as a Non-Performing Asset (NPA), unless significant repayments or compliance with revised terms occur.

7. On the other hand, the Learned Counsel for the Financial Creditor submitted that this Adjudicating Authority retains the jurisdiction to permit rectification of Part-IV of the Company Petition, provided such rectification is sought before the pronouncement of the final order, especially when the rectification relates to the date of default, which is pivotal to the issue of limitation. In support of his contention, he relied upon the judgment of the Hon'ble NCLAT (Three-Judge Bench) in **Puneet P. Bhatia vs. ASREC (India) Ltd. & Anr.**, wherein it was held that necessary corrections, particularly those concerning the date of default, may be allowed if they are crucial for just adjudication and if the matter is still pending final determination. The Counsel specifically referred to and relied on paragraphs 28, 29, 30, 31, 32, 33, 34, 41, and 42 of the said judgment. The relevant extracts from the aforementioned paragraphs are reproduced below:

28. There are two issues involved for the determination in the present appeal:—

- a) Whether the Date of Default can be changed after filing the petition under Section 7 of the Code?
- b) Whether in the present case the date of default has been correctly identified?

We examine both these issues in detail in subsequent paras.

29. The Corporate Debtor had availed various credit facilities from Bharat Cooperative Bank through successive sanction letters dated 21.03.2017, 14.08.2018, and 11.03.2020. Despite these agreements and restructuring efforts, the CD failed to meet payment deadlines, resulting in the debt claimed by ASREC.

30. ASREC (India) Limited/R-1 initially filed its Section 7 petition stating a default date of 31.10.2020, which was later amended to 02.08.2019. The tribunal permitted this amendment on 13.10.2023. The revised date is crucial as it aims to establish that the default occurred outside the Section 10A exemption period (introduced to protect defaults during the COVID-19 pandemic).

31. In interpreting whether the National Company Law Tribunal (NCLT) can allow amendments to the date of default in applications filed under Section 7 of the Insolvency and Bankruptcy Code (IBC), we have seen the Judgment of Hon'ble Supreme Court in *Dena Bank v. C. Shivakumar Reddy* [Citation (2021) 10 SCC 330]. The relevant paragraphs 26, 73, 74, 75, 76, 77, 91, 93 and 144 are extracted below:

"26. A third issue which arises for adjudication of this Court is, whether there is any bar in law to the amendment of pleadings, in a Petition under Section 7 of the IBC, or to the filing of additional documents, apart from those filed initially, along with the Petition under Section 7 of the IBC in Form-1.

144. There is no bar in law to the amendment of pleadings in an application under Section 7 of the IBC, or to the filing of additional documents, apart from those initially filed along with application under Section 7 of the IBC in Form-1. In the absence of any express provision which either prohibits or sets a time limit for filing of additional documents, it cannot be said that the Adjudicating Authority committed any illegality or error in permitting the Appellant Bank to file additional documents. Needless however, to mention that depending on the facts and circumstances of the case, when there is inordinate delay, the Adjudicating Authority might, at its discretion, decline the request of an applicant to file additional pleadings and/or documents, and proceed to pass a final order. In our considered view, the decision of the Adjudicating Authority to entertain and/or to allow the request of the Appellant Bank for the filing of additional documents with supporting pleadings, and to consider such documents and pleadings did not call for interference in appeal."

(Emphasis Supplied)

32. In the aforesaid case, Dena Bank sought to initiate insolvency proceedings against a corporate debtor by filing a Section 7 application with the NCLT. The bank's petition was based on the default date related to a Non-Performing Asset (NPA) declared years earlier. Dena Bank later sought to rely on new documents and amendments. Hon'ble Supreme Court vide judgment (supra) ruled that amendments to the application or submission of additional documents could be made before the final order admitting or rejecting the petition under Section 7. The Court clarified that the law does not explicitly bar such amendments, as they support the IBC's goal of comprehensive debt recovery. However, the Court noted that such amendments should not manipulate the limitation period, but may reflect new acknowledgments of debt or judgments creating a fresh cause of action.

33. The *Dena Bank judgment* (supra) explicitly states that in the proceedings under the CIRP before the NCLT, there is no scope for elaborate pleadings. An application to the Adjudicating Authority (NCLT) under Section 7 of the IBC in the prescribed form, cannot be compared with the plaint in a suit. Such application cannot be judged by the same standards, as a plaint in a suit, or any other pleadings in a Court of law. It further clarifies that under the provisions of Section 7 of the Code, NCLT can allow amendments to pleadings under the CIRP proceedings before the final order is passed.

34. We observe that in the present case also, the Tribunal noted the updated date of default as 02.08.2019, and relied on the financial records, sanction letters, and debt assignment documents provided by ASREC to substantiate the grounds for default and validate the claim. The amendment of pleadings in this case was allowed by the AA, which provided for the date of default as 02.08.2019.



41. The appellant has also argued that the amendment of the default date by the respondent constitutes procedural manipulation aimed at bypassing Section 10A protections. However, it is seen that the amendment was duly made during the CIRP proceedings before the AA, as per laid down procedure following the principles of natural justice. The AA exercised its discretion appropriately in allowing the amendment. The appellant has not demonstrated any prejudice resulting from this amendment or any procedural irregularities in the tribunal's decision to permit it.

42. We have seen from the above discussion that as per the provisions of the Code, the NCLT is empowered to allow the parties to amend the pleadings before the final orders in CIRP proceedings are passed. This would however be subject to the procedure laid down in the code, as confirmed by *Dena Bank* (Supra). We have observed that the Adjudication Authority in this case has correctly followed the laid down process and the judgment of *Dena bank* (supra) is applicable squarely in this case. We therefore hold that the amendment of date of default has been correctly allowed by AA.

8. He further relied on another judgment on Hon'ble NCLAT in the matter of ***Bank of India Chennai Large Corporation Branch and Anr vs. Coastal Oil Gas Infrastructure Pvt Ltd. and Anr.***, wherein it was held that in case of any discrepancy found in the application relating to date of default wrongly pleaded, the Adjudicating Authority may ask the FC to rectify the same. The relevant extracts of the judgment is reproduced below:

29. In case there is any discrepancy found in the application relating to the date of default being wrongly pleaded by the financial creditors as contended by the Corporate Debtor. The Adjudicating Authority may ask the financial Creditors to rectify the same. The limitation is a mixed question of law and facts therefore, unless it becomes apparent from the reading of the company petition that the same is barred by limitation the petition should not be rejected by selectively considering the documents on record. We are of the view that the application filed by the Corporate Debtor under Section 7 was required to be admitted by the Adjudicating Authority, but the Adjudicating Authority failed to consider the matter in proper perspective.

9. Both counsels sought a short adjournment to place the copy of the above judgments as cited in their arguments in today's hearing on record.

10. Accordingly, both parties are granted time until 03.06.2025 to file copies of the judgments relied upon, with proper highlighting of relevant paragraphs and page numbers for the convenience of the Bench.

List the matter on 04.06.2025 for further consideration. It is made clear that no further oral arguments shall be entertained on the next date of hearing.



7. During the course of hearing dated 04.06.2025, both the parties informed about the compliance of order dated 30.05.2025 and the matter was reserved for orders.

ANALYSIS AND FINDINGS:

8. Based on the hearing held on 30.05.2025, the limited question, which needs to be adjudicated is “**whether the date of default can be modified by a party in a CP filed under Section 7 of the IBC, 2016.**” The above question has been examined in the light of the judicial precedents placed on record by both parties, including those cited during the hearing as well as those subsequently filed through memo.

9. It is noted that the Corporate Debtor, during the course of the hearing held on 30.05.2025, cited only two judgments of the *Hon’ble NCLAT* namely ***Ramdas Dutta vs. IDBI Bank Ltd. & Anr. (Supra)***, and ***Puneet P. Bhatia vs. ASREC (India) Ltd. & Anr. (Supra)***, however, vide Diary No. 1061 dated 03.06.2025, filed a memo enclosing therewith the judgments in relation to (i) The date of default cannot be changed; (ii) The date of default and acknowledgments are two different events; (iii) Additional documents cannot be placed without leave of the court; (iv) Amendment cannot be allowed at the cost of other side losing a valid defence; (v) Amendment sought should not change the complexion of the matter. However, the following judgments, in addition to the judgments cited during the course of hearing relates to the question being examined in this application:

- (i) *Hon’ble Supreme Court in the matter of Babulal Vardharji Gurjar vs. Veer Gurjar Aluminium Industries Pvt. Ltd. & Anr. (Supra);*



- (ii) *Hon'ble NCLAT in the matter of **Milind Kashiram Jadhav vs. State Bank of India & Ors. (Supra)**;*
- (iii) *Hon'ble NCLAT in the matter of **Yatra Online Limited vs. Ezeego One Travel and Tours Limited, (2023) ibclaw.in 679 NCLAT**;*
- (iv) *NCLT, Mumbai Bench in the matter of **Varanium Cloud Limited vs. Rolta Private Limited, CP (IB) 883 (MB)2023**;*
- (v) *NCLT, Bengaluru Bench in the matter of **Asset Reconstruction Company (India) Ltd. vs. Manyata Developers (P.) Ltd., (2023) ibclaw.in 769 NCLT**.*

10. It is also noted that the Financial Creditor, during the course of the hearing held on 30.05.2025, cited only two judgments of the **Hon'ble NCLAT** namely **Puneet P. Bhatia vs. ASREC (India) Ltd. & Anr. (Supra)** and **Bank of India, Chennai Large Corporation Branch & Anr. vs. Coastal Oil Gas Infrastructure Pvt. Ltd. & Anr., Company Appeal (AT) (Ins.) No. 1448 of 2019, dated 21.12.2020**, however, vide Diary No. 1052 dated 02.06.2025, filed a memo enclosing therewith the following additional judgments of:

- (i) *Hon'ble Supreme Court in the matter of **Dena Bank vs. C Shivakumar Reddy and Anr (Supra)** dated 04.08.2021;*
- (ii) *Hon'ble NCLAT, New Delhi, in the matter of **Apple Sponge & Power Ltd. vs. Punjab National Bank, in Company Appeal (AT)(Insolvency) No.196/2024, dated 31.01.2024**;*
- (iii) *Hon'ble NCLAT, New Delhi, in the matter of **Deepak Mahadev Shirke vs. Unity Small Finance Bank Limited, in Company Appeal (AT) (Insolvency) No.490/2025, dated 27.02.2025**.*

11. We observe that the following judgements placed on record by the Corporate Debtor does not apply to the present case:



- i) Hon'ble NCLAT judgement in the matter of ***Ramdas Dutta vs. IDBI Bank Ltd. & Anr. (Supra)*** dealt with a situation, where the Financial Creditor sought to change the date of default from the date of NPA classification to an earlier alleged default date. Similarly, NCLT, Bengaluru Bench in the matter of ***Asset Reconstruction Company (India) Ltd. vs. Manyata Developers (P.) Ltd. (Supra)***, rendered its decision dated 27.09.2023 in the context of a change of the date of default from the date of classification as NPA to the original date of default. The factual matrix and context in these cases differ materially from the present one. In the instant case, the Financial Creditor seeks to correct an inadvertent error of the default date (17.08.2023) to replace it with the correct date (30.11.2015), which was the basis of the loan account classification to NPA. Therefore, the ratio of these case does not directly apply to the factual scenario in the present matter.
- ii) Hon'ble NCLAT in the matter of ***Milind Kashiram Jadhav vs. State Bank of India & Ors. (Supra)***, dated 25.04.2024 held that the date of NPA cannot automatically be treated as the date of default, unless it is supported by an identifiable instance of default. However, the factual matrix of the present case is distinguishable. Here, the Financial Creditor seeks to substitute the incorrectly stated date of default (17.08.2023) with the actual date, on which the loan account was classified as NPA (30.11.2015), which is claimed to be the first instance of default. Therefore, the ratio of this case does not strictly apply to the present factual scenario.



- iii) Hon'ble NCLT, Mumbai Bench in the matter of ***Varanium Cloud Ltd. vs. Rolta Pvt. Ltd. (Supra)*** dismissed the second petition filed by the Financial Creditor on the ground that it was based on the same set of facts as an earlier petition that had already been dismissed, with the only difference being a changed date of default in the subsequent filing and held such conduct to be impermissible, as it amounted to forum shopping and an abuse of the process. However, the ratio of this case decision is not applicable to the present matter, as the instant case does not involve successive filings or a change in the cause of action. Rather, it involves the rectification of a mistakenly mentioned default date within the same petition prior to final adjudication. Accordingly, *it* is factually distinguishable and inapposite to the current case.
- iv) Hon'ble NCLAT, New Delhi in ***Yatra Online Ltd. vs. Ezeego One Travel and Tours Ltd. (Supra)*** rendered its decision dated 31.03.2023 in the context of proceedings under Section 9 of the IBC. Since the present matter pertains to a petition under Section 7 of the Code, the ratio laid down in the said judgment is not applicable.
- v) Hon'ble Supreme Court in ***Babulal Vardharji Gurjar vs. Veer Gurjar Aluminium Industries Pvt. Ltd. & Anr. (Supra)*** dated 14.08.2020, considered the issue of limitation in the context of the date of default, holding that the date of NPA would be treated as the date of default for computing limitation under the Code. However,



the central issue in that case pertained to the applicability and computation of limitation, rather than the permissibility of amending the date of default. Therefore, the ratio laid down in this case is not directly applicable to the factual matrix of the present matter.

12. We observe that the judgement of Hon'ble NCLAT, New Delhi in ***Deepak Mahadev Shirke vs. Unity Small Finance Bank Limited (Supra)*** dated 27.02.2025 placed on record by the Financial Creditor does not apply, as it considered the issue of limitation and default. However, the central issue in that case pertained to the applicability and computation of limitation, rather than the permissibility of amending the date of default. Therefore, the ratio laid down in *this case* is not directly applicable to the factual matrix of the question before us in the present matter.

13. We also observe that the Hon'ble Supreme Court in its judgement *dated 04.08.2021* in the matter of ***Dena Bank vs. C. Shivakumar Reddy and Anr. (Supra)***, placed on record by the Financial Creditor, has held that there is no legal bar to amending pleadings or filing additional documents in a Section 7 application, but observed that in the absence of a specific prohibition under the Code or Rules, the Adjudicating Authority may permit such filings, however, the exercise of such discretion must consider the facts of the case, particularly in cases of delay.

14. Similarly, the Hon'ble NCLAT, New Delhi in its judgement dated 31.01.2024 in the matter of ***Apple Sponge & Power Ltd. vs. Punjab National Bank, (Supra)***, placed on record by the Financial Creditor, reaffirmed that



amendments to Part-IV of the Section 7 application are permissible, including changes to the date of default and held that such amendments must be considered based on the specific facts of each case. In the said case, the amendment sought was to substitute the default date with the NPA date, which was a matter of public record. The NCLAT clarified that permitting such an amendment would not prejudice the Corporate Debtor's right to contest the matter on merits, including on the issue of limitation. It also emphasized that observations made while allowing the amendment were confined solely to the amendment application and would not affect the merits of the main petition. Accordingly, this decision directly supports the Financial Creditor's case.

15. Both the parties have relied upon the judgement dated 09.12.2024 of Three-Member Bench of the Hon'ble NCLAT in the matter of ***Puneet P. Bhatia v. ASREC (India) Ltd. & Anr. (Supra)***, in which Hon'ble NCLAT held that under the provisions of Section 7 of the IBC, the Adjudicating Authority has the power to permit amendments to pleadings in CIRP proceedings prior to the passing of a final order. The Hon'ble NCLAT emphasized that such procedural flexibility must be exercised to advance the cause of substantial justice, provided that it does not result in prejudice to the opposing party or frustrate the underlying objectives of the Code.

16. Based on the above judgements, this Adjudicating Authority can allow amendments to pleadings under the CIRP proceedings before the final order is passed. These judgments clarify that procedural flexibility may be exercised



to ensure substantial justice, so long as it does not prejudice the other party or defeat the underlying objectives of the Code,

17. In the present case, the amendment to the date of default was sought before final adjudication and disposal of the petition. It was originally allowed, and then questioned by the Appellate Tribunal only on procedural grounds specifically, lack of hearing and exchange of pleadings on the issue. The defect has since been cured by affording an opportunity of detailed hearing to both parties to address the issue on merits. It is important to note that no new cause of action is introduced by the rectification from 17.08.2023 to 30.11.2015. The Financial Creditor seeks to assert the original date of default and if this date is accepted, it cannot be said that any prejudice has been caused to the Corporate Debtor merely by allowing such an amendment.

18. In view of the above discussion, and consistent with the principles laid down in ***Puneet P. Bhatia v. ASREC (India) Ltd. & Anr. (Supra)*** and judgement of Hon'ble NCLAT, New Delhi in ***Apple Sponge & Power Ltd. vs. Punjab National Bank (Supra)***, this Adjudicating Authority is of the considered view that rectification of the date of default, if sought before the final decision in a Section 7 application, is legally permissible, provided it does not introduce a new cause of action and the opposing party is afforded a fair opportunity to contest the amendment.

19. Accordingly, the objection raised by the Corporate Debtor with respect to the impermissibility of amending the date of default stands rejected. However, the issue of limitation from the asserted date of default is



30.11.2015 shall be considered independently on its merits at the time of hearing of the Company Petition **CP(IB)/3/7/AMR/2024**.

20. It is clarified that other issues including the broader aspects of the limitation, including its applicability and effect on the maintainability of the Petition, and the existence of debt and default shall remain open and will be considered and adjudicated in the main Company Petition.

21. In view of the above, we hereby dismiss the present Application and hence, the prayer (b) in the Application seeking for dismissal of the main Company Petition becomes infructuous. **Accordingly, IA (IBC)/418/2024 is dismissed and stands disposed of.**

Sd/-

**(UMESH KUMAR SHUKLA)
MEMBER (TECHNICAL)**

Sd/-

**(KISHORE VEMULAPALLI)
MEMBER (JUDICIAL)**

Swamy Naidu (PS)