

S.No.1

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – II
VC AND PHYSICAL (HYBRID) MODE
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
04.05.2026 AT 10:30 A.M.**

**IA (IBC)/1801/2025 in Company Petition IB/80/7/HDB/2024
U/s 7 of IBC**

IN THE MATTER OF:

Canara Bank

...Petitioner

AND

Madurai Tuticoin Expressways Ltd

...Respondent

C O R A M:-

**SHRI. RAJEEV BHARDWAJ, HON'BLE MEMBER (JUDICIAL)
SHRI. SANJAY PURI, HON'BLE MEMBER (TECHNICAL)**

ORDER

IA (IBC)/1801/2025

Orders pronounced, recorded vide separate sheets. In the result, this application is allowed.

**Sd/-
MEMBER (T)**

**Sd/-
MEMBER (J)**

IN THE NATIONAL COMPANY LAW TRIBUNAL

HYDERABAD BENCH – II

I.A. No. 1801 of 2025

IN

C.P. (IB) No. 80/7/HDB/2024

Between:

M/s. Canara Bank,

a body corporate constituted under the provisions of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, having its Head Office at Canara Bank Building, 112, J.C. Road, P.B. No. 6648, Bengaluru – 560002, Karnataka, and having, inter alia, its then Large Corporate Branch, now SAM Branch, at Secunderabad, represented by its Authorised Officer.

... Applicant / Financial Creditor

And:

M/s Madurai Tuticorin Expressways Limited,

a company incorporated under the provisions of the Companies Act, 1956, having its registered office at Madhucon House, Plot No. 1129/A, Road No. 36, Hitech City Road, Jubilee Hills, Hyderabad – 500033.

... Respondent / Corporate Debtor

Date Of Order: 4.5.2026

CORAM:

Shri Rajeev Bhardwaj, Hon'ble Member (Judicial)

Shri Sanjay Puri, Hon'ble Member (Technical)

Counsels present:

For the Petitioner : Mr. Manav Thomas Gecil, Advocate.

For the Respondent : Ms. KVS Madhumita, O/o. Mr. Rajashekar Rao
Salvaji, Advocates.

I. Case of the Applicant:

1. The Applicant/Financial Creditor submits that it had sanctioned a loan facility to the Corporate Debtor for its business purposes. However, the Corporate Debtor committed default in repayment of the said loan, pursuant to which the loan account of the Corporate Debtor was classified as a Non-Performing Asset (NPA) on 26.09.2018.
2. In view of the aforesaid default, the Financial Creditor initiated recovery proceedings under the provisions of the Recovery of Debts and Bankruptcy Act, 1993 by filing Original Application being O.A. No. 768/2019 before the Hon'ble Debts Recovery Tribunal-II, Hyderabad (DRT-II, Hyderabad).
3. The said Original Application was subsequently allowed by the Hon'ble Debts Recovery Tribunal-II, Hyderabad, vide order dated 12.01.2023, directing recovery of Rs. 5,93,45,92,230/-, in favour of the consortium of lenders, out of which a sum of Rs. 1,57,84,85,638/-, was held payable to the Applicant/Financial Creditor, together with future interest @ 11.50% per annum from the date of filing till realization.
4. It is submitted that, thereafter on 03.04.2024, the Financial Creditor filed CP (IB) No. 80/7/HDB/2024 under Section 7 of the Insolvency and Bankruptcy Code, 2016 against the Corporate Debtor, claiming a sum of Rs. 2,67,10,01,648.80/⁻¹, and the date of default therein was mentioned as 12.01.2023². However, the said order dated 12.01.2023 has since been set aside by the Hon'ble Debts Recovery Tribunal-II, Hyderabad, vide order dated 15.09.2025 passed in M.A. Nos. 81 and 82 of 2024.
5. It is averred that, the order dated 15.09.2025 has already been brought on record by way of I.A. No. 1638/2025, which stands allowed. In view thereof, the date of default in the present application is averred to be

¹ Inclusive of interest computed up to 28.02.2024

² The date of the order passed by the Hon'ble Debts Recovery Tribunal-II, Hyderabad.

requiring correction from 12.01.2023 to 26.09.2018, being the date of NPA.

6. It is submitted that, the present application is within limitation even taking 26.09.2018 as the date of default, inasmuch as the Corporate Debtor has acknowledged its liability from time to time by OTS proposals dated 30.10.2020, 07.01.2022, 12.09.2022 and 26.10.2022, and has also made part payments, the last of which was on 09.06.2023. Further, averred that, the period from 15.03.2020 to 29.02.2022 also stands excluded in terms of the orders passed by the Hon'ble Supreme Court in Suo Motu Writ Petition (Civil) No. 3 of 2020.
7. The FC has placed reliance upon the judgments of the Hon'ble Supreme Court and Hon'ble NCLAT New Delhi, including ***Dena Bank v. C. Shivakumar Reddy***³, ***Puneet P. Bhatia v. ASREC (India) Ltd.***⁴, to submit that the amendment of pleadings in proceedings under Section 7 of the Insolvency and Bankruptcy Code, 2016, including correction of the date of default, may be permitted prior to final adjudication, particularly where such amendment is based on the existing record, and does not cause prejudice to the other side.
8. In these circumstances, it is submitted that, the present amendment, which seeks to align the date of default with the date of classification of the account as NPA, may be permitted in the interest of proper adjudication, and the same not introducing any new facts on record.

II. Case of the Respondent:

9. It is submitted that the present Counter is filed the present application, whereby the Financial Creditor seeks to amend the Company Petition by substituting the originally pleaded date of default from 12.01.2023 with 26.09.2018, and altering the NPA date from 27.09.2018 to 26.09.2018, purportedly to overcome the bar of limitation. The filing of

³ (2021) 10 SCC 330

⁴ Company Appeal (AT) (Ins.) No. 139 of 2024

an amended neat copy pursuant to directions of this Tribunal does not amount to adjudication or acceptance of the proposed amendment.

10. It is further submitted that, the proposed amendment seeks to alter the foundational fact of “default” by substituting the date of default from 12.01.2023 to 26.09.2018, thereby changing the jurisdictional basis of the Section 7 proceedings. It is contended that, the Financial Creditor had consciously instituted the Company Petition relying upon the order dated 12.01.2023 passed by the Hon’ble DRT, and treated the said date as the date of default. Having so elected, the Financial Creditor cannot now be permitted to resile from the same and substitute an entirely different date of default, namely the NPA date, thereby introducing a new and inconsistent cause of action.
11. It is stated that, once the ex parte order dated 12.01.2023 was set aside, the foundation of the Section 7 petition based thereon stood effaced. However, instead of withdrawing the petition, the Financial Creditor seeks, by way of the present amendment, to substitute the originally pleaded date of default with the date of declaration of NPA, and to rely upon OTS correspondence and subsequent events so as to override the bar of limitation. In effect, the amendment is not merely clarificatory, but entails a substitution of the jurisdictional fact of default and a reconfiguration of the very basis of the proceedings, going to the root of maintainability.
12. It is submitted that, even assuming the principles under Order VI Rule 17 CPC are attracted, the Hon’ble Supreme Court in **L.J. Leach & Co. Ltd. v. Jardine Skinner & Co.**⁵ at para 16, has laid down that, the courts would, as a rule, decline to allow amendments if a fresh suit on the amended claim would be barred by limitation on the date of the application. The same principle stands reiterated in **T.N. Alloy Foundry Co. Ltd. v. T.N. Electricity Board**⁶.

⁵ AIR 1957 SC 357

⁶ (2004) 3 SCC 392

13. Accordingly, it is submitted that the present amendment, seeking to substitute the pleaded date of default, and thereby reconstruct the foundation of the Section 7 petition only to overcome limitation and defeat the Respondent's accrued statutory defence, deserves to be rejected.
14. It is submitted that the Hon'ble Supreme Court in ***Jignesh Shah v. Union of India***⁷, has held that subsequent events or adjudications do not furnish a fresh cause of action and that limitation continues to run from the original default. It is further submitted that, the Hon'ble NCLAT has consistently held that amendments seeking to change/substitute the pleaded date of default to bring a Section 7 application within limitation are impermissible.
15. It is submitted that, limitation is a threshold issue and must be adjudicated independently before any amendment is considered, the OTS proposals neither alter the date of default nor extend limitation under Section 18 of the Limitation Act, 1963. Further, Section 10A of the Code bars reliance on COVID-period defaults, and any acknowledgment during that period cannot create a fresh cause of action. Without prejudice, acknowledgments must in any event be within limitation and cannot justify substitution of the pleaded date of default.
16. We have heard the Ld. Counsels appearing for the Financial Creditor and the Corporate Debtor and reviewed the documents placed on record.

III. Findings:

17. To briefly recapitulate the factual matrix, the present application, being I.A. (IBC) No. 1801/2025, has been preferred by the Applicant/FC, under Section 60(5) of the IBC read with Rule 11 of the NCLT Rules, 2016, seeking amendment of the main C.P. (IB) No. 80/7/HDB/2024.

⁷ (2019) 10 SCC 750

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18. In the aforesaid context, the factual background giving rise to the present application is the loan account of the Respondent was classified as NPA on 26.09.2018 ('NPA Classification Date'). Thereafter, the FC instituted Original Application No. 768/2019 ('OA 768/2019') before the Debt Recovery Tribunal (DRT) for recovery of the outstanding dues. Accordingly, DRT passed an **ex parte** order on 12.01.2023, for a sum of Rs. 157.84 crore payable to the FC.
19. Subsequently, the DRT Order dated 12.01.2023, was set aside vide order dated 15.09.2025⁸ in Miscellaneous Applications Nos. 81 and 82 of 2024, and the matter stands restored for adjudication on merits. Therefore, the FC has now moved to amend the date of default in the Section 7 petition to align with the NPA Classification Date of 26.09.2018.
20. The scope of amendment of an application before this Tribunal has been explained by the Hon'ble **NCLAT in CA No. 325 of 2023**, wherein it was held that:

“31. It must be borne in mind that ‘Amendments’ are allowed in ‘pleadings’ to avoid, uncalled for ‘multiplying of litigations’ as per decision of Hon’ble Supreme Court in B.K-Narayana Pillai vs Parameswaran Pillai (2000) 1 SCC 712.

32. All amendment, ought to be allowed, if the twin conditions are satisfied (i) of not working injustice to other side; (ii) of being necessary, for the purpose of determining the real questions in controversy between the parties.

33. There is no rule limiting ‘amendment’ to ‘accidental’ errors. An ‘amendment’, which is necessary for the just decision of a case can be allowed. Also, that, an ‘amendment’, in ‘general’, is not to be refused, in a mechanical and casual manner. In fact, the ‘pleadings’ can be amended, to substantiate, to elucidate and expand the ‘pre-existing facts’, ‘already existing’.

34. A ‘person’, will not be refused permission, to ‘amend the pleadings’, merely because of some mistakes, negligence, inadvertence, or even infraction of rules of procedure, as the case may be. No person should suffer, in lieu of technicalities of law and to minimise the litigation between the parties.

⁸ An IA 1638/2025 was allowed bringing on record the said order of DRAT dated 15.09.2025

35. Merits / demerits of the case, set up by the proposed amendment, would not be seen at that time of consideration of application, for amendment, but would be seen at that time of 'trial'."

21. The aforesaid principles make it clear that an amendment is to be allowed, if it satisfies the twin conditions being, the amendment must not cause injustice to the other party, and the amendment must be necessary for determining the real questions in controversy.
22. Upon considering the facts and circumstances of the present application, we find that the amendment has been necessitated on account of the classification of the Corporate Debtor's account as NPA on 26.09.2018. Thus, we are inclined to hold that, the amendment does not occasion any prejudice to the Respondent, inasmuch as the Respondent shall have an opportunity to file its reply to the amended petition, and no vested right or defence is taken away. Further, the amendment, being confined to correcting the date of default, is necessary for effective adjudication of the main petition and for determining the real issues in controversy between the parties.
23. This view is further supported by the settled legal position governing proceedings under Section 7 of the Insolvency and Bankruptcy Code, 2016, as held by the Hon'ble Supreme Court in ***Dena Bank (Now Bank of Baroda) v. C. Shivakumar Reddy***⁹, wherein it was held that:

"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."
24. In this context, we hold that the amendment of a Section 7 application is permissible as per law, and this Tribunal is vested with the power to permit such amendment, at any stage prior to the passing of a final order admitting or rejecting the application. Consequently, the present

⁹ [(2021) 8 SCC 1061]

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amendment application cannot be refused merely on the ground of stage of proceedings.

ORDER

25. In view of the foregoing analysis and findings, the present application for amendment of the date of default is ALLOWED.
26. The Financial Creditor, shall carry out the amendment to the petition within 2 weeks from the date of this order and serve a copy of the amended petition on the Respondent.
27. The Respondent shall be at liberty to file a reply to the amendment within 2 weeks from the filing of the amended petition.
28. The matter shall thereafter stand for adjudication on the merits of the admission of the petition under Section 7 of the IBC, in accordance with the applicable rules and procedures.

Sd/-

Sanjay Puri

Member (Technical)

Sd/-

Rajeev Bhardwaj

Member (Judicial)