NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH COURT III

Item No. 04
IA (IBC)/5285 (MB)2025
in
C.P. (IB)/984(MB)2024

CORAM:

SH. HARIHARAN NEELAKANTA IYER	MS. LAKSHMI GURUNG
Member (Technical)	Member (Judicial)

ORDER SHEET OF THE HEARING ON **04.08.2026**
(HEARING THROUGH: HYBRID MODE)

NAME OF THE PARTIES: The Canara Bank Limited

Vs

Muzaffurpur Vidyut Vitaran Limited

Appearance

For Applicant: Adv. Arusha Bapat i/b India Law LLP

For Respondent:

SECTION 7 OF THE IBC 2016

ORDER

IA (IBC)/5285 (MB)2025

This company application is listed for pronouncement of order. The same is pronounced in Open Court, vide a separate order.

Sd/-	Sd/-
HARIHARAN NEELAKANTA IYER	LAKSHMI GURUNG
Member (Technical)	Member (Judicial)

---Shrinivas---

IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH COURT III

I.A.(IBC)5285/MB/2025
IN
CP.(IBC) 984/MB/2024

Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the NCLT Rules 2016.

Canara Bank

112, JC Road, Bangalore – 560002.
Branch Office:
Stressed Asset Management Branch, Circle Office Building, 8th Floor, 'B' Wing, C-14, G-Block Bandra-Kurla Complex, Bandra East, Mumbai- 400 051.

.... Applicant

Vs.

Muzaffarpur Vidyut Vitaran Limited.
5131 A, 5th Floor, Kohinoor City Mall, Kirol Marg, OFF. L.B.s. Marg, Kurla (W), Mumbai, Maharashtra – 400070.

.... Corporate Debtor

In the matter of
[*Under Section 7 of the Insolvency and Bankruptcy Code,2016]*

Canara Bank
112, JC Road, Bangalore – 560002.
Branch Office:
Stressed Asset Management Branch, Circle Office Building, 8th Floor, 'B' Wing, C-14, G-Block Bandra-Kurla Complex, Bandra East, Mumbai- 400 051.

.... Financial Creditor

Vs.

Muzaffarpur Vidyut Vitaran Limited.
513/A, 5th Floor, Kohinoor City Mall, Kirol Marg, OFF. L.B.s. Marg, Kurla (W), Mumbai, Maharashtra – 400070.

...Corporate Debtor

Order pronounced on: 04.08.2026

Coram:
Hon'ble Ms. Lakshmi Gurung, Member (Judicial)
Hon'ble Sh. Hariharan Neelakanta Iyer, Member (Technical).

Appearances:

For the Applicant	Adv. Rohit Gupta, Adv. Abdullah Qureshi, Adv. Narpat Singh.
For the Respondent	Adv. Ashish Pyasi, Adv. Yashwin Daga i/b Aendri Legal.

PER: MS. LAKSHMI GURUNG, MEMBER (JUDICIAL)

ORDER

1. This Interlocutory Application has been filed by Canara Bank (**'Applicant')**, under Section 60(5) of the Insolvency and Bankruptcy Code **('the Code')**, 2016 read with Rule 11 of National Company Law Tribunal Rules, 2016 **('NCLT Rules')**, seeking following reliefs: -

   a) *That this Tribunal be pleased to allow the Applicant to carry out necessary amendment in Part IV of Form 1 of the Petition to record the date of default as 30.01.2019;*

   b) *That this Tribunal be pleased to take on record the submissions made in the present Application and the documents annexed thereto and be treated as part and parcel of the Petition under Section 7 of IBC, 2016; and permit the Applicant to refer and rely on the said documents during the course of hearing before this Tribunal;*

   c) *That this Tribunal be pleased to pass any other order or orders as this Tribunal deems fit and proper in favour of Applicant in the interest of justice.*

2. **Facts of the Case:**

2.1. Company Petition No. 984 of 2024 has been filed under Section 7 of the Code by the Applicant against Muzaffarpur Vidyut Vitaran Limited **('Corporate Debtor')** which is presently pending before this Tribunal.

2.2. At the time of filing the said Company Petition, the date of default was mentioned as 26.12.2019 in Part IV of Form 1, being the date falling after the expiry of 7 days from issuance of the Loan Recall Notice dated 18.12.2019.

2.3. The Applicant vide this application seeks to amend the date of default from 26.12.2019 to an earlier date i.e. 30.01.2019, being the date on which the loan account of the Corporate Debtor was classified as Non-Performing Asset **('NPA')**, and also seeks to place on record certain additional documents.

Submissions of the Applicant:

3. The Applicant has made following submissions:

3.1. The Applicant has been unable to trace the delivery proof of the Loan Recall Notice. Therefore, to avoid any ambiguity, the Applicant seeks to rely upon the date on which the loan account of the Corporate Debtor was classified NPA i.e., 30.01.2019.

3.2. The amendment sought is confined to correcting the date of default and does not alter the cause of action or the nature of the proceedings. It merely substitutes the earlier stated date of 26.12.2019 with the NPA date i.e. 30.01.2019. The Petition is filed well within limitation and is maintainable.

3.3. It is submitted that the declaration of the loan accounts as NPA was duly communicated to the Corporate Debtor in the minutes of the Consortium Meeting held on 30.03.2019, which was attended by the representatives of the Corporate Debtor.

3.4. The Corporate Debtor has been in continuous default in repayment of principal amounts since 21.05.2018. This persistent default can be evidenced from the Independent Auditor's Report dated 01.02.2021 as well as from the Balance Sheet of the Corporate Debtor for the

Financial Year 2019-2020, annexed as *Exhibit B Colly* to the Application.

3.5. The Corporate Debtor has, from time to time, given One-Time Settlement **('OTS')** proposals to the Applicant, which unequivocally amount to acknowledgement of the outstanding debt on the part of the Corporate Debtor.

3.6. It is submitted that the Respondent, in its reply to Company Petition No. 984 of 2024, has contended that the date of default should be considered as the date of NPA. The Applicant submits that it is ready to accept and amend the date of default in the petition to the date of NPA. Such amendment will not cause any grave injustice to the Respondent.

3.7. The Applicant seeks to submit relevant documents which are crucial to substantiate the contentions of the Applicant. Such liberty is sought to ensure that the Petition is complete, accurate, and properly supported by all necessary documents, without causing any prejudice to the Respondent.

<u>Reply by the Respondent:</u>

4. The Respondent has vehemently opposed the present application on the following broad grounds:

4.1. The present amendment application is a belated attempt to overcome the limitation period. It is submitted that the Respondent had pointed out in its reply to the main company petition that the limitation period commenced on 30.01.2019 which is the date of NPA. Even after considering the exemption period granted by Hon'ble Supreme Court from 15.03.2020 to 28.02.2022 the last date for filing the Petition was 15.01.2024. However, the present Petition was filed on 18.10.2024 i.e. more than 8 months after the expiry of the limitation period.

4.2. The Applicant has filed the present application only after the Respondent filed a detailed affidavit-in-reply exposing the legally unsustainable date of default. The Petitioner has earlier pleaded 26.12.2019 as the date of default, allegedly arising after the expiry of seven days from the recall notice dated 18.12.2019. After the Respondent disputed the absence of proof of service of the recall notice, the Applicant admitted its inability to trace proof of delivery and now seeks to substitute the date of default with the NPA date. This proposed amendment withdraws the Applicant's earlier pleadings and shifts to new casue of action which is legally not permitted. The timing and nature of application demonstrates that it is not a bonafide application.

4.3. The applicant through this application has also sought to add documents which were contested by the Respondent in their reply. It is submitted the Tribunal may exercise inherent powers under Rule 11, but such power cannot be invoked to circumvent the structured procedure prescribed under the Rules. Any amendment to pleadings must necessarily be sought by a properly framed interlocutory application setting out the precise amendment proposed and demonstrating due diligence; similarly, production of additional documents after filing of the main petition requires specific leave of the Tribunal and cannot be mechanically clubbed within an amendment application so as to enlarge the evidentiary foundation of the case.

4.4. It is submitted that mere reliance on Balance Sheets, Auditor's Reports, financial statements or OTS proposals without demonstrating a clear acknowledgment of debt signed by the Corporate Debtor within the meaning of Section 18 of the Limitation Act, cannot ipso facto extend limitation. The Applicant has neither pleaded nor demonstrated any unequivocal acknowledgment prior to expiry of limitation, and selective reliance on financial disclosures, without placing the complete notes and qualifications on record, is legally impermissible. The amendment sought by the Applicant is not sought to advance the date of default on the basis of a continuing cause of action, but to retrospectively shift it backwards, which renders the theory of continuous default.

4.5. It is submitted that permitting the Applicant to cure substantive defects in response to the Respondent's objections would allow it to continually reshape its case, defeating the mandate of IBC of expeditious adjudication.

4.6. It is submitted that the Respondent has acquired a substantive and valuable right to seek dismissal of the Petition it being time-barred and such vested right cannot be defeated by a belated amendment.

DISCUSSION AND FINDINGS

5. Heard the Counsel for the parties and perused the record.

6. The Applicant by the way of the present application, has sought two reliefs (i) to carry out amendment in Part IV of the Petition with respect to the date of default from 26.12.2019 to an earlier date i.e. 30.01.2019 and (ii) to place on record additional documents enclosed with the Application.

7. The Respondent has objected to the present application on various grounds which are dealt with in the subsequent paragraphs.

8. Ld. Counsel for the Respondent has contended that the present application is a belated attempt to overcome limitation. We note that the Applicant seeks to amend the date of default in Part IV of the Petition from 26.12.2019 to 30.01.2019 which is in fact an earlier date. Such an amendment does not have an effect of extending or reviving the period of limitation. Therefore, we find no force in the contention of the Respondent.

9. The next objection by the Respondent is by way of the present application the applicant is seeking to change the cause of action after

having receiving the affidavit- in -reply and merely to overcome the right of the Respondent. Therefore, it is contented that the present application is not bonafide. We note that it is the Respondents own case that the account of the Corporate Debtor was classified as NPA on 30.01.2019 which essentially means that the Corporate Debtor its admitting its debt payable to the petitioner and also the default committed by it which lead to classification of the Corporate Debtors account as NPA. Therefore, we do not find any substance in the objection of the Respondent that any vested right of the Respondent is prejudiced after submission of its affidavit-in -reply by proposed change in default from a later date to an earlier date which is the date on which the Corporate Debtor was declared as NPA.

10. The Respondent has also objected to placing on record the additional documents by the Applicant stating that for filing additional documents specific leave of the Court is required and cannot be clubbed within an amendment application. As per Section 424 of the Companies Act 2013, this Tribunal is not bound by the procedure laid down in the Code of Civil Procedure 1908, but shall be guided by the principles of natural justice and subject to other provisions of the Companies Act 2013, and IBC and of any rules made there under which intend to advance justice, facilitate effective adjudication to determine real controversy between the parties. Procedural framework cannot be interpreted to impede the substantial justice. In any case, the applicant is seeking the leave of this Tribunal to place on record following additional documents:

i. Minutes of the Consortium Meeting held on 30.03.2019, which was duly attended by the representatives of the Corporate Debtor (Respondent) and the copy of the said meeting are also forwarded to the Respondent.

ii. Audited Financial Statements of the Corporate Debtor for the Financial Years 2019-2020, 2020-2021, 2022-2023 and 2023-2024.

iii. Copies of letters sent by the Respondent to the Applicant in relation to OTS proposals.

11. It can be seen that the documents at Sl. (ii) and (iii) are Respondent's own documents. There can be no prejudice caused to the Respondent if its own audited financial statements are placed on record by the applicant. Similarly, the Respondent's own letters written to the Applicant cannot be treated to be causing prejudice to the Respondent. The documents ate Sl. No. (i) i.e. minutes of the meeting in which the representatives of the Respondent were present as per the attendance sheet and the copy of the minutes forwarded to the Respondent. Hence such document also cannot be treated to be causing prejudice to the Respondent.

12. Coming to the contention of the Respondent that mere reliance on Balance Sheets, Auditor's Reports, financial statements or OTS proposals without demonstrating a clear acknowledgment of debt signed by the Corporate Debtor within the meaning of Section 18 of the Limitation Act, cannot ipso facto extend limitation, we note that present application is merely for placing on record additional documents and not to adjudicate the main company petition. Therefore, this submission of the Respondent is of no consequence in the present application.

13. In the judgement of ***Dena Bank (Now Bank of Baroda) vs. C. Shivakumar Reddy And Another (Civil Appeal no. 1650 of 2020)*** the Supreme Court has held as follows:

*"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 Provided)

14. In the facts and circumstances of the case when the arguments on the main petition are not concluded, we are of the view that the present application deserves to be allowed.

15. Coming to the cases relied upon by the Respondent. Respondent has placed its reliance on ***Usha Balasaheb Swami & Ors v. Kiran Appaso Swami & Ors AIR 2007 SC 1663*** to contend that amendment should not be allowed where it alters material submissions or substitutes a new cause of action. In the present case the proposed amendment is merely change in the date of default to an earlier date which is the date of NPA, admitted by the Respondent. Under such circumstances, there is neither material alteration nor substitution of a fresh cause of action.

16. Ld. Counsel for the Respondent then referred to the judgment in ***Revajeetu Builders & Developers v. Narayanaswamy & Sons (2009) 10 SCC 84,*** wherein the Hon'ble Supreme Court has laid down certain principles while considering an application for amendment. The Respondent contends that Court must examine whether the proposed amendment is necessary for the effective adjudication of the real

controversy, whether it is bona fide and whether it would cause prejudice to the opposite party that cannot be compensated in costs. As already discussed in preceding paragraphs, mere change in the date of default to an earlier date which is admitted by the Respondent as NPA cannot cause any prejudice to the Respondent and in our considered view is necessary for effective adjudication of the main company petition and deserves to be allowed.

17. The Respondent has then relied upon the judgment by the Hon'ble NCLAT in the case of ***Vasavi Power Services Pvt Ltd v Canara Bank Ltd 2025 SCC Online NCLAT 840.*** In this case, the proposed amendment was to nullify the defence taken in the proceedings regarding the limitation which has significant bearing for the purpose of initiation of proceedings under section 7 of IBC. However, in the present case, the Applicant seeks amendment in date of default to an earlier date than what is mentioned in the main petition, which, if allowed will not affect the limitation for the purpose of section 7 application. Therefore, the case cited by the Respondent is distinguishable from the facts of the present case.

18. The Respondent has then relied upon the order of a coordinate bench in the case of ***Inakshi Sobti and Others vs Starlight Systems (I) Private Limited 2024 SCC Online NCLT 210,*** in which the proposed date of default was not permitted to be amended as it was held that allowing the amendment would defeat the very purpose of Section 10A of the IBC. No amendment can be permitted which has the effect of nullifying statutory mandate. In the present case, there is no question of application of section 10A of the IBC and the proposed amendment will not have any effect of nullifying the statutory mandate. Therefore, the case cited by the Respondent is not applicable in the facts of the present case.

19. The prime question that this Adjudicating authority has to answer in a Section 7 application is whether there is a debt and default. Therefore, in our view the amendment to the date of default has not changed the nature of proceedings, the proposed amendment does not introduce or set up a new case or prejudice the Respondent in any manner as the proposed date of default has already been admitted as NPA date by the Respondent.

20. In the light of the above discussions, we consider it appropriate to allow the amendment and take on record the additional documents annexed to the Application.

21. The Applicant is directed to carry out amendment within two weeks from the date of this order and serve the amended copy of the Petition upon the Respondent.

22. Accordingly, I.A. **5285/2025** is **allowed** and stands **disposed of.**

SD/-	**SD/-**
Hariharan Neelakanta Iyer	**Lakshmi Gurung**
Member (Technical)	**Member (Judicial)**

/Apurva/