

Mere fact that interest under a foreign judgment was awarded from a particular date does not by itself furnish a justifiable basis for treating that date as the date of default in the insolvency proceedings

The **Bengaluru National Company Law Tribunal (NCLT)** in the case of **Reschtsanwalt Dr. Christian Bachmann vs Coffee Day Global Limited [IA(IBC)722/2025]** dated **June 01, 2026**, has held that an amendment to the date of default in an insolvency petition may be permitted where the amendment is clarificatory, relevant to proper adjudication, and intended to align the pleading with the factual foundation already set out, provided it does not shift the cause of action, withdraw an admission, or cause irretrievable prejudice to the respondent.

The Tribunal further held that the mere fact that interest under a foreign judgment was awarded from a particular date does not by itself furnish a justifiable basis for treating that date as the date of default in the insolvency proceedings, and that questions concerning the substantive enforceability of the underlying Letter of Comfort, the foreign judgment, and authorization issues are not germane while deciding the amendment application and are to be addressed at the hearing of the main petition.

The Tribunal observed that the application may have been prompted by the objections raised by the respondent and could, in that sense, be regarded as belated, yet there was “absolutely no basis available” for treating Nov 27, 2020 as the date of default merely because the Vienna Commercial Court had awarded interest from that date.

The Tribunal further recorded the settled proposition of law on amendment of pleadings, namely that at the stage of considering an amendment application, the merits of the proposed amendment are not to be examined; rather, the inquiry is whether the amendment is relevant and aimed at placing facts necessary for real, effective and complete adjudication of the disputes, so long as it does not amount to withdrawal of admission or setting up an altogether new cause of action.

Applying that test, the Tribunal held that the proposed amendment appeared to align the date of default with the pleaded case and did not displace the respondent from its disclosed standpoint. The Tribunal expressly left issues regarding the efficacy of the Letter of Comfort, implementation of the foreign judgment, and authorization of the signatory to be considered at the stage of hearing of the main petition.