Supreme Court clarifies principles applicable for conversion of amounts in arbitral awards expressed in foreign currency

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I. Brief Background

As international dispute resolution continues to grow, the impact of currency fluctuations and exchange rate variations on the enforcement of foreign awards becomes increasingly significant. Courts and arbitration tribunals frequently issue rulings and awards in foreign currencies, which is usually sought to be converted to Indian Rupee (INR) in execution proceedings in India. Due to fluctuating exchange rates, the precise amount owed in INR can remain uncertain even after the award is issued. Typically, Indian award debtors seek a conversion date when the rupee is stronger, whereas foreign award recipients would favor a date when their respective currency is stronger. In the case of *DLF Ltd. (formerly known as DLF Universal Ltd.) & Anr. v. Koncar Generators & Motors Ltd*.[1] ("**DLF Case**"), the Supreme Court addressed two pivotal questions concerning the enforcement of arbitral awards expressed in foreign currency and their conversion to INR.

The Court considered the following issues:

1. **Date for Determining Foreign Exchange Rate:** What is the appropriate date for applying the foreign exchange rate to convert amounts payable in foreign currency in an arbitral award from foreign currency to INR?
2. **Conversion Date for Deposited Amounts:** How should the conversion be handled when the award debtor has made partial deposits before the court while challenging the award/ in execution proceedings?

The Supreme Court held that these issues are laced by two uncertainties: a) the time gap between the award's issuance and its enforceability, and b) the fluctuating exchange rates. To address these, the Court reiterated two established principles in the following judgments:

1. *Forasol v. Oil and Natural Gas Commission* ***[2]*** ("**Forasol Case**"), the date on which the award becomes enforceable (*i.e.,* objections raised under Section 48 of the Arbitration and Conciliation Act, 1996 ("***the Act***") are conclusively decided) will be the relevant date for conversion.
2. *Renusagar Power Co Ltd. v. General Electric Co.* ***[3]*** ("**Renusagar Case**"), for amounts deposited in court during the challenge proceedings that the award-holder was entitled to withdraw, the conversion date will be the date on which such deposit was made.

II. Brief Facts of the DLF Case

The DLF Case is an appeal concerning the enforcement of an arbitral award expressed in foreign currency. The Appellants are Indian companies, while the Respondent is a Croatian company. The dispute arose from a contract for the design, engineering, manufacturing, and supply of two generators by the Respondent. The dispute was referred to arbitration before the International Chamber of Commerce (ICC) in Paris.

The arbitral tribunal issued an award on May 12, 2004, in favour of the Respondent, holding the Appellants jointly and severally liable for Euros 10,93,989, plus interest ("**Award Date**"). Certain part payments were made by the Appellants during the process of enforcement and execution.

The dispute primarily centres around the exchange rate applicable to a) the part payments already made and b) the residual payments owed by the Appellants. These payments were made following various orders from Indian courts, including INR 7.5 crores deposited on October 22, 2010, and an additional INR 50 lakhs on 15 July 2011, aggregating to INR 8 Crore ("**Deposited Amount**"), as well as accrued interest.

After objections to the enforcement were finally decided and dismissed on July 01, 2014, the Appellants challenged the exchange rate used for conversion of the Euros to Indian Rupees, particularly with respect to the Deposited Amount. The issue of the exchange rate was brought before the Supreme Court by the Appellants, who sought clarification on whether the exchange rate as on October 22, 2010, or another date should apply to the Deposited Amount as also the rate applicable to the residual payments to be made.

III. Judgement

A. Relevant Date Conversion of Un-Deposited/Residual Amount:

The Supreme Court reiterated the principles laid down in the *Forasol Case*, for the date of conversion to be considered where no exchange rate is provided. The Supreme Court in *Forasol* had held that the date of the decree was the most appropriate for conversion. In the DLF case, the Supreme Court, reaffirmed its decision in *Forasol* to hold that under the 1996 Act, a foreign award becomes enforceable automatically once objections are resolved (Section 49), so the date when objections are finally decided is deemed the appropriate date for currency conversion.

Additionally, the *Renusagar Case* affirmed the principles from the Forasol Case under the Foreign Awards (Recognition and Enforcement) Act, 1961. The Court upheld the use of Indian law (*lex fori*) for determining the conversion date and reaffirmed that the date when objections to the award are finally decided is the relevant date.[4] The High Court's decision that that the *Forasol Case* was passed under the Arbitration Act, 1940 and therefore inapplicable to the DLF Case, was rejected.

Therefore, in the DLF Case, the Supreme Court adopted July 01, 2014, i.e., the date when the objections to enforcement of the Award were finally dismissed, and the Award was enforceable, as the relevant date for conversion.

B. Relevant Date of Conversion of Deposited Amount:

This issue revolves around determining the appropriate exchange rate for converting amounts deposited in court. Two significant deposits were made:

- Rs. 7.5 crores on October 15, 2010
- Rs. 50 lakhs on July 15, 2011.

The key contention was whether the exchange rate should be applied as of the deposit dates or at a later date when the objections to the arbitral award were resolved.

I) Deposit of Rs. 7.5 Crores:

According to the High Court's order dated October 15, 2010, the deposit of Rs. 7.5 crores and the provision of a bank guarantee for its release were made with the consent of both parties. The Respondent's argument that it did not consent to this deposit was rejected. The Respondent did not withdraw the amount until 2016, despite being allowed to do so with a bank guarantee. The Respondent claimed that it could not obtain a bank guarantee from an Indian bank, but the order clearly recorded its consent to this requirement. Moreover, the Respondent did not seek modification of the condition, thus its failure to withdraw the amount was deemed a matter of its own discretion.

Consequently, the Supreme Court decided that the Rs. 7.5 crores deposit should be converted at the exchange rate on the date of deposit, which was October 22, 2010.

II) Deposit of Rs. 50 Lakhs:

This deposit was made following an interim High Court order dated June 03, 2011, which stayed the Trial Court's Order and directed that the amount be deposited in a fixed deposit receipt. Unlike the previous order, this one was not made with party consent, nor did it allow withdrawal until the conclusion of proceedings. The amount was to be disbursed to the successful party upon final adjudication of the objections.

For the Rs. 50 lakhs deposit, the Supreme Court determined that since the deposit could only be withdrawn after the completion of the proceedings (01.07.2014), the appropriate exchange rate for conversion should be the rate on this final date. The deposit was only withdrawn on October 10, 2016, and the interest accrued on this amount was also considered.

III) The Court adopted the approach in Renusagar Case on the basis that the facts of DLF Case closely resemble those in the Renusagar case. In both instances, the deposit was made while objections were pending. The deposit was allowed to be withdrawn against a bank guarantee from an Indian bank. In this case, the Respondent could not withdraw the amount, whereas, in Renusagar, the issue was the inability to convert the deposit to US dollars. Despite these challenges, in both cases, the Respondent did not seek necessary court orders to facilitate the withdrawal or use of the Deposited Amount. Additionally, in the DLF Case, the Respondent had consented to the deposit and the condition of providing security. Given these similarities, it was fitting to follow the approach adopted in the Renusagar case.

IV) In light of this, the Supreme Court affirmed that amounts deposited in Indian rupees should be converted to foreign currency based on the exchange rate applicable on the date of deposit. This reflects the value of the money at the time it was handed over, aligning with the principle that the award debtor parts with the money on the deposit date. Additionally, the court discussed provisions under the Civil Procedure Code (Order 21, Rule 1 and Order 24), which state that interest on deposited amounts ceases once the amount is deposited or tendered to the decree-holder. The court emphasized that once the award holder can access and benefit from the deposited amount, interest does not accrue further.

V) Therefore, the key relevant dates in the DLF Case for conversion were held to be:

1. Conversion of Rs. 7.5 Crores Deposit: the exchange rate as on October 22, 2010, i.e., the date of deposit.
2. Conversion of Rs. 50 Lakhs Deposit: the exchange rate as on July 01, 2014, i.e., the date when the objections were finally resolved.
3. Adjustment of Remaining Amount: The remaining amount of the arbitral award, after adjusting the deposits, to be converted at the exchange rate applicable when the objections were resolved (July 01, 2014).

IV. Conclusion

By aligning with the principles established in the *Forasol* and *Renusagar* Case, the Supreme Court has developed a framework for converting sums awarded in foreign currency in arbitral awards into Indian Rupees that emphasizes consistency and predictability. This approach ensures that the conversion rate is determined by the date when the award becomes enforceable—when all objections are resolved—providing clarity for both creditors and debtors. For amounts that could have been withdrawn, conversion occurs at the rate prevalent on the date of deposit, reflecting the immediate financial impact. Whereas, deposits made under court orders are converted based on the date of final resolution of objections. This differentiation ensures that currency fluctuations do not unfairly advantage one party over the other.

The Court's decision enhances the equity and efficiency of arbitral award enforcement in India. The ruling sets clear guidelines for currency conversion, thereby reducing the potential for disputes over conversion rates, streamlining the enforcement process. This balanced approach not only protects the interests of both creditors and debtors but also reinforces the reliability of India's arbitration framework, fostering greater confidence among international stakeholders.

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