



CIVIL

Navigating the Boundaries of Foreign Judgments: An Analysis of Messer Griesheim GmbH v. Goyal MG Gases

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The enforcement of foreign decrees in India often rests at the complex intersection of private international law and domestic statutory regulations. In a decision delivered on April 21, 2026, the Supreme Court of India addressed these intricacies in the case of *Messer Griesheim GmbH (now Air Liquide Deutschland GmbH) v. Goyal MG Gases Private Limited* [2026 INSC 401]. The apex court meticulously examined the enforceability of a summary judgment passed by an English Court, evaluating it against the rigid exceptions outlined in Section 13 of the Code of Civil Procedure, 1908, and the stringent regulatory framework of the erstwhile Foreign Exchange Regulation Act, 1973. This judgment serves as a crucial precedent delineating the boundaries of natural justice and the primacy of Indian statutory law in transnational commercial disputes.

The factual matrix of the dispute traces back to a Share Purchase and Co-operation Agreement executed in May 1995. The appellant, a foreign entity, and the respondent, an Indian company, entered into this agreement to establish a joint venture for manufacturing industrial gases. To finance the acquisition of plant and machinery, the respondent sought overseas borrowing. Consequently, an External Commercial Borrowing facility of USD 7 million was arranged through Citibank UK.

Given the strict foreign exchange regulatory regime prevailing in India under the Foreign Exchange Regulation Act (FERA), the transaction required explicit approvals from the Reserve Bank of India. The appellant provided an unconditional guarantee for the repayment of the loan. On September 3, 1997, the Reserve Bank of India permitted the furnishing of this guarantee, but subject to a pivotal condition. The regulatory authority strictly mandated that in the event of the invocation of the guarantee, no liability whatsoever would extend to the Indian company.

Disputes subsequently erupted between the joint venture partners regarding alleged breaches of a non-compete clause. Concurrently, the respondent defaulted on its loan repayment obligations. In October 2001, Citibank invoked the guarantee, prompting the appellant to discharge the outstanding liability of approximately USD 4.78 million. Relying on the subrogation clause within the loan agreement, the appellant demanded reimbursement from the respondent. The Indian company refused the demand, asserting that the amounts were mutually adjusted against substantial financial losses they had incurred due to the appellant's breaches of their core agreement.

Seeking recovery, the appellant instituted proceedings before the English Court in 2003, capitalizing on the contractual clause that designated English law and jurisdiction. An initial ex-parte default judgment was passed against the respondent. Recognizing the inherent difficulties in executing a default judgment under Indian law, the appellant strategically applied to recall the ex-parte order and prayed for a summary judgment. Despite the respondent raising substantive defences regarding oral settlements and the absolute statutory bar imposed by the Reserve Bank of India, the English Court dismissed the respondent's application for leave to defend. A summary judgment was rendered in February 2006, directing the respondent to pay over USD 5.8 million.

Armed with the summary decree, the appellant approached the Delhi High Court in 2006, filing an execution petition under Section 44A of the Code of Civil Procedure. The litigation saw a protracted journey through the corridors of the High Court. Initially, in 2013, a Single Judge dismissed the respondent's objections, ruling that the English judgment was delivered on merits and was therefore executable.

However, this position was ultimately overturned. Following a jurisdictional clarification by the Supreme Court regarding the execution powers of the Delhi High Court, the Division Bench heard the matter on its substantive merits. In December 2022, the Division Bench set aside the Single Judge's order, concluding that the foreign judgment bluntly contradicted the provisions of Indian law.

The proceedings before the Supreme Court witnessed robust rival contentions. The appellant vehemently argued that the English decree was valid, binding, and fully enforceable in India. They contended that as a guarantor who discharged a debt, they possessed absolute subrogation rights. Furthermore, the appellant emphasized that the English Court was undeniably a competent forum based on the explicit choice of law and jurisdiction in the contract. They maintained that a summary procedure does not inherently violate natural justice and that an executing court in India is precluded from going behind a finalized foreign decree to reassess factual findings.

Conversely, the respondent mounted a defence anchored in statutory sovereignty and procedural fairness. They argued that fastening liability upon them directly contravened the mandatory conditions imposed by the Reserve Bank of India under FERA. The respondent highlighted that the English Court had completely ignored this binding Indian law, rendering the judgment unenforceable under Section 13(c) and Section 13(f) of the Code of Civil Procedure. Additionally, the respondent asserted that by denying them the leave to defend despite the existence of bona fide triable issues, the English Court had violated the

fundamental principles of natural justice, meaning the judgment could not be considered as one given on merits under Section 13(b).

Tasked with resolving this complex dichotomy, the Supreme Court framed two primary issues. The first issue focused on whether the judgment of the English Court was in consonance with the strict requirements of Section 13 read with Section 44A of the Code of Civil Procedure. The second issue examined whether the foreign judgment was rendered legally unenforceable in India due to the explicit conditions imposed by the Reserve Bank of India in the exercise of its statutory powers under FERA.

The Court's analysis was deeply rooted in the statutory framework and established judicial precedents. Section 13 of the Code of Civil Procedure dictates that a foreign judgment shall be conclusive unless it falls within six specific exceptions. The Court referenced landmark judgments, including *Alcon Electronics*, *Y. Narasimha Rao*, and *Sankaran Govindan*, to elucidate the principles of natural justice, the recognition of Indian law, and the definition of a judgment on merits. The Court acknowledged that the English Court possessed competent jurisdiction and that the judgment was not obtained by fraud, thereby clearing the hurdles of Section 13(a) and 13(e).

However, the Supreme Court found fundamental infirmities regarding the remaining exceptions. Addressing Section 13(b) and 13(d), the Court observed that the respondent had presented bona fide, triable issues before the English Court. These included the alleged oral agreements setting off the debt against breach-of-contract losses and the critical statutory bar created by the Reserve Bank of India. By adopting a summary procedure and dismissing the application for leave to defend without a full trial, the English Court deprived the respondent of a fair opportunity to present its case. Consequently, the apex court ruled that the foreign judgment was neither given on the merits of the case nor in conformity with the principles of natural justice.

The Supreme Court directed equal scrutiny toward the violation of Indian statutory law. Examining the applicability of Section 13(c) and 13(f), the Court heavily emphasized the Reserve Bank of India's communication dated September 3, 1997. The regulatory condition explicitly prohibited the shifting of liability to the Indian company upon the invocation of the guarantee. The Court noted that the English forum failed to give due deference to these binding statutory permissions. Enforcing a financial liability that is fundamentally contrary to sovereign statutory conditions brings the foreign decree squarely within the prohibitions of the Code of Civil Procedure, specifically for sustaining a claim founded on a breach of Indian law and refusing to recognize the law of India.

Furthermore, the Court provided vital clarity on Section 47 of FERA. The bench distinguished between the act of bringing legal proceedings and the act of taking steps to enforce a decree. The Court clarified that while parties are free to approach a foreign or domestic judicial forum to adjudicate liability, the actual enforcement and execution of that decree within Indian territory remain strictly subject to the regulatory regime and explicit permissions of the State. This interpretation elegantly balanced the necessity of access to justice with the imperative of maintaining sovereign regulatory control over foreign exchange.

In its final decision, the Supreme Court decisively concluded that the summary judgment of the English Court failed to pass the substantive tests mandated by the Indian legal system. Because the foreign decree violated the exceptions enumerated in clauses (b), (c), (d), and (f) of Section 13 of the Code of Civil Procedure, it was declared legally unenforceable within India. Consequently, the Court upheld the impugned decision of the Division Bench of the Delhi High Court and dismissed the civil appeal, leaving no order as to costs. This comprehensive ruling strongly reaffirms the principle that while Indian courts respect the jurisdiction of foreign tribunals, cross-border decrees must strictly adhere to procedural fairness and the mandatory statutory laws of the land to attain executable status in India.

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