

GAHC010076972024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/2114/2024

M/S MAHAGURU BIBHUTI NARAYAN AYURVEDIC CENTRE
REPRESENTED BY ITS SOLE PROPRIETOR,
SRI DURLAV SARMA,
AGED ABOUT 57 YEARS,
S/O- LATE GOPINATH SARMA,
GANA PATH, KHANAPARA,
GUWAHATI, ASSAM, PIN- 781022.

VERSUS

1. THE STATE BANK OF INDIA AND 2 ORS.
REPRESENTED BY THE CHIEF GENERAL MANAGER,
SARB BRANCH, 2ND FLOOR, SIGNATURE SQUARE,
M.R.D. ROAD, BAMUNIMAIDAM, GUWAHATI- 781021.
(IFSC CODE- SBIN000221)

2:THE AUTHORIZED OFFICER AND CHIEF GENERAL MANAGER
SARB BRANCH, 2ND FLOOR, SIGNATURE SQUARE
M.R.D. ROAD, BAMUNIMAIDAM, GUWAHATI- 781021.
(IFSC CODE- SBIN000221)

3:THE DEPUTY GENERAL MANAGER
STATE BANK OF INDIA, DISPUR
GUWAHATI, ASSAM- 781006.
(IFSC CODE- SBIN0003030)

For the Petitioner : Mr. P. Deka, Advocate
For the Respondent(s) : Mr. K.K. Nandi, Advocate
: Ms. Dey, Advocate

– **BEFORE** –
HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE SUMAN SHYAM

24.04.2024

(Vijay Bishnoi, CJ)

This writ petition is filed by the petitioner being aggrieved with the order dated 26.02.2024 passed by the Debts Recovery Tribunal, Guwahati (in short, "DRT, Guwahati") in I.A. No.196/2020 in EDRT Dy No.448/2020, whereby the application filed by the petitioner under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, "SARFAESI Act, 2002") has been dismissed on the ground of delay of 1(one) day in filing the said application.

Mr. P. Deka, learned counsel for the petitioner has submitted that the DRT, Guwahati has grossly erred in not condoning the delay of 1(one) day in filing the application under Section 17 of the SARFAESI Act, 2002 before it.

It is contended that as per the order passed by the Hon'ble Supreme Court in Miscellaneous Application No.21/2022 in Miscellaneous Application No.665/2021 in Suo Moto Writ petition (C) No.3/2020 [In ***RE: Cognizance for Extension of Limitation*** and Other Miscellaneous Applications], the delay of 1(one) day is liable to be condoned.

It is contended that the limitation period for filing the application under Section 17 of the SARFAESI Act, 2002 was expired on 15.10.2020. However, the limitation period for filing any proceeding before any Court under any general or specific law, was extended by the Hon'ble Supreme Court from 15.03.2020 to 28.02.2022. It is contended that the DRT, Guwahati, without taking note of the

above fact has illegally rejected the application filed by the petitioner under Section 17 of the SARFAESI Act, 2002 treating it as barred by limitation.

Mr. K.K. Nandi, learned counsel appearing for the respondent Bank is not in a position to dispute the fact that as per the order dated 10.01.2022, passed by the Hon'ble Supreme Court in ***RE: Cognizance for Extension of Limitation*** (supra), the limitation for initiating any judicial proceedings before a Court under any general or specific law was extended up to 28.02.2022.

Taking into consideration the above fact and the directions given by the Hon'ble Supreme Court in ***RE: Cognizance for Extension of Limitation*** (supra), we are of the view that the DRT, Guwahati has erred in dismissing the application filed on behalf of the petitioner under Section 17 of the SARFAESI Act, 2002 while treating it as time barred.

Hence, the order dated 26.02.2024 passed by the DRT, Guwahati in I.A. No.196/2020 is set aside.

The DRT, Guwahati is directed to consider and decide the application filed by the petitioner under Section 17 of the SARFAESI Act, 2002 on merits, in accordance with law, while treating it to be within the limitation period.

With the aforesaid observation, this writ petition is disposed of.

JUDGE

CHIEF JUSTICE

Comparing Assistant