



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF APRIL, 2025

PRESENT

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

AND

THE HON'BLE MR JUSTICE RAMACHANDRA D. HUDDAR

WRIT PETITION NO.34905 OF 2024 (GM-DRT)

BETWEEN:

M/S. S. B. VALVES (INDIA) PRIVATE LIMITED
PLOT NO.120B, IIND PHASE,
TARIHAL INDUSTRIAL AREA,
HUBLI- 580 026,
DHARWAD DISTRICT.
KARNATAKA.

REP. BY ITS MANAGING DIRECTOR
MR. BASAVARAJ N. SARANGI,
ALSO AT
MR. BASAVARAJ N. SARANGI,
HOUSE NO.56,
PRIYADARSHINI COLONY,
GOKUL ROAD,
HUBLI - 580 030.

...PETITIONER

(BY SRI. RAJENDRA M. A., ADVOCATE)

AND:

1. THE ASST. GENERAL MANAGER
/AUTHORIZED OFFICER,
CANARA BANK,
TRAFFIC ISLAND ,
HUBLI- 590 029.
2. M/S. SHALIMAR VALVES PRIVATE LTD.,
4-846/1, MIDC REBALE,
NAVI MUMBAI - 400 701.



ALSO AT
M/S. SHALIMAR VALVES PRIVATE LTD.,
SURVEY NO.213/2/2,
ANCHATGERI VILLAGE,
KARWAR ROAD, HUBLI.

...RESPONDENTS

(R1 & R2 ARE SERVED AND UNREPRESENTED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DATED 25.11.2024 ON I.A.NO.635/2015 IN AIR NO.523/2015 (APPLICATION FILED U/S 18(1) WAIVER PETITION), AS NO ORDERS ARE PASSED U/S 17 OF THE SARFAESI ACT,2002 "ANNEXURE-A" AND ETC.,

THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING IN B GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE KRISHNA S DIXIT
AND
HON'BLE MR JUSTICE RAMACHANDRA D. HUDDAR

ORAL ORDER

(PER: HON'BLE MR JUSTICE KRISHNA S DIXIT)

Petitioner-company being the borrower of 1st Respondent-bank is knocking at the doors of Writ Court for assailing Debt Recovery Appellate Tribunal's Order dated 25.11.2024 whereby Petitioner was directed to deposit Rs.2 crore in two equalized installments within four weeks,



first installment of Rs.1 crore to be remitted within two weeks ie., on or before 09.12.2024 and the 2nd for the remainder within two weeks next following ie., on or before 23.12.2024. It is a peremptory order, in the sense that the non-remittance of the said amount would result into automatic rejection of the appeal itself.

2. Learned counsel for the Petitioner-borrower vehemently submits that the impugned order is contrary to law, facts & evidentiary material on record; on the substratum of the facts on which Petitioner's appeal was structured, the requirement of Sec.18(1) of the SARFAESI Act, 2002 is not attracted; the DRAT even otherwise ought to have waived pre-deposit condition as sought for in the Application filed u/s.18 of the Act; the discretion having not been properly exercised, the impugned order has an error apparent on the face of the record warranting indulgence of this court for setting the injustice at naught.

3. The Respondents despite service of notice have chosen to remain unrepresented, whatever be the reason



for that. Absence of a party who is notified of hearing of the case would not come in the way of said case being disposed off in accordance with law. Therefore we have taken up the main matter for consideration, there being no impediment in law or on facts.

4. Having heard the learned counsel for the Petitioner and having perused the Petition Papers, we decline indulgence in the matter being broadly in agreement with the reasoning of Debt Recovery Appellate Tribunal as has been reflected in the impugned order itself. 3rd Proviso to section 18(1) of the 2002 Act gives discretion to the DRAT to reduce the pre-deposit amount, is true. However, such reduction has a limitation and the statute prescribes 25%. The DRAT having exercised the said discretion within the bounds of law, its order cannot be faltered.

5. It hardly needs to be stated that the right of appeal is a creature of law and the Law Maker can condition the exercise of such a right. The Parliament in its wisdom has made the pre-deposit a *sine qua non* for maintaining



the appeal. It has also given discretion *inter alia* to the Appellate Authority to reduce the quantum of pre-deposit but not to waive it altogether. The Tribunal having employed its accumulated wisdom has exercised the discretion by asking the Petitioner to deposit Rs.2 crore and it has given a reasonable period for remitting it in two equalized installments. Despite vociferous submissions, learned counsel for the Petitioner could not demonstrate legal infirmity in the impugned order.

6. Learned counsel for the Petitioner referred to earlier round of litigation in W.P.No.13267/2024 disposed off by a learned Single Judge of this court on 12.07.2024 and also the resultant Writ Appeal No.100349/2014. All they are irrelevant to the adjudication of *lis* at hand which lies in a very narrow compass of law. Therefore much is not discussed in respect of those, although submissions were made by the learned counsel.

In the above circumstances, this petition being devoid of merits, is liable to be and accordingly dismissed.



Registry to send a copy of this order to the
Respondents by Speed Post immediately.

**Sd/-
(KRISHNA S DIXIT)
JUDGE**

**Sd/-
(RAMACHANDRA D. HUDDAR)
JUDGE**

MPK/SNB
List No.: 1 Sl No.: 25