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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 4509/2015

SIDDHARTH CHANDRA

..... Petitioner

Represented by: Ms.Anuradha Hazra, Advocate

versus

BANK OF BARODA & ORS

..... Respondents

Represented by: Mr.R.P.Agarwal, Advocate for R-1

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE A.K.PATHAK

ORDER

% **09.03.2016**

1. The writ petitioner was aggrieved by an order dated December 23, 2013 passed by the Recovery Officer-II of DRT-II of Delhi in RC No.35/2013 and filed an appeal under Section 30 of the Recovery of Debts due to Banks and Financial Institutions Act, 1993. IA No.184/2014 was filed along with the appeal since there was delay in filing the appeal and prayer made in the application was for delay to be condoned in filing the appeal. Section 5 of the Limitation Act, 1963 was relied upon.
2. Vide order dated August 12, 2014 DRT-II held that Limitation Act, 1963 did not apply to the Tribunal and thus dismissed IA No.184/2014, and as a consequence the appeal filed by the petitioner.
3. Order dated August 12, 2014 passed by DRT-II was challenged by the petitioner in Appeal No.404/2014 before DRAT, which appeal has been dismissed vide order dated November 14, 2014.
4. The issue is no longer res-integra. Two authoritative pronouncements

have since been rendered by the Supreme Court. The first is a decision dated July 01, 2015 in CA No.4926/2015 A.R Venugopal vs. Jotheeswaran & Ors. The second is reported as AIR 2015 SC 2881 Baleshwar Dayal Jaiswal vs. Bank of India & Ors.

5. Learned counsel for respondent Nos.1 & 2 does not dispute that as per law declared in said two decisions the view taken by the Debts Recovery Appellate Tribunal has to be overruled. The law declared is that concerning appeals under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, Limitation Act would apply and delay in filing appeals can be condoned.

6. We dispose of the writ petition quashing the impugned order dated November 14, 2014 passed by DRAT as also the order dated August 12, 2014 passed by DRT-II. Since IA No.184/2014 in Appeal No.7/2014 has been dismissed as not maintainable, we restore IA No.184/2014 with a direction that DRT-II shall decide the said application on merits to consider whether petitioner has shown sufficient cause for delay to be condoned in filing Appeal No.7/2014, and if delay is condoned, said appeal shall be decided on merits.

7. No costs.

PRADEEP NANDRAJOG, J.

A.K.PATHAK, J.

MARCH 09, 2016

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