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

+ W.P.(C) 9755/2015

SUSHILA DEVI SARAOGI

..... Petitioner

Represented by: Mr.Pallav Saxena, Adv. with
Mr.Sumit Aggarwal, Adv.

versus

INDIAN BANK

..... Respondent

Represented by:

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **16.02.2016**

1. Notice has yet to be issued in the writ petition but the same can be disposed of by a declaratory order which will not be to the prejudice of the respondent.
2. Issue raised in the writ petition concerns power vested in the Debts Recovery Tribunal on the subject of condoning delay in filing an appeal under Section 30 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993.
3. The petitioner had filed an appeal against an order dated January 31, 2014 passed by the Recovery Officer-II in RC No.39/1998. Since the appeal was filed beyond the period of limitation, vide IA 445/2014, invoking Section 5 of the Limitation Act, 1963, it was prayed that 100 days delay in filing the appeal be condoned.

4. The Debts Recovery Tribunal took the view that it had no power to condone the delay and therefore the appeal was dismissed as barred by limitation.

5. The order was challenged in appeal before the Debts Recovery Appellate Tribunal, which concurred with the view taken by the Debts Recovery Tribunal vide impugned order dated November 07, 2014.

6. 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.

7. The writ petition is therefore disposed of declaring that in view of the law laid down by the Supreme Court the Debts Recovery Tribunal has power under Section 5 of the Limitation Act, 1963 to condone the delay in filing the appeal, provide sufficient cause is shown.

8. Since the order dated June 11, 2014 has dismissed IA 445/2014 holding that the Debts Recovery Tribunal does not have power to condone the delay, since sufficiency of the cause projected has not been adverted to, the writ petition is disposed of quashing the order dated November 07, 2014 passed by the Debts Recovery Appellate Tribunal as also the order dated June 11, 2014 passed by the Debts Recovery Tribunal. IA 445/2014 is restored for consideration on merits by the Debts Recovery Tribunal. Debts Recovery Tribunal would consider IA 445/2014 in Appeal No.34/2014.

9. No costs.

CM No.23438/2015

Dismissed as infructuous.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

**FEBRUARY 16, 2016
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