

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

and

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.No.4346 of 2016

Mr.A.Kasali

...Petitioner

Versus

1. The Authorised Officer,
Indian Overseas Bank,
V Block, No.83, Plot No.4035.
IV Main Road, Anna Nagar,
Chennai - 600 040

2. The Registrar,
Debt Recovery Appellate Tribunal,
4th Floor, Indian Bank Circle Office,
55, Ethiraj Salai, Chennai - 600 008.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of certiorarified mandamus, to call for the records of I.A.No.402 of 2015 in AIR (SA) 399 of 2015 on the file of the Honourable DRAT, Chennai, the 2nd respondent and quash the order dated 24th June 2015 and direct the 2nd respondent to entertain the Appeal in AIR(SA) 399 of 2015 upon its merits under the lights of the new circumstances.

For Petitioner : Mr.P.Jesus Moris Ravi
For Respondents: Mr.K.C.Vimalsarathy
for Mr.D.Saikumaran

ORDER

(Order of the Court was made by S.MANIKUMAR, J.)

Challenge in this writ petition is to an order made in I.A.No.402 of 2015 in AIR (SA) No.399 of 2015 dated 24.06.2015, by which, placing reliance on a decision of this Court in W.P.No.13456 of 2012 and batch of cases dated 28.08.2012, the Debts Recovery Appellate Tribunal, Chennai dismissed the application filed to condone the delay of 140 days in filing the

appeal against the order of Debts Recovery Tribunal-II, Chennai in S.A.No.62 of 2014, as not maintainable.

2. Record of proceedings shows that when the matter came up on 09.02.2016, a Hon'ble Division Bench of this Court has ordered notice to the Authorised Officer, Indian Overseas Bank, Chennai, the 1st respondent.

3. On this day, when the matter came up for further hearing, placing reliance on the decision of the Hon'ble Supreme Court in Baleshwar Dayal Jaiswal Vs. Bank of India and Others reported in (2015) 6 MLJ 95 (SC), Mr.P.Jesus Moris Ravi, learned counsel for the writ petitioner submitted that the Debts Recovery Appellate Tribunal, Chennai, has jurisdiction to entertain an application and condone the delay, on merits. He further submitted that Recovery of Debts Due to Bank and Financial Institutions Act, 1993, has also underwent an amendment by Act 44 of 2016, by which, the appellate tribunal may entertain an appeal after the expiry of the period of 30 days, if there is sufficient cause for not filing it within that period.

4. Perusal of the judgment of the Hon'ble Supreme Court in Baleshwar Dayal Jaiswal's case shows that the issue as to whether the appellate tribunal has jurisdiction to condone the delay in filing appeal or not, was pending from 2012 onwards, before the Hon'ble Apex Court. Judgment relied on by the learned counsel for the writ petitioner squarely applies to the case on hand.

5. In the light of the above discussion and decisions stated supra, order made in I.A.No.402 of 2015 in AIR (SA) No.399 of 2015 dated 24.06.2015, is liable to be set aside and accordingly, set aside. The application filed to condone the delay in maintainable and we are relegating the matter to the Debts Recovery Appellate Tribunal to process the appeal papers in accordance with the procedural rules and if the same is in order, direct the tribunal to take up I.A.No.402 of 2015 in AIR (SA) No.399 of 2015 dated 24.06.2015, and decide the same on merits and in accordance with law.

6. With the above direction, the instant writ petition is allowed. No costs.

Sd/-
Assistant Registrar

//True Copy//

ars

Sub Assistant Registrar

To

The Reigistrar,
Debt Recovery Appellate Tribunal,
4the Floor, Indian Bank Circle Office,
55 Ethiraj Salai,
Chennai-8.

+1cc to Mr.Saikumaran, Advocate, S.R.No. 1499

SS(CO)
RS(25/01/2017)

W.P.No.4346 of 2016



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