

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE P.KESHA RAO

WRIT PETITION NO.13349 of 2014

ORDER: (per SK,J)

Challenge in this writ petition is to the order dated 04.03.2014 passed by the Debts Recovery Appellate Tribunal, Kolkata, dismissing Application Nos.134 and 135 of 2013 in Appeal No.73/13 of 2013. The petitioner herein was the appellant in the said appeal and it filed Application No.134 of 2013 to condone the delay in the presentation of the appeal before the Appellate Tribunal. It appears that the Appellate Tribunal had occasion to consider the issue of condonation of delay in the filing of appeals earlier and by order dated 06.01.2013 passed in Appeal Nos.407 and 408 of 2013, it opined that it had no such power under the scheme of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act') read with the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (for short, 'the Act of 1993'). The Appellate Tribunal applied this decision to the petitioner's appeal and dismissed it on that ground. This issue now stands settled by virtue of the later decision of the Supreme Court in *Baleshwar Dayal Jaiswal v. Bank of India*¹. In the light of the law laid down by the Supreme Court in the aforesaid judgment, the Appellate Tribunal is deemed to have the power to condone such delay in deserving cases by virtue of the provisions of Section 18(2) of the SARFAESI Act read with Section 20(3) of the Act of 1993. This being the settled legal position as on date, we are of the opinion that the order under challenge holding to the contrary cannot be sustained.

The writ petition is accordingly allowed setting aside the order under challenge and remitting the matter to the file of the Debts Recovery Appellate Tribunal, Kolkata, for consideration afresh of the condone delay

¹ (2016) 1 SCC 444

petition filed by the petitioner herein in Appeal No.73/13 of 2013 on its own merits and in accordance with law.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR,J

P.KESHAVA RAO,J

Date:30.11.2017

GJ

