

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.22891 of 2016 (O&M)

Date of Decision: 10.08.2017

M/s Tirath Ram Ahuja Pvt. Ltd.

... Petitioner

VS.

State of Haryana & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Chetan Mittal, Senior Advocate with
Mr. Mohinder Nain, Advocate for the petitioner

Mr. Vivek Saini, DAG Haryana

Mr. DK Singla, Advocate for respondent No.6

Mr. Arun Monga, Advocate for respondent No.9

SURYA KANT, J. (Oral)

CM-10132-CWP-2017

Allowed as prayed for.

Documents (R-6/5 to R-6/7) are taken on record.

CM stands disposed of.

CWP-22891-2016 (O&M)

(1) Learned counsel for the petitioner states that though he has got an efficacious alternative remedy to approach the Debt Recovery Tribunal (DRT) under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, nevertheless, it would be an exercise in futility for the petitioner to avail that remedy at this stage for the reasons that (i) DRT or the respondents are likely to raise the objection of limitation; and (ii) the proceedings before DRT are time consuming.

(2) In our considered view, both the apprehensions expressed by the petitioner are misplaced. Since the petitioner has been pursuing the instant writ petition before this Court, the period so spent has to be excluded for the purpose of limitation. As regard to the delay beyond the said period, if any, the petitioner would be at liberty to explain the same. We have no reason to doubt that regardless of the objection raised by the respondents, the Tribunal shall make an endeavour to decide the SA on merits.

(3) So far as the time likely to be spent in the proceedings before DRT is concerned, it is directed that as soon as the limitation issue is decided by the Tribunal within two months from the date of filing of SA along with application for condonation of delay and if the Tribunal condones the delay, the main case shall be decided by the Tribunal on merits and in accordance with law within six months thereafter.

(4) Disposed of.

(Surya Kant)
Judge

10.08.2017
vishal shonkar

(Sudhir Mittal)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes
No