

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.3729 of 2016 (O&M)

Date of Decision: 24.08.2017

State Bank of India

... Petitioner

VS.

DRAT & Ors.

... Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE SUDHIR MITTAL**

Present: Mr. BB Bagga, Advocate for the petitioner

Mr. Ashish Aggarwal, Senior Advocate with
Mr. Govind Chauhan, Advocate
for respondents No.2,3A & 3C

Mr. Manish Jain, Advocate for respondent No.8

SURYA KANT, J. (Oral)

(1) The State Bank of India has filed the instant writ petition challenging the order dated 06.04.2015 passed by Debt Recovery Appellate Tribunal, Delhi (DRAT), the operative part whereof reads as follows:-

“In the absence of any application from the respondent bank under Section 19(11) of the RDDBFI Act the finding of the Tribunal below that it has no jurisdiction to consider the counter-claim of the appellate, cannot be sustained. The case will have to go back to the Tribunal below for considering the plea of counter-claim raised by the appellants in accordance with law. Since the case is being remanded back to the Tribunal, the Tribunal may also consider if the respondent bank has complied with the direction of the Tribunal in the impugned order for refund/adjustment of the amount actually debited by the bank against interest for items (2)&(3) of investigation report dated 9.12.1995. The Tribunal will also consider the effect of non-producing the investigation reports. The Tribunal would

be at liberty to reconsider the claim of the bank while considering the plea of counter-claim.”

(2) It may be mentioned here that the petitioner-Bank filed OA before the Debt Recovery Tribunal, Chandigarh (DRT) seeking recovery of more than ₹ 8 crores from the respondents. In the said OA, the respondents filed a counter-claim which DRT declined to adjudicate. The aggrieved respondents filed two appeals and while allowing those appeals in part, the Appellate Tribunal vide impugned order has remanded the case to DRT to decide those counter-claims as well.

(3) We have perused the appellate order.

(4) There is no expression of merits on the claim or counter-claim and the impugned order cannot be construed as if the Appellate Tribunal has found any *prima facie* merit in the counter-claim. It has been simply remanded so that DRT can adjudicate the same on merits. The impugned order does not cause any prejudice to the petitioner-Bank.

(5) The writ petition is accordingly disposed of with a direction to the DRT to decide the counter-claim filed by the respondents within three months from the date of receipt of certified copy of this order.

(Surya Kant)
Judge

24.08.2017
vishal shonkar

(Sudhir Mittal)
Judge

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

Yes
No