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

+ **W.P.(C) 13387/2018 & CM No.52136/2018 (*stay*)**

SASI POWER PVT. LTD. & ORS. Petitioners

Through: Mr.Basant Agarwal, Adv. with
Mr.Shanker Karjee, AR

Versus

UCO BANK Respondents

Through: Mr.I.S. Chauhan, Mr.C.M.L. Das,
Advocates

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

12.12.2018

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CM No.52137/2018

Allowed, subject to all just exceptions.

W.P.(C) 13387/2018 & CM No.52136/2018 (*stay*)

Challenging the orders dated 13.11.2018 passed by the DRAT arising out of an order passed by the DRT-II, Delhi in the matter of non-condonation of delay and rejecting the written statement filed by the Petitioner, this petition has been filed under Article 226 and 227 of the Constitution.

2. Having heard the learned counsel for the parties, we find that the petitioner, on receipt of the notice in the pending proceedings, raised a preliminary objection before the DRT. The same was rejected and thereafter when the petitioner filed the written statement, it was refused to be taken on record on the ground that it has been filed beyond the period prescribed and

while raising a preliminary objection in IA No.751/2016, the written statement was already filed and now in the garb of a counter affidavit, further written statement cannot be allowed. We have gone through the preliminary objection filed by the petitioner and we find that it was not a written statement. It was only an objection raised with regard to maintainability of the proceedings. It was in the nature of a preliminary objection. The said IA being IA No.751/2016 was dismissed on 01.09.2017 and thereafter, the Petitioner filed the detailed written statement along with the preliminary objection well within 30 days of rejection of the application for preliminary objections.

3. In our considered view, the learned Tribunal has not considered various aspects of the matter as indicated hereinabove and has rejected the application for taking on record the written statement without appreciating the facts in its right perspective. That being so, it is a fit case where the matter should be remanded back to the respondent Tribunal to decide the application for taking the written statement on record afresh in accordance with law.

4. Accordingly, the petition is allowed. Orders impugned passed by the DRT-II, Delhi and the DRAT are quashed. The DRT-II, Delhi shall reconsider the prayer of the petitioner for taking the written statement on record. No costs.

CHIEF JUSTICE

V. KAMESWAR RAO, J

DECEMBER 12, 2018/pk