

Sharayu Khot.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 304 OF 2019

Affable Fisheries Pvt.ltd.

...Petitioner

Versus

State Bank Of India

...Respondent

Mr. Nitin Thakkar, Senior Counsel a/w Mr. Yatin Shah and Mr. Niranjana M. Deshpande i/b Vivek V. Phadke, for the Petitioner.

Ms. Kainaz Irani i/b Goenka Law Associates, for the Respondent.

**CORAM : A.A. SAYED &
RIYAZ I. CHAGLA, JJ.**

DATE : 8 March 2019

ORDER :

1. The Petition has been filed impugning the letters dated 31st August 2018 and 28th September 2018 of the

Respondent-State Bank of India which communications essentially pertain to the One Time Settlement Scheme 2018 (OTS) offered by the Respondent State Bank of India. The other prayers in the Petition also essentially relate to the OTS.

2. The Petitioner had filed Applications before the D.R.T. *inter alia* seeking to deposit the OTS amount in the D.R.T. Thus, the OTS was a subject matter raised before the D.R.T. During the pendency of the present Petition, Miscellaneous Application No. 27 of 2018 of the Petitioner was rejected by D.R.T. by an order dated 31st October 2018. In paragraph 10 of the said order dated 31st October 2018, it is observed as follows :-

“10) *The last contention with regard to the power of DRT in enforcing the OTS and Sardar Associates judgment. It is not the case of the Applicants that the Respondent Bank is not accepting their OTS. In fact, the Respondent Bank has issued OTS offer letter recently to the Applicants whereunder the*

Applicants are required to deposit an amount of Rs. 31,31,555/- being 5% amount as upfront fee for processing the OTS proposal which the Applicants did not inclined to do. On the other hand the Applicants prayed for oral order from this Tribunal to the Respondent Bank to direct the Respondent Bank to keep 5% upfront fee in no lien account which was refused by this Tribunal as this Tribunal is not empowered to give any such direction. Thus, it is very clear from the conduct of the Applicants that they are not inclined to pay any amount to the Bank nor interested for settlement with the Bank under OTS and therefore the question of enforcement of OTS Scheme does not arise in this case nor the judgment of the Supreme Court in Sardar Associates has any application.”

3. Inasmuch as the Petitioner has an alternate remedy available before the D.R.A.T., we are not inclined to entertain the Petition.

4. The Petition shall accordingly stand dismissed. All

contentions are kept open.

5. We however, make it clear that while considering the Application for condonation of delay in filing the Appeal, if any, the pendency of the present Petition shall be taken into account by the D.R.A.T.

[RIYAZ I. CHAGLA J.]

[A.A. SAYED, J.]