

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 8.11.2019

CORAM

THE HONOURABLE DR.VINEET KOTHARI, ACTING CHIEF JUSTICE
AND

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.31428 of 2019

1. S.Balakrishnan
2. B.Anuradha

Petitioners

Versus

Tamilnad Mercantile Bank Ltd.,
rep. by its Chief Manager &
Authorised Officer,
Chennai Regional Office,
No.45, Pulla Avenue,
Shenoy Nagar, Chennai 600 030.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records relating to order dated 7.11.2018 by the Hon'ble Debt Recovery Appellate Tribunal, Chennai in M.A.No.884/2018 in AIR(SA) 454/2018 and quash the order and directing the Hon'ble Debt Recovery Appellate Tribunal, Chennai to entertain the Appeal against M.A.No.72 in SASR No.57/2018 on the file of the Debt Recovery Tribunal III, Chennai without insisting the petitioners to make any pre-deposit and dispose the appeal on merits.

For Petitioners : Mr.D.Nellaiappan

ORDER

(Order of the court was made by Dr.VINEET KOTHARI, ACJ.)

This Petition has been filed against the order dated 7.11.2018 passed by the Hon'ble Recovery Appellate Tribunal, Chennai in M.A.No.884/2018 in AIR(SA) 454/2018 directing the Petitioners to make a pre-deposit of Rs.7,00,000/- for maintaining the Appeal in question.

2. The learned counsel for the Petitioners submitted that the impugned order passed by the DRAT demanding pre-deposit is not maintainable in view of the decision in Mardia Chemicals Limited v. Union of India ((2004) 4 SCC 311) and the decision of a Division Bench of this Court in Sree Jeya Soundharam Textile Mills Pvt. Ltd v. Canara Bank and others (C.R.P.(NPD) No.1492 of

2017, etc. decided on 11.4.2019) which has been followed by this Bench in the case of M/s.Ashok Wood Works and another v. Indian Overseas Bank (W.P.No.22981 of 2019 dated 30.9.2019).

3. The controversy in the present case is covered by the above decisions. Therefore, the present Writ Petition is allowed and the impugned order dated 7.11.2018 is set aside. The learned DRAT is expected to pass appropriate fresh orders in accordance with law. A copy of this order may be sent to the Respondent-Bank forthwith. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:

1. The Registrar,
Debt Recovery Appellate Tribunal,
Chennai,
4th Floor, Indian Bank Circle Office,
55 Ethiraj Salai, Chennai-8.
2. The Chief Manager &
Authorised Officer,
Tamilnad Mercantile Bank Ltd.,
Chennai Regional Office,
No.45, Pulla Avenue,
Shenoy Nagar, Chennai 600 030.

+1 cc to M/s.D.Nellaiappan, Advocate Sr.No.92831

AKM/16.12.19/2P-4C /
AKM/02.01.2020

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