

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5735 OF 2019

M/s Agrawal Oil Industries through
Partner Champalal Mohanlal Agrawal .. Petitioner

Versus

The State Bank of India and another .. Respondents

Shri Anil S. Bajaj, Advocate for the Petitioner.

Shri R. C. Patil, Advocate for the Respondent No. 1.

Shri K. J. Suryawanshi, Advocate for the Respondent No. 2.

**CORAM : S. V. GANGAPURWALA AND
R. N. LADDHA, JJ.**

DATE : 17TH AUGUST, 2021.

FINAL ORDER :

. The petitioner assails the order passed by the Debt Recovery Appellate Tribunal, Mumbai (for short D.R.A.T. Mumbai) thereby dismissing the Miscellaneous Application filed by the petitioner for condonation of delay inter alia not entertaining the appeal filed by the petitioner against the order passed by the Presiding Officer, Debt Recovery Tribunal, Aurangabad.

2. We have heard Mr. Bajaj, the learned advocate for the petitioner, Mr. Suryawanshi, the learned counsel for the respondent No. 2 and Mr. Patil, the learned advocate for the respondent No. 1.

3. The moot question is whether D.R.A.T. Mumbai had jurisdiction to condone the delay caused in filing the appeal.

4. The issue is *no longer res-integra* in view of the judgment of the Apex Court in a case of **Standard Chartered Bank Vs. M.S.T.C. Limited** reported in *(2020) 13 SCC 618*.

5. In the light of that, we need not dilate on the merits of the contentions of the parties.

6. While dismissing the miscellaneous application filed by the petitioner, the D.R.A.T. Mumbai has observed that, all other miscellaneous applications filed by the petitioner are dismissed as infructuous. It is contention of the petitioner that, the petitioner during the pendency of appeal before the D.R.A.T. Mumbai had arrived at one time settlement with the bank and the permission was to be obtained from the Appellate Tribunal. Said application was dismissed as infructuous. According to the learned counsel, the sale till date is not confirmed and it cannot be confirmed due to non compliance on the part of the purchaser. The said aspect also needs to be considered.

7. The present writ petition is basically filed against the order passed by the Appellate Tribunal rejecting the application of the petitioner for condonation of delay and it has not considered any other application on merits.

8. The Appellate Tribunal at Mumbai certainly could not have considered any other application, as the appeal itself was

not registered and it did not possess the authority to condone the delay.

9. In the light of that, the approach of the Appellate Tribunal cannot be faulted with.

10. The petitioner, if it has cause of action after the order was passed by the Recovery Officer, D. R. T. Aurangabad dated 21.10.2009 below Exhibit 01 in Recovery Proceeding No. 77 of 2006, then the petitioner can agitate it's grievance before the appropriate forum, in accordance with law.

11. With the aforesaid observations, the writ petition stands disposed of. No costs.

12. As we have already observed that, the Appellate Tribunal could not have considered other applications filed by the petitioner, in view of the fact that, it did not possess the power to condone the delay, we have in the present petition also not considered merits of the contentions qua other application and other contentions raised herein. All contentions in that regard are kept open.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]