

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.**

WRIT PETITION NO.1025 OF 2021

M/s. Rushikesh Paper Mills Private Limited ... Petitioner

V/s.

The Cosmos Co-op. Bank Ltd. & Anr. ... Respondents

Adv. Ishan Srivastava i/by Mr. Gurdeep Singh Sachar for the Petitioner.

Mr. Rishabh Shah a/w. Mr. Anushul Anjarlekar i/by Raval-Shah & Co. for the Respondents.

**CORAM : A. A. SAYED &
 MADHAV JAMDAR, JJ**

**DATED : 9th APRIL, 2021
 (Through VC)**

P.C.:

The Petition is filed challenging the order dated 10th March, 2021 of the DRAT passed in the Application filed by the Petitioner, seeking waiver of the statutory deposit under section 18(1) of the SARFAESI Act. The impugned order reads thus:

Heard Advocates for parties through Video Conference.

2. This application is filed seeking waiver of statutory deposit as required under section 18(1) of SARFAESI Act. Appeal is preferred challenging order dated 05.02.2021 in I.A. No. 3/2021 in S.A. No. 125/2020 on the file of the DRT, Pune.

3. Request of Applicants in the petition is to give a total waiver, but as per the provisions of Section 18 of SARFAESI Act, this Tribunal has no such power to give total waiver which is even clarified by the Higher

Courts in many cases. Only power vested with the Tribunal is to reduce statutory deposit upon 25% provided reasons are recorded. Except pleading general reason of Covid-19, no other substantial reason is shown for reducing the statutory deposit.

4. Admittedly amount claimed by the bank in 13(2) noticed dated 18.04.2018 is Rs.10,80,63,939.89. Therefore, without going into today's liability, I am of the view for entertaining the appeal, Applicants have to deposit 50% of notice amount.

5. Applicants shall deposit 50% of the notice amount which comes to Rs.5,40,31,970/- on or before 17/03/2021 in the form of Demand Draft with Registrar of this Tribunal and failure to deposit the said amount would result in automatic dismissal of Appeal.

6. As and when the said amount is deposited, it shall be invested in term deposit in the name of the Registrar, DRAT, Mumbai with any nationalized bank, initially for a period of 13 months and thereafter it will be renewed periodically.

7. Stand over to 18/03/2021 for reporting compliance of payment of deposit.

2. Having gone through the impugned order, we do not find that the impugned order suffers from any infirmity. Under the provisos to section 18, the Appeal cannot be entertained unless the borrower deposits 50% of the amount of debt due, which can be reduced to not less than 25%, for reasons to be recorded in writing. Before us, no argument is canvassed that the 50% amount ought to be reduced to 25%.

3. No case is made out to interfere with the impugned order.
The Petition is accordingly dismissed.

(MADHAV JAMDAR, J.)

(A. A. SAYED, J.)