

Prajakta Vartak

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

**CONTEMPT PETITION NO.32 OF 2021
IN
WRIT PETITION NO.5106 OF 2019**

M/s.Eco Tread Reclaimed Rubber (I.) Pvt.Ltd. **...Petitioner**

vs.

Debt Recovery Appellate Tribunal & Ors. **...Respondents**

**AND
INTERIM APPLICATION NO.1834 OF 2021
IN
CONTEMPT PETITION NO.32 OF 2021**

M/s.Eco Tread Reclaimed Rubber (I.) Pvt.Ltd. **...Petitioner**

vs.

Debt Recovery Appellate Tribunal & Ors. **...Respondents**

...

Mr.Sankalp Golatkar for Petitioner/applicant.

...

**CORAM : DIPANKAR DATTA, CJ &
G. S. KULKARNI, J.**

DATE : AUGUST 11, 2021

PC :

1. The petitioner's writ petition bearing W.P. Stamp No.5106 of 2019 was disposed of by a co-ordinate bench of this Court on April 12, 2019 by passing the following order:-

" On the request of the learned Counsel for the Petitioner-Auction Purchaser and the learned Counsel for the Respondent-Bank and upon consideration of the facts and circumstances of the case, we direct the D.R.A.T. to hear and dispose of Appeal (L) No.469 of 2019 as expeditiously as possible and in any event within one year from today.

2. It will be open for the Petitioner to file any Application before the DRAT seeking such reliefs as may be advised.

3. The Petition is disposed of in the aforesaid terms."

2. In this contempt petition, it is alleged that the Debt Recovery Appellate Tribunal (hereinafter "DRAT" for short), being the contemnor/respondent no.1, has failed to dispose of Appeal (L) No.469 of 2019 within April 11, 2020 and, therefore, committed contempt of court.

3. We find no reason to interfere.

4. First, we record that the contempt petition is not in form. The DRAT could not have been arrayed as a contemnor. Since in terms of the Contempt of Courts Act, 1971 an action for contempt might result in imprisonment and an artificial person cannot be imprisoned, such action ought to initiate against a natural person who is capable of implementing an order.

5. Secondly, it has been brought to our notice that Appeal (L) No.469 of 2019, instituted by State Bank of India, was a time-barred appeal and an application for condonation of delay being I.A. No.709 of 2019 was filed seeking condonation of 273 days delay. By an order dated April 08, 2021, the Chairperson of the DRAT has rejected the application for condonation of delay. In view of such rejection, the appeal was never born.

6. Thirdly, it cannot be ignored that due to the pandemic functioning of courts/tribunals was largely restricted. And, if the

DRAT did not decide the appeal within the time stipulated in the order dated April 12, 2019, there were good reason therefor.

7. Finally, the grievance of the petitioner is that an application that it had filed in such appeal in terms of the liberty granted by the order dated April 12, 2019 is not being considered and disposed of. In our view, such a grievance does not survive for consideration having regard to the subsequent fact of rejection of the application for condonation of delay. Since the appeal was never born, question of filing an application therein did not arise and/or could not have arisen.

8. In such view of the matter, we dismiss this contempt petition with liberty to the petitioner to explore its remedies in accordance with law.

9. In view of aforesaid order, the interim application would not survive and, accordingly, stands disposed of.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)

Digitally
signed by
PRAJAKTA
SAGAR
VARTAK
Date:
2021.08.12
12:28:30
+0530