



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.25792 of 2021

M/s.ANS Industries
rep. By its Managing Partner
Mr.S.Anbarasan
S.F.No.51/4B, Perumbadi Road
Nellurpet, Gudiyattam
Vellore District - 632 602.

.. Petitioner

Vs.

1. The Registrar
Debt Recovery Appellate Tribunal (DRAT)
7th Floor, Additional Officer Building
Shastri Bhawan, Haddows Road
Chennai -600 006.
2. The Registrar
Debt Recovery Tribunal - I
7th Floor, Additional Office Building
Shastri Bhawan, Haddows Road
chennai -600 006.
3. The State Bank of India
Rep. By its chief Manager
Stressed Asset Management Branch
Red Cross Buildings
No.32, Monthieth Road, Egmore
Chennai - 600 008.

4. S.Anbarasan
5. A.Rajakumari
6. S.Navaneetham
7. S.t.Palanisamy
8. A.AnnaDurai
9. Tamilselvi
10. Tennarasi
11. Arivarasan

.. Respondents



Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorari, to call for the records in connection to the order passed by the Honourable Debt Recovery Tribunal - I, Chennai in T.A.No.86 of 2019 dated 31.08.2021 and quash the same as illegal.

For the Petitioner : Mr.ARL.Sundaresan
Senior Counsel
For Mr.M.Muruganantham

For the Respondents : No appearance
For Respondents 3, 7 & 10

ORDER

(Order of the Court was made by
the Hon'ble Chief Justice)

By the writ petition, a challenge has been made to the order dated 31.08.2021 passed by the Debts Recovery Tribunal I, Chennai in T.A.No.86 of 2019. The petitioner had earlier also preferred a writ petition to challenge the said order in W.P.No.23989 of 2021. It was dismissed by order dated 10.11.2021 in view of the availability of alternative remedy of appeal under Section 20 of the Recovery of Debts and Bankruptcy Act, 1993.

2. After the dismissal of the writ petition, the petitioner preferred an appeal before the Debt Recovery Appellate Tribunal. However, in the absence of the Presiding Officer, the Debt Recovery Appellate Tribunal was not functional at the relevant time and accordingly, disclosing all the relevant facts, the present writ petition was filed and argued on merits to pray for remand of case to Debts Recovery Tribunal.

3. We are not touching the issues on merit, because not only an appeal is pending before the Debt Recovery Appellate Tribunal, but, now it is functional. This Court was entertaining the writ petition against the order of the Debts Recovery Tribunal when the Debt Recovery Appellate Tribunal was not functional. But, now, the Debt Recovery Appellate Tribunal has become functional, the issues raised by the petitioner on merit to seek remand of the case to the Debts Recovery Tribunal is not considered by us. Rather, it would be addressed by the Debt Recovery Appellate Tribunal.

4. Learned counsel for the petitioner, at this stage, submits that to maintain the appeal before the Debt Recovery Appellate Tribunal, 50 per cent of the amount has to be deposited. It would be difficult for the petitioner to deposit the amount, thus, considering the circumstances, prayed to



consider the writ petition on merits.

5. The arguments aforesaid cannot be accepted for the reason that the earlier writ petition was dismissed in view of the availability of the remedy of appeal and since the condition for maintaining the appeal existed then also, we are unable to accept the second ground to maintain the present writ petition. Accordingly, the writ petition is dismissed. However, it will be open to the petitioner to take all the issues before the Debt Recovery Appellate Tribunal and for maintaining the appeal and to seek waiver regarding the deposit of amount to the extent it is permissible under law. The dismissal of the writ petition would not, in any manner, be taken adverse to the petitioner while addressing the merits of the case. There will be no order as to costs. Consequently, WMP Nos.27249, 27251 and 29467 of 2021 are also dismissed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

kpl/drm

To:

1. The Registrar
Debt Recovery Appellate Tribunal (DRAT)
7th Floor, Additional Officer Building
Shastri Bhawan, Haddows Road, Chennai -600 006.
2. The Registrar
Debt Recovery Tribunal - I
7th Floor, Additional Office Building
Shastri Bhawan, Haddows Road, Chennai -600 006.
3. The State Bank of India
Rep. By its chief Manager
Stressed Asset Management Branch
Red Cross Buildings, No.32, Monthieth Road
Egmore, Chennai - 600 008.

+1cc to M/s.Ramalingam & Associates, Advocate, S.R.No.17835
+1cc to Mr.M.Muruganantham, Advocate, S.R.No.17682

W.P.No.25792 of 2021

GMR (CO)
SB(23/03/2022)