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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 875/2022 & CM APPL. 2498/2022**

ANIL SYAL

..... Petitioner

Through Mr. Sameer Rohtagi, Advocate with
Mr. Manohar Malik, Advocate.

Versus

UNION BANK OF INDIA & ORS.

..... Respondents

Through Mr. Santosh Kr. Rout, Advocate for
R-1.
Mr. Shubham Kulshreshtha, Advocate
for R-4.

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Date of Decision: 19th January, 2022

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE NAVIN CHAWLA

J U D G M E N T

MANMOHAN, J (ORAL)

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed challenging the recovery proceedings initiated under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and the order dated 13th December, 2021 passed by the Debt Recovery Tribunal [DRT], Delhi in OA No. 683 of 2020.
3. Learned counsel for the petitioner states that the Petitioner had filed an application under Section 94(1) read with Sections 96, 97, 99 and 100 of



the Insolvency and Bankruptcy Code, 2016 [IBC] for initiation of Personal Insolvency Resolution Process of the Petitioner who is the Personal Guarantor of Respondent No.2, Flywheel Logistics Solutions Pvt. Ltd. He states that as per the provisions of Section 96 of the IBC, the interim moratorium commenced as soon as the application under Section 94 of the IBC was filed by the Petitioner thereby not only staying all legal proceedings in respect of any debt against the Petitioner but also prohibiting the creditors from initiating any legal action or proceedings in respect of any debt. He further states that the application was formally shared with Respondent No.1, intimating the bank the impending moratorium that would be activated.

4. Learned counsel for the petitioner states that the provisions of IBC have an overriding effect over the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and so the impugned order and proceedings are liable to be set aside as they have been instituted in violation of Section 96 of the IBC.

5. Issue notice.

6. Learned counsel for the respondents, who appears on an advance notice, states that the petitioner had already filed an application dated 14th November, 2021 before the DRT seeking similar reliefs. He states that the DRT be directed to decide the application filed by the Petitioner expeditiously.

7. Keeping in view the aforesaid, this Court directs the DRT to decide the Petitioner's application dated 14th November, 2021 as expeditiously as possible, but not later than four weeks.



8. With the aforesaid direction, the present writ petition stands disposed of.

MANMOHAN, J

NAVIN CHAWLA, J

JANUARY 19, 2022
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