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

% *Decided on : 06.07.2022*

+ **W.P.(C) 10077/2022**

AMBIENCE TOWERS PRIVATE LIMITED ..... Petitioner

Through: Mr. Rajeeve Mehra, Senior Advocate with Mr. V. Anush Raajan and Mr. Madhusudan, Advocates.

versus

BANK OF MAHARASHTRA ..... Respondent

Through: Mr. Nishant Awana and Mr. G.S. Awana, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE NAJMI WAZIRI**

**HON'BLE MR. JUSTICE VIKAS MAHAJAN**

**NAJMI WAZRI, J. (ORAL)**

The hearing has been conducted through hybrid mode (physical and virtual hearing).

**CM APPL. 29303/2022 (Exemption)**

1. Allowed, subject to all just exceptions.
2. The application stands disposed-off.

**W.P.(C) 10077/2022 & CM APPL. 29302/2022 (Stay)**

3. Issue notice. Notice is accepted by the learned counsel for the respondent. At joint request, the petition is taken up for disposal.
4. The petitioner impugns the order of 25.05.2022 passed by the



learned Debts Recovery Appellate Tribunal, Delhi ('DRAT'), directing the petitioner to deposit 50% of the claimed amount as pre-deposit within four weeks before the petitioner's application for interim relief could be heard. The case has now been listed for 08.07.2022. The order also notes that in case the pre-deposit is made on an earlier date or an application for reduction of pre-deposit to 25% is made, the learned Tribunal would take up the matter on an earlier date at the request of the petitioner.

5. The learned Senior Advocate for the latter submits that the petitioner has deposited Rs.32.33 crores under court orders, therefore, the same be considered as a pre-deposit regarding the claimed amount of Rs.79.67 crores. This amount is mentioned in the respondent's letter dated 10.08.2021. The learned counsel for the respondent submits that the amount claimed is Rs.83.59 crores.
6. The petitioner submits that the orders directing the deposits were:

I. W.P.(C) 14194/2021 dated 13.12.2021:

“ ...

*13. (c) Mr. Kakra states that the petitioner will make a deposit of ₹2.5 crores with the Bank by 16.12.2021 and a further amount of ₹5 crores by 27.12.2021. The aforesaid amounts will be deposited and accepted without prejudice to the rights and contentions of the parties and subject to the orders that may be passed by the DRT, Jaipur.*

... ”



## II. W.P.(C) 15233/2021 dated 10.01.2022:

“ ...

*Mr. Alag has submitted that the petitioner shall pay from January, 2022 onwards at the rate of Rs. 5 crores per month, which would not only cover current instalment but also reduce the arrears towards outstanding instalments and interest.*

*He submits that for the month of January, 2022 petitioner has either deposited, or issued cheques aggregating to Rs. 3.61 crores. He submits that a further cheque for Rs. 1.39 crores would be issued within the month of January, 2022 towards the payment of Rs. 5 crores in January, 2022. He further submits that another Rs.5 crores would be paid by the end of February, 2022.*

... ”

## III. W.P.(C) 15233/2021 dated 03.03.2022:

“ ...

*3. On 10.01.2022, this Court, granted interim protection to the petitioner on the undertaking given by the petitioner that they would deposit with the respondent an amount of Rs.5 crores per month which would not only account for the current, regular instalments which are in the range of Rs.2.5 crores per month, but would also reduce the arrears towards outstanding instalments and interest on account of non payment of the instalments by the petitioner. In terms of the order dated 18.01.2022, the petitioner has deposited two instalments of Rs.5 crores each for the month of January and February, 2022. Since the last date, the Chairperson of DRAT, Delhi has been appointed and the said Appellate Tribunal is therefore functional.*

*4. Mr. Alag, the senior counsel for the petitioner states*



*that the appeal preferred by the petitioner before the DRAT is listed on 28.03.2022.*

*5. In these circumstances, we dispose of this petition with liberty to the appellant/petitioner to pursue the said appeal. On the next date, the parties shall not be granted any adjournment by the DRAT. The interim protection granted to the petitioner shall continue, as long as, the application for interim relief is decided by the DRAT, subject to the petitioner continuing to deposit Rs. 5 Crores per month with the respondent.  
... ”*

7. It is argued by the petitioner that Rs.32.33 crores is more than 25% of the claimed amount of Rs.79.67 crores, therefore, if the application for reduction of pre-deposit to 25% is considered by the learned DRAT, the petitioner would more than qualify for its application for interim relief to be considered. The 25% of Rs.79.67 crores is Rs.19.9175 crores. The petitioner contends that it has paid approximately 40.5% of the claimed amount. Alternatively, the petitioner argues that if the amount of Rs.32.33 crores is considered as a recovery and not as a pre-deposit, then 25% on the balance of Rs.47.34 crores would be Rs.11.835 crores. The learned Senior Advocate for the petitioner states, upon instructions, that the petitioner will deposit an amount of Rs.5 crores by 30.07.2022, which would make the total deposit to Rs.37.33 crores, which makes it roughly 50% of the pre-deposit. He states that the petitioner also undertakes to continue to pay an amount of Rs.3.13 crores every month from August 2022, till their interim application is



decided.

8. In view of the above, it will be open to the petitioner to move an appropriate application before the learned DRAT for reduction of amount of pre-deposit from 50% to 25%. All amounts deposited by the petitioner pursuant to judicial orders would be considered by the learned DRAT apropos the requirement of pre-deposit.
9. The learned counsel for the respondent submits that the petitioner has defaulted in payment for the months of April 2022 and June 2022. However, this is rebutted by the learned Senior Advocate for the petitioner, who submits that Rs.5 crores now being deposited will make up for any defaults.
10. The petitioner assures the court that an application will be filed before the learned Tribunal before the next date, i.e. 08.07.2022, and an undertaking to pay the amounts, in terms of this order, will also be filed.
11. Till such time the petitioner's application is taken up for consideration, no adverse measures will be taken against the petitioner.
12. The petition, along with pending applications, is disposed-off in terms of the above.

**NAJMI WAZIRI, J**

**VIKAS MAHAJAN, J**

**JULY 6, 2022/ss**