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

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Date of Decision: 20.04.2022

+ **W.P.(C) 5889/2017**

ASSET RECONSTRUCTION
COMPANY (INDIA) LTD

.....Petitioner

Through: Ms Usha Singh, Advocate.

versus

M/S MC RAJ PAPER MILLS PVT LTD & ORSRespondents

Through: Mr Sanjeev Bhandari, Advocate.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MS. JUSTICE POONAM A. BAMBA

[Physical Court hearing/hybrid hearing (as per request)]

RAJIV SHAKDHER, J. (Oral):

1. This writ petition is directed against the order dated 03.03.2017, passed by the Debts Recovery Appellate Tribunal, Delhi [in short "DRAT"] in Misc. Case Nos.37, 38 & 39/2017.

1.1. To be noted, the petitioner had preferred an appeal bearing no. Appeal No.18/2011, against the order dated 24.11.2010, passed by the Debts Recovery Tribunal [in short "DRT"], whereby the respondent no.1's SA was disposed of. This order was passed in SA No.61/2009.

1.2. It appears, upon perusal of the impugned order, that the appeal preferred before the DRAT was dismissed for non-prosecution on 21.04.2014.

2. Insofar as the petitioner is concerned, it is an assignee of the debt which was owed, according to the petitioner, by the respondent to Dena Bank i.e., the original creditor.



2.1. Since the appeal was dismissed for non-prosecution by the DRAT on 21.04.2014, the aforementioned (three) applications i.e., Misc. Case Nos.37, 38 & 39/2017 were moved.

2.2 These applications were moved for restoration of appeal, condonation of delay [in moving the application for restoration] and substitution of the petitioner i.e., the assignee in place of the original creditor/Dena Bank.

3. Mr Sanjeev Bhandari, who appears on behalf of the respondent, says that he would have no objection, if this Court were to set aside the impugned order dated 03.03.2017, and restore the appeal.

3.1 The statement of Mr Bhandari is taken on record.

4. Resultantly, the impugned order of the DRAT dated 03.03.2017 is set aside.

4.1. The appeal [i.e., Appeal No.18/2011] is restored to its original number and status.

4.2. To hasten the proceedings, parties and their authorized representative(s)/counsel will appear before the DRAT on 24.05.2022.

5. Needless to add, the DRAT will adjudicate on the appeal on merits, without being burdened by the order that we have passed, since we have not examined the case on merits.

6. At this stage, we are informed by Mr Bhandari that the original application [in short "OA"] preferred with DRT, for recovery of outstanding dues from the respondents, stood dismissed for non-prosecution on 15.05.2019.

6.1. Ms Usha Singh, who appears on behalf of the petitioner, in rebuttal, submits that an application for restoration of the OA was moved, in which notice has been issued by the DRT.



6.2. If necessary, the Tribunal will examine this aspect of the matter as well.

7. The writ petition is disposed of in the aforesaid terms.

RAJIV SHAKDHER, J

POONAM A. BAMBA, J

APRIL 20, 2022

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Click here to check corrigendum, if any