

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1388 of 2024

UCO Bank Frazer Road Branch, Patna through the Branch Manager namely Abhishek Sinha, Aged about 36 years, Male, Son of Sri Ajit Sinha, UCO Bank, Frazer Road Branch, Patna P.S. - Kotwali, District - Patna.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Finance, Department of Financial Services, Govt. of India, New Delhi.
2. The Debt Recovery Appellate Tribunal, Allahabad through the Registrar, Debt Recovery Appellate Tribunal, Allahabad.
3. M/s Tirupati Storage and Allied Pvt. Ltd. Anandpur, Bihta, Patna, at Company incorporation under the Companies Act, 1956, having its registered M-52/22A, Road NO. 25, Sri Krishna Nagar, Patna- 800001, through its Managing Director, Smt. Vijya Singh, Wife of Dr. Yashwant Singh, Resident of M- 52/22A, Road No. 25, Sri Krishna Nagar, Patna 800001.
4. Smt. Vijay Singh, Wife of Dr. Yashwant Singh, Resident of M-52/22A, Road No. 25, Sri Krishna Nagar, Patna- 800001.
5. Dr. Satish Kumar Singh, Son of Late Durga Prasad Singh, Resident of M-52/22A, Road No. 25, Sri Krishna Nagar, Patna - 800001.
6. Dr. Yashwant Singh, Son of Late Shakti Prasad Singh, Resident of M-52/22A, Road No. 25, Sri Krishna Nagar, Patna - 800001.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ranjeet Kumar Pandey, Adv.
For UOI	:	Mr. Radhika Raman, Sr. CGC
For Respondent	:	Mr. Ram Tujabh Singh, Adv.
For the Respondent/s	:	Mr. Additional Solicitor General

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL JUDGMENT

Date : 04-09-2024

Heard the learned counsel for the parties.

The present writ petition has been filed for the following

reliefs:-

“(i) For issuance of writ/writs, order/orders or direction/directions in the nature of certiorari for setting aside order dated 29.09.2023 passed in Appeal Dy. No. 748/2023 passed by learned Chairperson, Debt



Recovery Appellate Tribunal, Allahabad whereby and whereunder restoration /recall application filed on behalf of private respondents no. 3 to 6, after expiry of more than 8 years for recall of order dated 23.03.2015 by which the appeal preferred by the private respondent no. 3 to 6 was dismissed as not maintainable for want of pre deposit, has been recalled and the main appeal has been directed to be restored to its original number and the private respondents were permitted to file waiver application by the next date, although the waiver application filed on behalf of the appellants was disposed of on 13.02.2015 itself and the appeal was dismissed as not maintainable for want of pre deposit as per order dated 23.03.2015.

(ii) For a declaration that order dated 29.09.2023 passed in Appeal Dy. No. 748/2023 by learned Chairperson, DRAT, Allahabad is without jurisdiction as order dated 13.02.2015 passed in Appeal No. R-99/2014 whereby waiver application of the private respondents was disposed of and they were directed to deposit 50% of the determined amount to maintain the appeal and order dated 23.03.2015 has attained finality and merged with the order passed by the Hon'ble High Court whereby writ petition vide CWJC No. 4678/2015 preferred by private respondents against order dated 13.02.2015 and 23.03.2015 has been dismissed on 27.06.2023 and as such after dismissal of writ petition by the Hon'ble High Court, learned Chairperson DRAT, Allahabad has got no jurisdiction to recall the order dated 23.03.2015 which has already attained finality by order of Hon'ble High Court.

(iii) For any other relief/reliefs for which the petitioner may be found entitle in the eye of law and in the facts and circumstances of the case may also be granted in favour of the petitioner.”



3. The present writ petition has been filed challenging the order dated 29.09.2023 passed by the Debt Recovery Appellate Tribunal (DRAT), Allahabad.

4. Learned counsel for the petitioner has stated that the Respondent No. 3 herein, filed an application seeking to recall the order dated 23.03.2015 after a lapse of more than eight years and the DRAT, Allahabad without any application of mind or giving any valid or cogent reason has allowed the same on 29.09.2023. Learned counsel has stated that the DRAT, Allahabad does not have the power to review/recall its own orders, that too after a lapse of more than eight years. Learned counsel has also stated that the earlier order dated 23.03.2015 was unsuccessfully challenged by the Respondent No. 3 before this Hon'ble Court in CWJC No. 4678 of 2015 and this Court was pleased to dismiss the said CWJC on 27.06.2023. That in case the respondent No. 3 had any grievance with the order dated 27.06.2023 passed in CWJC No. 4678 of 2015, his remedy was to file a writ appeal or approach the Hon'ble Supreme Court of India by way of Special Leave Petition (SLP). However, contrary to the well established principles of law, the Respondent No. 3 after dismissal of the CWJC has filed a petition to recall the order dated 13.02.2015 & 23.03.2015 which is impermissible under law. That the Hon'ble DRAT, Allahabad



without adverting to the facts of the case has simply allowed the application filed by the petitioner recalling its earlier orders dated 13.02.2015 & 23.03.2015 in a mechanical manner. That in the absence of any specific provisions of law conferring the power of review, the DRAT, Allahabad ought not to have entertained the application filed by the Respondent No. 3 herein. Learned counsel has therefore, prayed this Hon'ble Court to allow the present writ petition by setting aside the order dated 29.09.2023 (Annexure-1).

5. *Per contra*, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition and sought to sustain the impugned order passed by the DRAT, Allahabad on 29.09.2023.

6. Learned counsel for the respondent No. 3 has stated that the petitioner pursuant to the passing of the order by the DRAT, Allahabad in the appeal R-99/2014 dated 13.02.2015 and also the order dated 23.03.2015 has deposited some amounts as required under the Act. That the said fact has been brought to the notice of the DRAT, Allahabad by filing an application to recall the orders dated 13.02.2015 & 23.03.2015 and the DRAT, Allahabad has passed the order based on the judgment of the Hon'ble Allahabad High Court passed in Writ-C No. 7439 of 2023 in the case of *M/s Sai Enterprises & 2 Ors. Vs. Debts Recovery*



Appellate Tribunal & Anr. decided on 17.03.2023, wherein, the Hon'ble Allahabad High Court while interpreting the word "entertain" used in Section 21 has stated that once the appeal filed by any aggrieved parties is not entertained, the Tribunal does not have any authority to dismiss the appeal filed on the ground that the amounts have not been pre-deposited. Though the learned counsel for the Respondent No. 3 has tried to argue the matter on merits of the case, this Court is not inclined to go into the same as the only issue before this Court is as to whether the DRAT, Allahabad had the power or jurisdiction to recall its own order which had attained finality after the dismissal of the CWJC, that too after lapse of more than eight years. Admittedly, there is no specific provision in the Act for recalling or reviewing the orders passed by the Tribunal. It is settled principles of law that unless and until the statute confers the power of review/recall, the Tribunal cannot exercise the power of review more so, after the lapse of more than eight years. Further, it is pertinent to mention that the orders of Tribunal dated 13.02.2015 & 23.03.2015 were already challenged before this Court in CWJC No. 4678 of 2015. The said CWJC was dismissed on 27.06.2023 confirming the earlier orders passed. Once an order has been challenged before a superior Forums/Court and the same has been confirmed and



become final, the Tribunal/Forum which has passed the order cannot review or recall its own orders. Further, it is pertinent to note that in the impugned order, the Tribunal has not given any reason for recalling its earlier order except adverting to the judgement of the Allahabad High Court passed in Writ-C No. 7439 of 2023 in the case of *M/s Sai Enterprises & 2 Ors. Vs. Debts Recovery Appellate Tribunal & Anr.* decided on 17.03.2023 which is distinguishable on the facts of this particular case.

7. Having regard to the same, the present writ petition is allowed, the impugned order passed by the DRAT, Allahabad dated 29.09.2023 is set aside.

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.09.2024.
Transmission Date	NA

