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

+ **CM(M) 1846/2024**

AXIS TRUSTEE SERVICES LTD. & ANR. Petitioners

Through: Mr. Rajeev E Mehra, Sr. Advocate with Mr. Hardeep Sachdeva, Mr. Abhishek Awasthi, Mr. Parag Maini, Mr. Raghav Chadha & Mr. Abhimanyu, Advocates for P-1
Mr. Rajiv Nayar, Sr. Advocate with Mr. Parag Maini & Mr. Raghav Chadha, Advocates for P-2.

versus

ADSON SOFTWARE PRIVATE LTD Respondent

Through: Mr. Pallav Sanena, Mr. Kunal Dewan & Ms. Aaroahi M., Advocates for R-1 to 19.
Mr. Vipul Dagar, Authorised Representative of R-1 to R-18
Mr. Atish Solanki, Authorised Representative of R-19

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

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09.02.2024

CM APPLs. 8149/2024 & 8150/2024 (exemptions)

1. Allowed, subject to all just exceptions.
2. The applications stand disposed of.

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3. The petitioners are invoking the 'supervisory jurisdiction' of this Court under Article 227 of the Constitution of India, thereby



seeking adjudication of Regular Appeal No. 129/2022¹ pending before the Debt Recovery Appellate Tribunal, New Delhi², whereby they have challenged the impugned order dated 18.06.2022 passed by the Debt Recovery Tribunal, Jaipur³, which appeal has not been decided for the reason that DRAT has not been functional due to long absence of its Hon'ble Chairman.

4. Learned Senior Counsel for respondents No. 1 to 19 is present on advance notice.

5. At the outset, learned counsels for the parties present before the Court submit that the proceedings are no longer adversarial in nature.

6. It is submitted by learned Senior Counsel for the petitioners that they have assailed the impugned order dated 18.06.2022 passed by the DRT Jaipur, whereby the statutory demand notice dated 30.09.2020 issued under Section 13 (2) of the SARFAESI Act, 2002⁴ has been set aside.

7. It is submitted that although an appeal i.e. RA No. 129/2022 has been filed before the DRAT, and though the matter has been heard on several dates so much so that final arguments commenced on 01.02.2024 and continued on 02.02.2024, but no hearing could be effected on 03.02.2024, 05.02.2024 and 07.02.2024, since the Hon'ble Chairman in the DRAT has proceeded on long leave.

8. At the cost of the repetition, it is submitted that the proceedings amongst the parties is not adversarial in nature, and it is acknowledged that respondents No. 20 to 22 have already transferred their security interest in the bonds in favour of petitioner No.2 consequent to the

¹ RA

² DRAT

³ DRT

⁴ Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act



application moved on behalf of petitioner No. 2 bearing IA No. 92/2024, which was not objected to by respondents No. 1 to 19.

9. Learned Senior Counsel for the petitioner No.1 has submitted that the impugned order dated 18.06.2022 is contrary to the provisions of SARFAESI Act since all the materials were available before the learned DRT Jaipur; and that the service of default notices dated 10.05.2019, 06.05.2020 and 30.05.2020 had preceded the issuance of the statutory notice dated 30.09.2020, the service of which had been effect by means of e-mails with necessary Annexures including break-up of the amount claim in dispute. It is further pointed out that valuation reports had also been duly submitted from an approved valuer, who was duly certified in terms of Section 34 AB of the Wealth Tax Act, 1957.

10. It is pertinent to mention here that learned senior counsel appearing for respondents No. 1 to 19 on instructions from authorized representatives present in the Court has submitted that in the light of their commercial interests, they want to bring the matter to an amicable quietus and they do not wish to get into a prolonged litigation.

11. It is thus submitted by learned senior counsel for respondent No. 1 to 19 that they are not pressing their objections raised in the appeal before the DRAT as also in the TSA No. 01/2021 before the DRT Jaipur.

12. In the said backdrop, and in view of the consensus arrived at as amongst the parties present, the impugned order dated 18.06.2022 passed by the DRT in TSA No. 01/2021 is hereby set-aside. Accordingly, the petitioners are granted liberty to avail all remedies available to them under the SARFAESI Act, and to continue the



proceedings already initiated against respondents No. 1 to 19 in terms of the relevant provisions of the SARFAESI Act for recovery of their outstanding dues.

13. Before parting with this petition, it is further observed that since respondent No.23 has filed an intervention application before the learned DRAT vide IA No. 505/2022 being the bidder in one of the auction initiated at the behest of petitioner No.1, the petitioners would be at liberty to realize the outstanding dues under the SARFAESI Act on setting aside of the impugned order, and seek redressal in terms of the private treaty with respondent No.23.

14. The present petition is disposed of accordingly.

DHARMESH SHARMA, J.

FEBRUARY 9, 2024

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