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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 1245/2025 and CM Nos.6180-82/2025
BHARAT BHUSHAN TILWANIPetitioner
Through: Mr. Ravinder Gupta, Adv.

Versus

ICICI BANK LTD.Respondent
Through: Counsel for the respondent (appearance
not given).

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER
31.01.2025

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1. The petitioner has filed the present petition impugning an order dated 01.08.2024 (hereafter *the impugned order*) passed by the learned Debt Recovery Appellate Tribunal (hereafter *DRAT*) whereby the learned DRAT had declined to entertain the petitioner's appeal against an order passed by the Debts Recovery Tribunal-II, Delhi (hereafter *the DRT*) in OA No.261/2014 for want of necessary pre-deposit as required under Section 21 of the Recovery of Debts and Bankruptcy Act, 1993 (hereafter *the RDB Act*).
2. It is the petitioner's case that he was a Director of a company named Meghdoot Appliances Ltd during the period from 07.05.2007 to 28.08.2011. During this period, the respondent bank (ICICI Bank) extended an overdraft facility to the said company (M/s Meghdoot Appliances Ltd.) in terms of the Master Facility Agreement for a period of twelve months, which according to the petitioner, expired on 23.06.2008.
3. The petitioner states that he is also a signatory to the said Master Facility Agreement and had also executed a Deed of Guarantee dated



02.11.2007 guaranteeing the repayment obligations in respect of the financial assistance extended to M/s Meghdoot Appliances Ltd.

4. The petitioner contends that the guarantee stood discharged with efflux of time.

5. The respondent bank issued a recall notice dated 01.02.2014 to the principal debtor (M/s Meghdoot Appliances Ltd.) seeking recall of the amount of ₹20,65,536/- that was stated to be outstanding as on the said date. Thereafter, the respondent bank filed an Original Application under Section 19 of the RDB Act before the DRT (being OA No.261/2014). The petitioner was arrayed as respondent no.5 in the said proceedings.

6. The petitioner also states that other persons, who were arrayed as respondents contested, the Original Application including on behalf of the petitioner during the period 2014 till 2017. However, they were unsuccessful and the learned DRT issued a Recovery Certificate dated 12.04.2017 being RC No.98/2017. Pursuant to the RC the learned Recovery Officer issued a demand notice to all the parties arrayed as respondents in the said proceedings.

7. It is the petitioner's case that he is not liable for any amount that may be due and payable by M/s.Meghdoot Appliances Ltd and accordingly filed a Miscellaneous Application dated 22.01.2018 for setting aside the final order dated 12.04.2017 passed by the learned DRT. He sought deletion of his name from the array of respondents. The petitioner also filed an application for stay of recovery proceedings before the learned DRT.

8. The petitioner's application (IA No.111/2018) in OA No.261/2014 for setting aside the final order dated 12.04.2017 passed by the learned DRT is filed after a considerable delay. Accordingly, the petitioner had filed an



application IA No.111/2018 seeking condonation of delay in filing the said miscellaneous application (MA 11/2018). The learned DRT dismissed the said application (MA 11/2018) by an order dated 05.02.2024.

9. The petitioner filed writ petition [W.P.(C) No.6520/2024] challenging the order dated 05.02.2024 passed by the learned DRT. The said petition was dismissed on 08.05.2024 with liberty to the petitioner to approach the learned DRAT, as undisputedly, the petitioner had a statutory remedy of appeal before the DRAT against the order passed by the DRT. Thereafter, the petitioner preferred an appeal before the DRAT. However, the petitioner did not make any deposit of the amount claimed by the respondent bank as required under Section 21 of the RDB Act. Accordingly, the DRAT passed an order dated 01.08.2024 declining to entertain the petitioner's appeal (Appeal No.165/2024) in MA No.11/2018 arising out of OA No.261/2014. The DRAT referred to Section 21 of the RDB Act and observed that since the petitioner had not made any pre-deposit, its appeal cannot be entertained. However, the DRAT also granted liberty to the petitioner to revive the appeal in the event he complied with the requirements of making a pre deposit within the period of eight weeks and files an application for revival.

10. Immediately, after the expiry of the period of eight weeks as granted by the DRAT, the petitioner filed a writ petition being W.P.(C) No. 17784/2024 in this court, *inter alia*, praying as under:-

“ Allow the Writ Petition and to direct the respondent to delete the name of the petitioner from the array of recovery proceedings initiated by the respondent in form of Original Application no.261 of 2014 and Recovery Certificate no. 98 of 2017.”

11. A plain reading of the prayer, indicates that the petitioner has essentially sought setting aside of the final order dated 12.04.2017 *qua* the



petitioner and consequently, setting aside of the recovery proceedings initiated against him pursuant to the RC 98/2017. It is material to note that this was the principal relief which was sought by the petitioner in his miscellaneous application (MA No.11/2018), which was dismissed by the DRAT vide order dated 05.02.2024.

12. As noted above, the petitioner has challenged the said order in earlier writ petition, which was dismissed on account of alternate remedy. It is apparent that the petitioner sought to pursue effectively the same relief by filing the second writ petition. The aforesaid writ petition being W.P.(C) No.17784/2024 was listed on 23.12.2024. However, the learned counsel for the petitioner, after some arguments, withdrew the same with liberty to file the petition assailing the order dated 01.08.2024.

13. The petitioner thereafter, filed the present petition. The copies of the earlier writ petitions were not annexed with the present petition and, therefore, this court during the course of proceedings, asked the petitioner to furnish the copy of the same. The petitioner, thereafter, handed over the digital copies of the said writ petitions, which as indicated above, essentially are for the same relief and most of the averments and grounds urged in the present petition are also similarly worded.

14. The plain reading of the same indicates that there is no ground in the present petition to appeal the order dated 01.08.2024 passed by the DRAT. In this petition, the only ground to assail the order dated 01.08.2024 is ground Z, which reads as under:-

“Z. BECAUSE the Petitioner approached to the LD. DRAT, Delhi in appeal but the Ld. DRAT Delhi disposed the appeal of the Petitioner on the ground of pre-deposit whereas the Petitioner is neither the borrower nor the guarantor of the Respondent after 23rd



June 2008, but the Ld. DRAT, Delhi not given any opportunity to the Petitioner to present his case.”

15. Undisputedly, the DRAT has determined the debt recoverable from the petitioner and had, accordingly, issued the Recovery Certificate. The Section 21 of the RDB Act expressly requires a person who is filing an appeal before the DRAT to deposit fifty per cent of amount of debt due from him as determined by the DRT under Section 19 of the RDB Act and for the reasons to be recorded in writing, the said amount may be reduced to an amount not less than twenty-five per cent of the debt as determined. The Section 21 of the RDB is set out below:-

“21. Deposit of amount of debt due, on filing appeal.—Where an appeal is preferred by any person from whom the amount of debt is due to a bank or a financial institution or a consortium of banks or financial institutions, such appeal shall not be entertained by the Appellate Tribunal unless such person has deposited with the Appellate Tribunal fifty per cent of the amount of debt so due from him as determined by the Tribunal under section 19:

Provided that the Appellate Tribunal may, for reasons to be recorded in writing, reduce the amount to be deposited by such amount which shall not be less than twenty-five per cent. of the amount of such debt so due to be deposited under this section.”

16. In *Kotak Mahindra Bank Private Limited v. Ambuj A. Kasliwal & Others:2021 INSC 90*, the Supreme Court had held that the DRAT did not have any powers to reduce the quantum of pre deposit below twenty-five percent of the due amount.

17. In view of the above, we find no fault with the decision of the DRAT. No order to entertain the petitioner’s appeal without pre deposit is required to be issued.



18. The petition is unmerited and, accordingly, dismissed. Pending applications are also disposed of.

VIBHU BAKHRU, J

TUSHAR RAO GEDELA, J

JANUARY 31, 2025

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Click here to check corrigendum, if any