



2026:DHC:1188-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on : 27.01.2026***Date of decision: 12.02.2026***

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W.P.(C) 19835/2025, CM APPL. 82791/2025**AVANTHA HOLDINGS LIMITED****.....Petitioner**

Through: Mr. Sandeep Bajaj, Ms. Shruti Kanodia, Mr. Rishabh Dua, Mr. Kshitij Ujala, Mr. Maya Bihani, Advs.

versus

ICICI BANK LIMITED AND ORS.**.....Respondents**

Through: Mr. Sanjiv Kakra, Sr. Adv. with Mr. Bhamsen Jain, Mr. Akash Madan, Advs.

CORAM:**HON'BLE MR. JUSTICE VIVEK CHAUDHARY****HON'BLE MS. JUSTICE RENU BHATNAGAR****J U D G M E N T**

1. The present writ petition has been filed under Article 227 of the Constitution of India, assailing the Order dated 16.12.2025 passed by the Debts Recovery Appellate Tribunal, Kolkata (holding Additional Charge of Debts Recovery Appellate Tribunal, Delhi) ["DRAT"] in Miscellaneous Appeal No. 222 of 2024, rejecting its appeal. In the appeal, the petitioner had challenged the Order dated 03.07.2024 passed by the Debts Recovery Tribunal-III, Delhi ("DRT") dismissing the application filed by the petitioner seeking condonation



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of delay of 14 days in filing the written statement in Original Application No.7/2024 (“O.A.”).

2. The essential facts are that respondent no.1/Bank granted a Letter of Credit facility of US\$ 50 million to respondent no.2, which is a subsidiary of the petitioner. To secure this facility, the petitioner and respondent no.2 executed the necessary loan and security documents, and the facility was revised and renewed over time with fresh documents being signed. Respondent no.2 committed repeated defaults in making payments under the Letter of Credit, leading the Bank to issue several demand notices to the petitioner, respondent no.2 and respondent no.3. Later, on 11.07.2018, the Facility Agreement was modified at the request of respondent no.2, and respondent no.3 executed a guarantee on 13.07.2018 agreeing to repay respondent no.2’s dues. As the outstanding amounts still remained unpaid, respondent no.1/Bank filed O.A. No. 7/2024 before DRT seeking recovery of ₹558,60,99,519.70/- from the defendants.

3. By Order dated 19.03.2024, the DRT directed issuance of summons to the defendants therein, requiring filing of their written statement including claim for set off or counter-claim, if any, within 30 days of service, failing which their right to file written statement and defence evidence would stand closed. The summons were given under the seal of DRT on 22.03.2024.

4. While the Speed Post article addressed to the petitioner was returned, the complete paperbook, including summons, was admittedly served by the respondent no.1/ bank on 17.04.2024 through e-mail.



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5. The petitioner filed its written statement on 31.05.2024 along with an application seeking condonation of delay of 14 days. The DRT dismissed the application for condonation of delay of 14 days in filing the written statement to the O.A. 7/2024.

6. The DRAT *vide* the impugned Order dated 16.12.2025, has affirmed and held that Section 19(5)(i) of the Recovery of Debts and Bankruptcy Act, 1993 (“RDB Act”) mandates filing of the written statement within 30 days, extendable by a further period not exceeding 15 days in exceptional cases and in special circumstances. The DRAT found that the petitioner had not shown such circumstances warranting extension. This order is under challenge before us.

7. Heard learned counsel for the parties.

8. Learned counsel for the petitioner submits that the hard copy of the O.A. was never served upon the petitioner and, therefore, service through e-mail could not be treated as service of summons in the manner contemplated under Section 19(4) of the RDB Act read with the applicable DRT Rules. It is urged that in absence of proper service, the statutory period of 30 days did not commence, and consequently, the delay of 14 days in filing the written statement was liable to be condoned.

9. Learned counsel for respondent no.1/Bank, on the other hand, submits that the petitioner never disputed receipt of the entire paperbook, including the summons, by e-mail on 17.04.2024. Attention is drawn to the Order of the DRT dated 19.03.2024, which expressly permitted service through registered



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post/speed post/courier/electronic mode/*Dasti*, failing which through affixation. It is therefore submitted that electronic service was not only permissible but was specifically contemplated.

10. He submits that the complete paperbook, including summons, was served by the respondent no.1/Bank on 17.04.2024 through e-mail. There is no denial on the part of the petitioner, and admittedly the summons and paperbook were served through e-mail on 17.04.2024. Relying on Section 19(5)(i) of the RDB Act, he further submits that no exceptional case and special circumstance were demonstrated for extending such 30 days period for a further period not exceeding 15 days to file the written statement of its defence as the essential ground raised by the petitioner is that the hard copy of the O.A was not supplied to the petitioner.

11. A perusal of the DRT's Order dated 19.03.2024 shows that the Authorized Officer/Authorized Representative of the Bank was directed to collect the summons on the next working day and to promptly supply the summons and paperbook so that the petitioner could avail the statutory 30-day period before the next date, i.e. 04.05.2024. The relevant portion of the said order:-

*“3. **Directions for Registry:** Registry is directed to issue notice / summons against the defendants to file show cause, in the form of Written Statement, within 30 days of the service of Notice as to why the relief(s) prayed for should not be granted in favour of Applicant Bank. The Notice / Summons shall be served by the officials of the applicant through the **prescribed modes including the***



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registered post/ speed post / Courier / Electronic Mode / Dasti failing which through Affixation. The Registry shall prepare the Notice / Summons for onward service to the defendants by the applicant bank. After service, the applicant bank shall file affidavit for the same before the Registry.

4. Direction for Authorised officer / Authorized Representative (A.R.) of applicant bank: Authorized Officer of Applicant Bank is directed to comply the following directions

a) A.R. has to collect the notice on next working day of passing the order and shall supply the notice along with paper book promptly so that defendant can avail 30 days' time to file WS along with documentary evidence before next date fixed in this case.

xxx xxx xxx xxx xxx xxx

9. List the matter on 04.05.2024 before Registrar.”

(emphasis added)

12. The summons were, however, issued under the seal of the DRT only on 22.03.2024 i.e., two days after the date on which they were required to be collected. The next working day was 20.03.2024.

13. As per the order, the petitioner ought to have been served promptly, even otherwise, by or before 04.04.2024, so that the petitioner can avail the statutory period of 30 days to file written statement before the next date fixed in the case i.e., 04.05.2024.

14. As per the affidavit of service filed on behalf of respondent no.1/Bank dated 02.05.2024, the summons were dispatched by Speed Post only on



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06.04.2024, even though it was directed to be promptly served by Order dated 19.03.2024. Moreover, the status of service shows that it to be “Item Returned” with respect to the petitioner. Although the affidavit states that *Dasti* service was attempted, but no date and time is disclosed as to when this was done.

15. Ultimately, the petitioner was admittedly served with the complete paperbook along with the documents and the summons dated 22.03.2024, through the e-mail on 17.04.2024. Notably, the next date fixed by the DRT was 04.05.2024.

16. The sequence of events clearly shows that respondent no.1/Bank itself took around 28 days to take steps for effective service on the petitioner, despite the DRT having directed that the summons and paperbook were to be supplied promptly so that the defendants could avail the full statutory period before the next date fixed. Ultimately, the petitioner was served only on 17.04.2024. In contrast, the petitioner sought condonation of a delay of only 14 days in filing the written statement. When viewed together, it is evident that the respondent no.1/Bank enjoyed a far longer period in complying with the DRT’s directions than the petitioner now seeks.

17. In such circumstances, the requirement of maintaining parity between the parties becomes important. It is the duty of the Court or the tribunal, as the case may be, to maintain parity. A litigant must be able to trust that the Court or Tribunal will adopt the same approach towards both sides. If substantial delay on the part of one party is overlooked without any adverse consequence, while a shorter delay by the other is treated strictly, it creates an imbalance which must



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be avoided. Fairness requires that similar conduct not be judged by different standards.

18. In these circumstances, the DRT and the DRAT in appeal, ought to have taken a balanced view and allowed the petitioner's request for condonation of delay, particularly when respondent no.1/Bank was granted considerable latitude without any adverse order.

19. The DRT did not examine whether its Order dated 19.03.2024 was fully complied with timely, nor was any cost imposed upon respondent no.1/Bank for the delay on their part.

20. Once the principle of parity is applied, the conclusion becomes evident. Both parties were required to act within respective timelines. If nearly a month's delay on one side did not attract adverse consequence, the petitioner's delay of 14 days cannot be placed in a more disadvantageous position. To do so would undermine confidence in the fairness of the adjudicatory process.

21. The delay of 14 days in filing the written statement is condonable under proviso to Section 19(5)(i) of the RDB Act in special circumstances. In the facts of the present case, the special circumstance, particularly when respondent no.1/Bank itself was granted latitude in complying with the directions of the DRT without any adverse consequence, are made out. Application of the principle of parity precludes adoption of a stricter standard against the petitioner for a shorter delay.



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22. Accordingly, the writ petition is allowed. The delay of 14 days in filing the written statement is condoned, and the written statement shall be treated as duly filed before the DRT.

23. Pending applications, if any, also stand disposed of.

VIVEK CHAUDHARY
(JUDGE)

RENU BHATNAGAR
(JUDGE)

FEBRUARY 12, 2026
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