IN THE DEBT RECOVERY APPELLATE TRIBUNAL AT CHENNAI

Dated the 10th day of June, 2026

PRESENT: HON'BLE MR. JUSTICE G. CHANDRASEKHARAN CHAIRPERSON

MA No.83/2025
&
MA No.84/2025

(arising out of IA No.106/2025 and IA 107/2025 in OA No.1/2025 on the file of DRT-I, Chennai)

I. <u>MA 83/2025</u>

Between

Golden Gate Properties Limited,
Represented by its Director,
Having its Registered Office at No.820,
80 Feet Road, 20th Main, 8th Block,
Koralmangala, Bengaluru 560 095.

.....Appellant

And

JM Financial Asset Reconstruction Company Limited
Represented by its Authorised Signatory,
Mr. Vaibhav Shetty,
Acting in its capacity as Trustee of J
MFARC-Swarna 2011-Trust,
Having its Registered Officer at 7th Floor,
Cnergy, Appasaheb Marathe Marg,
Prabhadevi, Mumbai 400025.

.....Respondent

Counsel for Appellant : M/s Ravi Law Chambers
Counsel for Respondent : M/s V.V. Sivakumar

II. <u>MA 84/2025</u>

Between

Mr. K. Pratap,
S/o of Mr. K. Satyanarayana,
Residing At: No.8-2-703/4/P, Street No.2,
Avenue 1, Road No.12, Banjara Hills,
Hyderabad 500 034.

.....Appellant

And

JM Financial Asset Reconstruction Company Limited
Represented by its Authorised Signatory,
Mr. Vaibhav Shetty,
Acting in its capacity as Trustee of J
MFARC-Swarna 2011-Trust,
Having its Registered Officer at 7th Floor,
Cnergy, Appasaheb Marathe Marg,
Prabhadevi, Mumbai 400025.

.....Respondent

Counsel for Appellant : Mr. Tarun Rao Kallakuru
Counsel for Respondent : M/s V.V. Sivakumar

COMMON ORDER

1. These appeals are filed under Section 20 of the RDB Act against the order dated 25.8.2025 passed in IA No.106/2025 and IA No.107/2025 in OA No.1/2025 by the Learned Presiding Officer, DRT-I, Chennai.

2. The facts common to both these appeals in brief are that the respondent financial institution filed OA No.1/2025 for recovery of a sum of Rs.1331,00,37,165.10p as on November, 13, 2024 with further interest, as detailed in the Original Application from the defendants.

3. Appellant in MA No.83/2025 is the first defendant and Appellant in MA 84/2025 is the 5th defendant in OA No.1/2025. On receiving summons, it appears that written statement was not filed by the appellants within the stipulated time. Therefore, appellant in MA 83/2025 filed IA 106/2025 and appellant in MA 84/2025 filed IA 107/2025, for condoning the delay of 31 days in filing the written statement. The reason stated by the appellants for the delay in filing the written statement was that Tribunal directed the appellants to file written statement within 15 days from 15.6.2025. Respondent filed voluminous documents running to nearly 1262 pages in six volumes. Appellants had to peruse the documents in a diligent manner and give instructions to their counsel to prepare the written statement. Counsel was based in Chennai, but, the appellant company was based in Bangalore. Owing to the distance and the difficulty in getting instructions and communication and that the appellant Mr. K. Pratap was also suffering from age related ailments contributed to the delay in filing the written statement

within the time granted by the Learned Presiding Officer, DRT-I, Chennai. Thus, there is a delay of 31 days in filing the written statement.

4. Learned Presiding Officer passed a common order in both these applications on 25.8.2025, whereby he dismissed these applications. Reasons for the dismissal are that Section 19((5)(i) of RDB Act provides 30 days to file written statement from the date of service and this time may be extended for a further period of 15 days for exceptional reasons. First defendant was served with notice and that was refused and the 5th defendant was also served. Both defendants appeared through Counsel on 4.4.2025. Copies of OA was served on 2.5.2025. The period for filing written statement, therefore, expired on 2.6.2025. Tribunal extended the time by 15 days and that also stood expired on 17.6.2025, whereas written statement was filed on 16.7.2025 with a delay of 31 days. Section 5 of the Limitation Act cannot be made applicable to the proceedings before DRT. Stating these reasons, both applications were dismissed.

5. Learned Counsel for the appellants submitted that reasons for the delay in filing the written statement as aforesaid, are genuine and bona fide reasons. Therefore, appellants should be given an opportunity to file written statement and contest their claim. He relied on the decision of the Hon'ble

Supreme Court of India, in re, **International Asset Reconstruction Company of India Limited Vs. Official Liquidator of Aldrich Pharmaceuticals Limited and others reported in (2017) 16 SCC 13**7 for the proposition that by virtue of Section 24 of RDB Act, provisions of Limitation Act are made applicable to the proceedings before the DRT. Therefore, applications filed for condoning the delay under Section 22(1) of RDB Act read with Section 5 of Limitation Act should be positively considered in view of the justifiable reason given for delay in filing written statement.

6. Contradicting these submissions of learned Counsel for the appellants, learned counsel for the respondent financial institution submitted that RDB Act is a special enactment and is a complete Act by itself and it has provision for every aspect including the period limitation, within which, the written statement has to be filed. The scope of enactment of RDB Act is for speedy recovery of debt due to the bank. That was the reason why certain time limits have been stipulated for filing written statement, appeal, etc. If those stipulations are not followed, the very purpose of enactment of RDB Act, would get defeated. Decision relied by the Learned Counsel for the appellants i.e., **International Asset Reconstruction Company of India Limited case,** will not be applicable to the facts of this case. The reason is that decision deals with an appeal filed under Section 30 of the RDB Act. The

issue as to whether the delay in filing written statement can be condoned under Section 5 of the Limitation Act was not considered.

7. On the other hand, in support of his submission, learned counsel for the respondent pressed into service the decision of Hon'ble High Court of Delhi in re, **Anita Garg and others Vs. State Bank of India reported in 2021 SCC Online Del.4311** and the decision of Hon'ble High Court of Madhya Pradesh (Jabalpur Bench) in re, **Crest Steel and Power Pvt. Ltd. and others Vs. Punjab National Bank and others reported in 2019 (1) MPLJ 703** for the proposition that Section 5 of the Limitation Act cannot be invoked for condoning the delay in filing the written statement filed beyond 45 days.

8. I have considered the rival submissions and perused the records.

9. Since the issue involved in these appeals essentially is an issue of law i.e., whether the delay in filing written statement beyond the period of 45 days before DRT can be condoned, by invoking Section 5 of the Limitation Act.

10. The issue that arose in **International Asset Reconstruction Company of India Limited case** is whether Section 5 of the Limitation Act, 1963 can be invoked to condone the delay in filing the appeal beyond the prescribed period of 30 days under Section 30 of the RDB Act, 1993 before Debt

Recovery Tribunal, against the order of learned Recovery Officer? After recording the rival submissions, Hon'ble Supreme Court of India observed as follows:

> "11. An "application" is defined under Section 2(b) of the RDB Act as one made under Section 19 of the Act. The latter provision in Chapter IV, deals with institution of original recovery proceedings before a Tribunal. An appeal lies against the order of the Tribunal under Section 20, before the Appellate Tribunal within 45 days, which may be condoned for sufficient cause under the proviso to Section 20(3) of the Act. The Tribunal issues a recovery certificate under Section 19(22) to the Recovery officer who then proceeds under Chapter V for recovery of the certificate amount in the manner prescribed. A person aggrieved by an order of the Recovery officer can prefer an appeal before the Tribunal under Rule 4, by an application in the prescribed Form III. Rule 2(c) defines an "application" to include a memo of appeal under Section 30(1). The appeal is to be preferred before the Tribunal, as distinct from the appellate tribunal, within 30 days. Section 24 of the RDB Act, therefore, manifestly makes the provisions of the Limitation Act applicable only to such an original "application" made under Section 19 only. The definition of an "application" under Rule 2(c) cannot be extended to read it in conjunction with Section 2(b) of the Act extending the meaning thereof beyond what the Act provides for and then make Section 24 of the RDB Act applicable to an appeal under Section 30(1) of the Act. Any such interpretation shall be completely contrary to the legislative intent, extending the Rules beyond what the Act provides for and limits. Had the intention been otherwise, nothing prevented the Legislature from providing so specifically.
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> 12. A comparative study of Section 30, pre and post amendment in the year 2000, reveals that the deemed status of proceedings before the Recovery officer, as a Tribunal, stands denuded. Had the proceedings before the Recovery officer deemed to be before a Tribunal, entirely different considerations may have arisen.
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> Old Section 30 before 2000 Old Section 30 before 2000 amendment amendment "S. 30 Orders of Recovery "S. 30. Appeal against the Officer to be deemed as orders order of Recovery Officer. of Tribunal— (1) Notwithstanding anything Notwithstanding anything contained in Section 29, any contained in Section 29, an person aggrieved by an order of order made by the Recovery the Recovery Officer made under Officer in exercise of his powers this Act may, within thirty days under Sections 25 to 28 (both from the date on which a copy of inclusive), shall be deemed to the order is issued to him, prefer have been made by the Tribunal an appeal to the Tribunal. and an appeal against such (2) On receipt of an appeal orders shall lie to the Appellate under sub-section (1), the Tribunal." Tribunal may, after giving an opportunity to the appellant to be heard, and after making such enquiry as it deems fit, confirm, modify or set aside the order made by the Recovery Officer in exercise of his powers under Sections 25 to 28 (both inclusive)."

> 13. The RDB Act is a special law. The proceedings are before a statutory Tribunal. The scheme of the Act manifestly provides that the Legislature has provided for application of the Limitation Act to original proceedings before the Tribunal under Section 19 only. The appellate tribunal has been conferred the power to condone delay beyond 45 days under Section 20(3) of the Act. The proceedings before the Recovery officer are not before a Tribunal. Section 24 is limited in its application to proceedings before the Tribunal originating under Section 19 only. The exclusion of any provision for extension of time by the Tribunal in preferring an appeal under Section 30 of the Act makes it manifest that the legislative intent for exclusion was express. The application of Section 5 of the Limitation Act by resort to Section 29(2) of the Limitation Act, 1963 therefore does not arise. The prescribed period of 30 days under Section 30(1) of the RDB Act for preferring an appeal against the order of the Recovery officer therefore cannot be condoned by application of Section 5 of the Limitation Act."

11. From the reading of this decision of the Hon'ble Supreme Court of India, we can understand that the application of Limitation Act is restricted to the Original proceedings before the Tribunal under Section 19 of the RDB Act and the delay in filing any appeal under Section 30, beyond the period of 30 days cannot be condoned by invoking Section 5 of the Limitation Act.

12. In the case of Anita Garg and others Vs. SBI, Hon'ble High Court of Delhi had the occasion to consider the issue as to whether delay in filing written statement beyond the period of 45 days can be condoned?. That was a case where written statement and counter claim was filed beyond the period of 30/45 days. Therefore, Bank filed interlocutory application to strike off the written statement and counter claim on the ground of limitation and that application was dismissed by the Tribunal. Against the order of dismissal, bank filed appeal before DRAT and learned Chairperson, DRAT allowed the

appeal by setting aside the order of DRT and directed the written statement and counter claim to be taken off the record. When that order was challenged before Hon'ble High Court, Hon'ble High Court of Delhi referred to the intent and purpose of Section 19(25)(1) of RDB Act, correlated it with the amendment brought to CPC for suits in the Commercial Dispute Act in Order 8 Rule 1 CPC, Order 5 Rule 1 and held that RDB Act does not permit filing of written statement beyond 30 days with an additional 15 days time under special circumstances and in exceptional cases.

13. Drawing parallel to the amendment brought in CPC in Order 8 Rule 1 and Order 5 Rule 1 for the suits in Commercial Dispute Act and RDB Act, it was observed in paragraphs 31 and 32, as follows

> "31)...........Equally, in Order 8 Rule 1, a new proviso was substituted as follows:
> "Provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the written statement on such other day, as may be specified by the court, for reasons to be recorded in writing and on payment of such costs as the court deems fit, but which shall not be later than one hundred and twenty days from the date of service of summons and on expiry of one hundred and twenty days from the date of service of summons, the defendant shall forfeit the right to file the written statement and the court shall not allow the written statement to be taken on record."
> This was re-emphasised by re-inserting yet another proviso in Order 8 Rule 10 CPC, which reads as under:
> "10. Procedure when party fails to present written statement called for by court.--Where any party from whom a written statement is required under Rule 1 or Rule 9 fails to present the same within the time permitted or fixed by the court, as the case may be, the court shall pronounce judgment against him, or make such order in relation to the suit as it thinks fit and on the pronouncement of such judgment a decree shall be drawn up:
> Provided further that no court shall make an order to extend the time provided under Rule 1 of this Order for filing of the written statement."

A perusal of these provisions would show that ordinarily a W.P.(C) 6886/2021 written statement is to be filed within a period of 30 days. However, grace period of a further 90 days is granted which the Court may employ for reasons to be recorded in writing and payment of such costs as it deems fit to allow such written statement to come on record. What is of great importance is the fact that beyond 120 days from the date of service of summons, the defendant shall forfeit the right to file the written statement and the Court shall not allow the written statement to be taken on record. This is further buttressed by the proviso in Order 8 Rule 10 also adding that the court has no further power to extend the time beyond this period of 120 days.

32) Though, Section 19(5)(i) does not, in terms, provide for the forfeiture of the right to file the written statement, if it is not filed within the stipulated time, or the extended time that could and may be granted, in our view, the consequence would be the same, as the written statement filed beyond the stipulated time, or extended time which could legally be granted for that purpose, cannot be brought on record. The intention of the Parliament can be gathered not only from the Statement of Objects and Reasons set out hereinabove, but also from the outer limit of time, for which extension may, in a deserving case - by following the guideline laid down in the Section, be granted. The proceedings before the DRT are also proceedings arising out of commercial dealings and the disputes are commercial disputes. It would not stand to reason, that while the Parliament sought to enforce strict timelines for expeditious disposals of commercial disputes by enacting the Commercial Courts Act, it did not do so in respect of disputes of the same kind, decided by the Debt Recovery Tribunals. The only reason for not incorporating the forfeiture clause in Section 19 is, that the existing provision contained in Section 19 leads to the same conclusion.

13.1 Again, it was observed in paragraph 61 as follows:

"60) The 1993 Act is a special enactment, enacted with the purpose of providing expeditious adjudication and recovery of debts due to Banks and Financial Institutions. Time is of the essence in quick disposal of Original Applications, as the value of unproductive assets deteriorates over time, the security assets are likely to be dissipated, and the locking up of such huge amount of public money in litigation prevents proper utilisation and recycling of the funds for the economic development of the country."

14. Finally, Hon'ble High Court of Delhi upheld the order passed by DRAT in ordering removal of written statement and counter claim by the defendants

therein. In essence, this decision is directly on the issue involved in this case where it was held that Tribunal cannot condone the delay in filing written statement beyond the period of 45 days.

15. On similar lines, it was held in M/s Crest Steel and Power Pvt. Ltd. Vs. PNB and others case that written statement is required to be filed within 30 days and in exceptional cases and under special circumstances, it can be extended by the Tribunal by another 15 days. This decision was challenged before the Hon'ble Supreme Court of India in SLP(C) 15398/2018 and resulted in the dismissal of SLP on 20.7.2018.

16. From the careful analysis of the decision cited by learned counsel appearing for parties, this Tribunal finds that the decision relied by the appellants is not in support of the case of the appellants. On the other hand, the decisions cited by the respondent support the case of the respondent that delay in filing the written statement beyond the period of 45 days, cannot be condoned by invoking Section 5 of the Limitation Act.

17. In this view of the matter, this Tribunal finds these appeals have no merits and are liable to be dismissed.

18. **In fine**, Appeals, MA 83/2025 and MA 84/2025 are dismissed by confirming the order of the Learned Presiding Officer, DRT-I, Chennai dated 25.8.2025 passed in IA No.106/2025 and IA No.107/2025 in OA No.1/2025.

19. Parties are directed to bear their own costs.

20. Pending IAs, if any stand closed.

[Dictated to PS (SN) transcribed by him, corrected, signed and pronounced by me in open court, this 10th June, 2026)

Sd/-
(JUSTICE G. CHANDRASEKHARAN)
CHAIRPERSON