BEFORE THE DEBTS RECOVERY APPELLATE TRIBUNAL, AT: MUMBAI

Present: Justice Vivek Bharti Sharma, Chairperson

I.A. No. 119/2026(WoD)
In
Misc. Appeal Diary No. 229/2026

Between

M/s K.V. Corporation & Ors. … Applicant/s
V/s.
IDBI Bank Ltd. …Respondent/s

-: Order dated: 05/08/2026: -

Present:

Mr. Radhe Agarwal, Advocate for the Applicants/Borrowers appeared through Video Conference.

Mr. Sachin Koli, Advocate for the Respondent/Bank.

2. Heard the Application I.A. No. 119/2026 of the Applicants/Borrowers with prayer, inter alia ***to waive the condition of the deposit under third proviso of Section 18(1) of the Act to the minimum for entertaining the Appeal.***

3. The Learned Counsel for the Applicants/Borrowers would submit that the Applicants/Borrowers are facing financial hardships, therefore, the mandatory pre-deposit as per Section 18 be waived to the extent of the 25% as per proviso to Section 18 of the SARFAESI Act.

4. The Learned Counsel for the Respondent/Bank would vehemently oppose the application for waiver on the grounds that the averments made in the application are vague and concocted and the same is not supported by any Income Tax Returns to substantiate the arguments ; that, the Respondent /Bank issued the Demand Notice under Section 13 (2) of the SARFAESI Act on 07.05.2025 calling upon the Applicants/Borrowers to pay an amount of ₹3,56,09,587.09p plus interest.

The Learned Counsel for the Respondent/Bank would further submit that as on 25.02.2026 the amount of ₹4,01,76,786/- is due and payable, therefore, the said amount ought to be taken as the threshold amount for the purpose of calculating the mandatory pre-deposit .

The Learned Counsel for the Respondent/Bank would further submit that the symbolic possession of the secured asset has already been taken by the Respondent/ Bank and the possession notice has also been published on 23.07.2025 ; that, initially, the possession was taken on 29.10.2025 but the Applicants/Borrowers filed the Securitisation Application No. 230/2025 for staying the same, therefore, the possession could not be taken ; that, in this Securitisation Application No. 230/2025, the I.A. No. 201/2026 has been dismissed by the impugned order assailed by the Applicants/Borrowers in the present Appeal in which the present wavier is being heard, therefore, no waiver can be granted to the Applicant/Borrowers. **He would further submit that the Applicants/Borrowers, as per Section 18 of SARFAESI Act, has**

to deposit 50% of ₹4,01,76,786/- as stated in para 20 of reply of Respondent/Bank.

5. In view of the above, without going into merits of the Appeal, this Appellate Tribunal is of the considered view that ends of justice would be served if the amount of the mandatory pre-deposit is waived to 45% instead of 50% in accordance with third proviso to Section 18 of the SARFAESI Act.

The Appellants/Borrowers have not stated any amount in the application, therefore, the amount of ₹4,01,76,786/- mentioned in the para 20 of reply filed by the Respondent/Bank is taken as threshold amount for purpose of calculating the pre-deposit amount.

Therefore, the Applicants/Borrowers are directed to deposit 45% of ₹4,01,76,786/- which comes to ₹1,80,79,553.70p as pre-deposit on or before 19.08.2026.

6. At this stage, the Learned Counsel for the Applicants/Borrowers would submit that in accordance with order dated 06.03.2026 passed by the Hon'ble High Court of Bombay at Nagpur Bench in Writ Petition No. 1943/2026 filed by the Applicants/Borrowers, they were directed to deposit ₹40 Lakhs within a week from 06.03.2026 ; that, the Applicants/Borrowers have deposited two instalments ₹5.00 Lakhs and ₹10.00 Lakhs respectively on 13.03.2026 i.e. within a week .

The Learned Counsel for the Applicants/Borrowers would further submit that ₹25.00 Lakhs was deposited accordance with Section 18 of the SARFAESI Act as condition precedent in another Appeal of the Applicants/Borrowers Misc. Appeal Dy. No. 1765/2025 ; that, the earlier Misc. Appeal Dy. No. 1765/2025 has been disposed of, therefore, this amount of ₹25.00 Lakhs may be adjusted.

7. **Considered and perused the order-sheet and records**.

8. In its report dated 21.05.2026, the Registry has noted that the UTR numbers of the alleged deposit of ₹5.00 Lakhs and ₹10.00 Lakhs (*both dated 13.03.2026*) did not match, therefore, the Registry is not able to report or verify this deposit of ₹15.00 Lakhs *(₹5.00 Lakhs and ₹10.00 Lakhs*).

It would be pertinent to note that even otherwise the rest of ₹25.00 Lakhs was not deposited by the Applicants/Borrowers within one week from the date of the order of the Hon'ble High Court of Bombay at Nagpur Bench as directed in Writ Petition No. 1943/2026 of the Applicants/Borrowers. It was only on 18.03.2026(*17.03.2026*), the Applicants/Borrowers filed the pursis in physical to that effect that ₹25.00 Lakhs deposited in previous disposed of Appeal be adjusted.

9. **The Learned Counsel for the Respondent/Bank would vehemently oppose adjusting this amount of ₹25.00 Lakhs on the ground that there is no specific application by the Applicants/Borrowers supported by Affidavit for withdrawing**

that amount from the earlier Misc. Appeal Dy. No. 1765/2025 and then redepositing in the present Appeal.

The Learned Counsel for the Respondent/Bank would submit that the Applicants/Borrowers cannot devise their own rules and procedures and ask the Appellate Tribunal to adjust the amount in any further Appeal without doing needful as per procedures established under rules.

10. Moreover, it would also be pertinent to note that when it came in knowledge of the Learned Counsel for the Applicants/Borrowers that the UTR Numbers of deposit of ₹5.00 Lakhs and ₹10.00 Lakhs are not matching then he took two-weeks' time to contact his clients to obtain the correct UTR Numbers.

The relevant part of the order of this Appellate Tribunal reads as under:

> "2. The Learned Counsel for the Appellant would further submit that in view of the discrepancy in the UTR numbers, he seeks two weeks' time to contract his client (Appellants) and obtain the correct UTR numbers so that the same may be furnished to the Registry for verification as to whether the Appellants have complied with the directions contained in the order dated 06.03.2026 passed by the Hon'ble High Court for depositing a sum of ₹40 Lakhs.
>
> 3 The Learned Counsel for the Appellants files a pursis to this effect. The same is taken on record.
>
> 4. List the matter on 08.06.2026 for compliance and verification of the UTR numbers "

11. It is further important to note that on the next date of hearing i.e., 08.06.2026 also the Applicants/Borrower did not give the correct

UTR Numbers for the verification and again on 15.06.2026, the Learned Counsel Mr. Radhe Agarwal for the Applicants/Borrowers sought time to verify the UTR Numbers.

It would be further pertinent to note that even on 01.07.2026, the Applicants/Borrowers did not provide the correct UTR Numbers for verification of deposit of ₹5.00 Lakhs and ₹10.00 Lakhs respectively both on 13.03.2026 and consequently last opportunity was granted to the Applicants/Borrowers to provide the correct UTR Numbers within a week.

12. It would again be important to note that today also Applicants/Borrowers have not provided the correct UTR Numbers.

13. However, in the light of the facts and circumstances discussed above, this Appellate Tribunal is of considered view that ends of justice would be served by directing the Applicants/Borrowers to deposit 45%of ₹4,01,76,786/- which comes to ₹1,80,79,553.70/- as pre-deposit on or before 19.08.2026 by way of the Demand Draft. If the Applicants/Borrowers want any adjustment then they should give the correct UTR Numbers and make the appropriate application to withdraw the alleged deposit of ₹25.00 Lakhs in their earlier Appeal and re-deposit in the present Appeal as mandatory pre-deposit.

This all works has to be done within time fixed i.e. 19.08.2026.

14. **On deposit of the amount, the Registry is directed to register this appeal and interlocutory application and put before**

the Appellate Tribunal.

15. At this stage, the Learned Counsel for the Applicants/Borrowers would press Application I.A. at Diary No. 237/2026 for interim-stay on order dated 06.02.2026 passed by the Ld. Presiding Officer, DRT, Nagpur.

16. Considered and perused the records.

17. The Learned Counsel for the **Respondent would oppose for grant for any stay on the Appeal as it is not yet registered due to non-payment of mandatory pre-deposit**.

18. The Learned Counsel for the **Respondent relied upon the judgment dated 04.03.2026 in Writ Petition No. 15718/2025 in *Anil Kumar Pawar & Anr V/s The Authorised Officer, Union Bank of India & Ors*, the Hon'ble High Court of Bombay observed** that after depositing the pre-deposit amount under section 18 of the SARFAESI Act within time, the matter be sent before the Ld. Registrar for registering the Appeal and Interlocutory Application. Only after registration, the I.A. for stay or appeal be heard and decided.

19. The relevant part of the judgment of the Hon'ble High Court of Bombay is reproduced here as under.

> "8. We find on perusal of the impugned order that it suffers from

a serious procedural infirmity. The Application considered and decided in the impugned order dated 14th May 2025 was only the Application seeking waiver of pre-deposit under Section 18 of the Securitisation Act. The only prayer made on behalf of Respondent Nos. 2 and 3 before the DRAT was for such waiver on the basis of statements made in the said Application. While considering the said Application the DRAT discussed the rival submissions, made certain observations and thereupon found that the Respondent Nos.2 and 3 were required to deposit 40% of the amount due and that complete waiver from pre-deposit was not warranted. **Having reached the said conclusion the DRAT was expected to issue a positive direction to Respondent Nos.2 and 3 to deposit such 40% amount towards pre-deposit so that the Appeal could be registered and then take up the Application for interim relief and the Appeal for further consideration.** (emphasis supplied)

9. ……………………………………………

10. We find that the aforesaid approach adopted by the DRAT suffers from serious procedural irregularity and infirmity. **It appears that the DRAT proceeded on an assumption that the moment a pre-deposit direction was issued in an Application seeking waiver thereof, the interim relief would follow as a matter of course upon the amount so directed to be deposited,** in fact being deposited by the Appellants (Respondent Nos.2 and 3 herein). We find that the approach of the DRAT is unsustainable."

20. In re *Anil Pawar Case (Supra)* the Hon'ble High Court has castigated the approach of DRAT of granting stay or interim relief before the registration of the appeal on deposit of mandatory pre-deposit under Section 18 of the SARFAESI Act for filing of the appeal.

It would be important to revisit Section 18 of the Act.

It reads:

"**18. Appeal to Appellate Tribunal.—**(1) Any person aggrieved, by an order made by the Debts Recovery Tribunal [under section 17, may prefer an appeal alongwith such fee, as may be prescribed] to the Appellate Tribunal within thirty days from the date of receipt of the order of Debts Recovery Tribunal:

Provided that different fees may be prescribed for filing an appeal by the borrower or by the person other than the borrower

<u>Provided further that no appeal shall be entertained unless the borrower has deposited with the Appellate Tribunal fifty per cent. of the amount of debt due from him, as claimed by the secured creditors or determined by the Debts Recovery Tribunal, whichever is less:</u>

Provided also that the Appellate Tribunal may, for the reasons to be recorded in writing, reduce the amount to not less than twenty-five per cent. of debt referred to in the second proviso.

(2) ……………………………………………………………… ……"

21. In view of the proviso to section 18 of the SARFAESI Act and observations of the Hon'ble High Court of Bombay in re "*Anil Kumar Pawar*" (*Supra*), this Appellate Tribunal is of the considered view that an appeal and application for interim relief can only be heard and decided only after registration of appeal on mandatory pre-deposit under section 18 of the SARFAESI Act. That is to say that before registration of an appeal on deposit of an amount as per section 18 of the 'Act', no Appeal or any Interlocutory Application therein can be entertained. Hence, no interim stay can be granted at this stage before registration of the Appeal and the interim stay application after depositing the mandatory amount under section 18 of the SARFAESI Act.

22. As and when the said amounts are deposited, the same shall be invested in term deposits in the name of Registrar, DRAT, Mumbai with any nationalised Bank, initially for 13 months, and thereafter to be renewed periodically.

23 With this observation, the I.A. No. 119/2026 is disposed of.

24. A copy of the order be sent to the Hon'ble High Court of Bombay in compliance.

25. The Respondent Bank is at liberty to file a reply to the grounds of the Appeal with an advance copy to other sides.

26. List the Appeal on 21.08.2026 for reporting compliance and hearing.

Sd/-
Chairperson

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