BEFORE THE DEBTS RECOVERY APPELLATE TRIBUNAL, AT: MUMBAI

Present: Justice Vivek Bharti Sharma, Chairperson

I.A. No. 478/2026 (WoD)
In
Misc. Appeal Diary No. 1284/2026

Between

M/s. Aastha Organisers Pvt. Ltd. … Appellant/s
V/s.
The Authorised Officer, …Respondent/s
State Bank of India & Ors.

-: Order dated: 19/08/2026: -

1. Present as under:

Mr. Rajesh Nagory along with Ms. Sanjana Ghogare, Counsel for Applicant/Borrower.

Zulfiq Multani along with Mr. Manoj Mishra, Counsel for Respondent No.1/Bank.

No representation for other Respondents despite repeated calls.

2. Heard on I.A. No. 478/2026, which has been filed by the Applicant/Borrower seeking waiver to the extent of 25% of the mandatory pre-deposit amount as per the third proviso to Section 18 of the SARFAESI Act.

3. The Counsel for the Applicant/Borrower would submit that the Applicant is neither the borrower nor the guarantor; that, the alleged mortgage dated 12.01.2015 is illegal and has been executed by playing fraud and forgery, which has been challenged in Civil Suit No.

330/2016 before the Ahmedabad City Civil Court (*Page No. 208 of the main appeal*); that, a criminal case has also been registered against the persons who have committed the fraud and forgery, being Chargesheet No. 81/2017, filed by Police Station Navrangpura, District Ahmedabad City, dated 20.09.2017 in which even the Bank officials were also arrested.

The Counsel for the Applicant/Borrower would further submit that even the Learned DRT has observed this fact in its order dated 18.07.2026 and observed that the question of fraud and forgery of the mortgage deed is pending consideration; that, therefore, the Applicant/Borrower be granted waiver as per the third proviso to Section 18 of the SARFAESI Act to the extent of 25% of the total amount.

4. The Counsel for Respondent No. 1/Bank would submit that the Civil Suit relied upon by the Applicant/Borrower has been dismissed. However, he would fairly concede at bar that the criminal case has been registered and a Bank official is also arrayed as one of the accused persons.

The Counsel for Respondent No. 1/Bank would further submit that, in the same loan transaction, the other Applicant was directed to deposit 50% and no waiver was granted.

However, he would fairly concede at bar that in that appeal the Applicant was not the mortgagor but was the corporate guarantor. Therefore, in opinion of this Appellate Tribunal the case of present appellant is different in facts the case of the present Applicant is different from that of the other Applicant, as submitted by the Counsel for Respondent No. 1/Bank.

5. In rebuttal, the Learned Counsel for the Applicant/Borrower would submit that the dismissal of the Civil Suit was for default in appearance and not on merits.

6. Considered and perused the record.

7. Without going into the merits of the case, this Appellate Tribunal is of the considered view that this is a fit case in which waiver as per the third proviso to Section 18 of the SARFAESI Act deserves to be granted to the Applicant/Borrower.

8. Therefore, this Appellate Tribunal directs the Applicant/Borrower to deposit 25% of ₹45,60,09,910.60/-, which comes to ₹11,40,02,477.65/- on or before 02.09.2026

On deposit of the amount, the Registry is directed to register this appeal and interlocutory application, if otherwise in order under rules.

9. At this stage, the Learned Counsel for the Applicant/Borrower would pray for Application Diary No. 1285/2026 for a stay order passed by the Ld. Presiding Officer, DRT-I, Ahmedabad.

10. The Learned Counsel for the Respondent No.1/Bank oppose for grant for any stay on the ground that the Appeal is not yet registered due to non-payment of mandatory pre-deposit.

11. The Learned Counsel for the Respondent No.1/Bank 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.

12. Considered and perused the record.

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)
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> 9. ………………………………………………
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> 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."

13. 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
>
> ***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:***
>
> 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) ...."

14. 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.

15. The amount shall be deposited in the form of a Demand Draft with the Registrar of this Appellate Tribunal.

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

17. With this observation, the I.A. No. 478/2026 is disposed of. The Respondent Bank is at liberty to file a reply to the grounds of the Appeal with an advance copy to the other sides.

18. If the deposit is made as stated in para 8 above on or before 02.09.2026, list the Appeal on 01.10.2026 for reporting compliance and hearing.

In the event of failure to deposit the said amount till 02.09.2026, the Appeal shall stand dismissed automatically without further reference to this Appellate Tribunal.

Sd/-
Chairperson

VKC-24