IN THE DEBTS RECOVERY APPELLATE TRIBUNAL AT CHENNAL

Dated the 27th Day of July, 2026

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

IA 336/2025 (Delay)
IN
AIR 56/ 2025

(Arising out of I.A.No. 28 of 2024 in T A.No. 57 of 2022 on the file of DRT-I, Channai)

Between

1. Ghishulal Kothari
   No 10 Sylvan Lodge Colony, 1 Cross Road Kilpauk
   Chennai-600010

2. Shantilal Kothari
   No 10 Sylvan Lodge Colony, 1st Cross Road, Kilpauk
   Chennas- 600 010.

3. Sardarmal Kothari
   No 10 Sylvan Lodge Colony, 1 Cross Road, Kilpauk,
   Chennai 600 010.

4. Kewalchand Kothari
   No 10 Sylvan Lodge Colony, 1st Cross Road,
   Kilpauk, Chennai-600 010.

5. Vinod Kothari
   No 10, Sylvan Lodge Colony,
   1st Cross Road, Kilpauk Chennai 600010

6. M/s Kamachi Investments P. Ltd
   No 27A, Room No. 303, 3rd Floor,
   Nawab Siraj Ud Daula Sarani Street
   (Waterloo Street), Kolkata. West Bengal-700069
   Represented by its Director Mr. Ghisulal Kothari

7. M/s Solanki Texcom P. Ltd.
No.27A, Room No. 301, 3rd Floor, Nawab Siraj Ud Daula Sarani
Street (Waterloo Street), Kolkata
West Bengal-700 069,
Represented by its Director Mr. Ghisulal Kothari

8. M/s Booh Finance Company P. Ltd
No. 27A, Room No. 303, 3rd Floor, Nawah Siraj Ud Daula Sarani
Street (Waterloo Street), Kolkata, West Bengal-700069
Represented by its Director Mr. Kewalchand Kothari

9 M/s Devshree Saving and Investment Company p. Ltd.
No.27A, Room No. 303, 3rd Floor
Nawab Siraj Ud Daula Sarani Street
Represented by its Director Mr. Shantilal Kothari
(Waterloo Street), Kolkata, West Bengal-700069
Rep. by its Director Mr. Shantilal Kothari.

10. M/s SBM Investments P. Ltd.
No.27A, Room No. 303, 3rd Floor,
Nawab Siraj Ud Daula Sarani Street (Waterloo Street),
Kolkata , West Bengal-700069.
Represented by its Director Mr. Sardarmal Kothari

11. M/s Shivapriya Finvest Ltd
No.27A. Room No. 303, 3rd Floor, Nawab Siraj Ud Daula
Sarani Street,(Waterloo), Street,Kolkata. West Bengal-700069
Rep. by its Director Mr. Ghisulal Kothari.

12. M/s Pure Gold Finance P. Ltd.
No.27A. Room No. 303, 3rd Floor,
West Bengal-700069 Represented by its Director
Mr. Vinod Kothari

13. M/s Uttam Finvest P Ltd
No.27A, Room No. 303, 3rd Floor, Nawab Siraj Ud Daula Sarani
Street (Waterloo Street), Kolkata, West Bengal-700069 Represented
by its Director Mr. Vinod Kothari.

14. M/s. Kamachi Steels Ltd
    No. 664 TH Road Tondiarpet, Chennai-600 081, Represented by its Director Mr. Sardarmal Kothari.

15. M/s. Goyal Ispat Ltd,
    ABC Trade Centre, 3rd Floor, 50, Old No.39, Anna Salai,
    Chennai-600 , Represented by its Director Mr. Sardarmal Kothari.

16. M/s. Shobha Investment P. Ltd.
    No.27A, Room No. 303, 3rd Floor,
    Nawab Siraj Ud Daula Sarani Street (Waterloo Street) Kolkata,
    West Bengal-700 069, Represented by its Director
    Mr. Vinod Kothari ... Appellants

AND

1. Union Bank of India, Washermanpet Branch,
   17. G.A. Road, Old Washermanpet, Chennai-600 021
   Rep. by its Senior Manager
   Mr. I. Karuppaмaтy (amendedas per order dated 05.11.2022)

2. Kamachi Industries Limited Formerly known as Kamachi Sponge & Power Corporation Limited) ABC Trade Centre 3rd Floor,
   50, Old No.38, Anna Selai, Chennai 600 002.

3. State Bank of India
   Stressed Assets Management Branch,
   Red Cross Buildings II Floor, No. 32, Montieth Road, Egmore.
   Chenai 600008.

4. Punjab National Bank Large Corporate Bank, Rayala Towers,
   158, 3rd floor Anna Salai,
   Chennal 600 002

5. Canara Bank, Prime Corporate Branch, Spencer Tower I,
   Ground floor, 770A, Anna Salai, Chennai-600002.

6. Union Bank of India, Washermanpet Branch, 17, GA. Road
   Old Washermanpet, Chennal -600 121.

7. Bank of India.
   Chennai Large Corporate Branch, IV Floor,
   Tarapore Towers,
   826. Anna Salai, Chennal -600 002 ...Respondents

Counsel for Appellants	: M/s. V. Anil Kumar
Counsel for Respondents	: M/s. R. Sugumaran – R1 M/s. S. Sathiyanarayanan-R7

ORDER

This application is filed for condoning the delay of 220 days in filing the appeal against the order passed in IA 28/2024 in TA 57/2022.

2. Learned counsel for the petitioners submitted that TA 57/2022 has been filed by the first respondent-Bank to recover a sum of Rs.415,00,00,000/- from the defendants and that the appellants/defendants have not filed the written statement despite the opportunity given for filing the written statement and therefore, it was closed on 29.08.2022. Thus, IA 28/2024 was filed before the Tribunal for condoning the delay in filing the written statement. The learned Presiding Officer, pointing out the Section 19(5) of the RDB Act, found that the Tribunal is empowered only to condone the delay upto 15 days after expiry of 30 days. The learned Presiding Officer stated that nearly, for a period of 3 years, written statement was not filed and that was the reason for closing the opportunity for filing the written statement on 29.08.2022. Therefore, dismissed the IA 28/2024. Aggrieved against this order, this appeal is filed.

3. The learned counsel for the petitioners further submitted that recovery proceedings before the NCLT are going on and that was the reason for the delay in filing this appeal. Thus, he seeks to condone the delay.

4. Learned counsel appearing for the respondents strongly opposes this application on the ground that the Tribunal has rightly dismissed the application filed for condoning the delay in filing the written statement on the ground that the written statement can be filed with an extension period of 15 days after expiry of 30 days and that the written statement was not filed nearly for a period of three years and therefore, closed the opportunity for filing the written statement and dismissed the IA 28/2024.

5. Section 19(5)(i) of the RDB Act, 1993 reads as follows:-

> " the defendant shall within a period of thirty days from the date of service of summons, present a written statement of his defene including claim for set-off under sub-section (6) or a counter-claim under sub-section (8), if any, and such written statement shall be accompanied with original documents or true copies thereof with the leave of the Tribunal, relied on by the defendant in his defence:
>
> PROVIDED that where the defendant fails to file the written statement within the said period of thirty days, the Presiding Officer may, in exceptional cases and in special circumstances to be recorded in writing, extend the said period by such further period not exceeding fifteen days to file the written statement of his defence".

6. Recently, this Tribunal, in the order passed in **MA Nos. 83/2025 & 84/2025,** relying on the decision of the Hon'ble High Court of Delhi in **Anita Garg and others Vs. SBI, reported in (2021 SCC Online Del 4311),** held that written statement should have been filed within 30 days subject to extension of another 15 days for the reasons given and no opportunity or extension beyond the period of 45 days can be given. The relevant paragraphs of **Anita Garg and Others** case are extracted hereunder.

> " 12. …….The 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.

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.

1.1. 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."

(2) 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.

7. As rightly pointed out by the learned counsel for the respondents that even if the delay condonation application filed before this Tribunal is allowed, the written statement cannot be accepted beyond the period of 45 days. Thus, this application in IA 336/2026 is dismissed. Consequently, appeal in AIR 56/2025 is rejected. Parties shall bear their own costs. Pending IAs, if any, shall stand closed.

(Dictated in the open Court to steno (ra), transcribed by her, corrected and signed by me, this 27th day of July 2026).

Sd/-
JUSTICE G. CHANDRASEKHARAN)
CHAIRPERSON