Case Citation: (2026) ibclaw.in 373 DRAT

DEBTS RECOVERY APPELLATE TRIBUNAL, DELHI

Appeal No. 281/2024
In
M.A. No. 41/2023
Arising out of OA No. 207/1999 (DRT-II, Delhi)

Item No. 59

International Asset Reconstruction Company Private Limited
V.
M/s Bharatpur Nutritional Products Limited & others

31.08.2026 Hon'ble Dr. Justice Sudhir Kumar Jain

Present: Sh. R.P. Aggarwal, Advocate for appellant through VC

This matter is taken up through Hybrid hearing.

1. Sh. R.P. Aggarwal, Counsel for appellant stated that the appellant filed O.A. bearing No. 207/1999 titled as **ICICI Bank Limited v. Dalmia Fresenius Medicals Limited & others** which was stated to be pending before DRT-II, Delhi.

2. The O.A. bearing No. 207/1999 was primarily filed against the respondents no.1 and 2. The DRT-II, Delhi vide judgment dated 09.10.2024 has passed the following orders:

35. The O.A. is allowed qua the defendant no.1 for recovery of Rs.3,01,97,222/- (Rs. Three Crore, One Lac Ninety Seven Thousand Two Hundred Twenty Two only) together with interest @ 12% p.a. with quarterly rests from the date of filing of the OA until the date of actual realization.

36. The proceedings of the OA shall remain suspended qua the defendant no.2 until the reference is pending in BIFR / AAIFR. However, the Bank shall be at liberty to proceed further as per law after the present reference is decided and/or permission to pursue the matter is granted. The amount may be recovered from the sale of the mortgaged property(ies) or hypothecated asset(s) of the defendant no.1 and the same shall be distributed amongst the applicants and the defendants no.3 to 5 as per pari passu charge in accordance with law. The defendant no.1 is directed to pay the amount within 90 days hereof failing which the ld. Recovery Officer may proceed to recover the amount from the sale of the mortgaged/ hypothecated assets as per law.

37. Let the Recovery Certificate be drawn accordingly and be sent to the ld. Recovery Officer for execution as per law. The parties are directed to appear before the ld. Recovery Officer on 22.11.2010.

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3. It is reflecting from the judgment dated 10.08.2010.2024 that the proceedings of the OA was ordered to be remained suspended qua the respondent no.2 who was the defendant no.2 in the OA till the reference is pending in BIFR/ AAIFR and liberty was given to the appellant to proceed further as per law after the reference is decided or permission to pursue the matter is granted.

4. DRT-II, Delhi vide judgment dated 26.03.2015 has decided the OA against the respondent no.2 (defendant no.2) and passed the following order:

> **3. When the OA was pending before this Tribunal, D2 had made a reference before BIFR and as the reference before BIFR was pending the OA as against D2 was stayed.**
>
> **4. The OA as against D1 was allowed vide judgment dated 10.08.2010.**

5. Sh. R.P. Aggarwal, Counsel for the appellant stated that DRT-II, Delhi vide judgment dated 10.08.2010 has awarded interest @ 12% p.a. with quarterly rests from the date of filing of the OA till actual realization against the respondent no.1. However, the DRT-II, Delhi vide judgment dated 26.03.2015 qua the respondent no.2 (defendant no.2) awarded the simple interest @ 12% p.a. from 18.02.1999 till recovery despite being observed that the rate of interest qua the respondent no.1 (defendant no.1) was determined @ 12% p.a. with quarterly rests from the date of filing of the OA till realization.

6. Sh. R.P. Aggarwal, Counsel further stated that the appellant has filed Misc. Application bearing No. 41/2023 in O.A. No. 207/1999 for seeking correction in the judgment dated 26.03.2015 which was dismissed by DRT-II, Delhi by observing that the said order cannot be passed under Section 19 (25) of the RDB Act and if the appellant is having any grievance against the said order then the appellant has a right to file an appeal before the DRAT. Accordingly, the present appeal is filed.

7. The perusal of judgment dated 10.08.2010 reflects that the interest @ 12% p.a. with quarterly rests was awarded against the respondent no.1 (defendant no.1) while the interest against the respondent no.2 (defendant no.2) was granted simple interest @ 12% p.a. but without quarterly interest. The DRT-II, Delhi should have granted the rate of interest as the same rate against the respondents no.1 and 2 and

there cannot be two rate of interest qua the respondents no.1 and 2. Accordingly, it is ordered that the simple interest @ 12% p.a. against the respondent no.2 be calculated as 12% p.a. with quarterly rests. Let the suitable amendment be made in the Recovery Certificate. The present appeal is accordingly decided.

8. Copy of this order be sent to DRT-II, Delhi for information and compliance.

Sd-

(Dr. Justice Sudhir Kumar Jain
Chairperson

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