BEFORE THE DEBTS RECOVERY APPELLATE TRIBUNAL, AT: MUMBAI

Present: Justice Vivek Bharti Sharma, Chairperson

I.A. No. 613/2026 (WoD)
In
Misc. Appeal Diary No. 1836/2026

Between

Rajendra Shinde & Anr. … Appellant/s

V/s.

Bank of India & Ors. …Respondent/s

-: Order dated: 21/10/2026: -

1. Present as under:

Mr. Charles De'Souza along with Ms. Trupti Nandoskar, Counsel for Applicants/ Borrowers.

Mr. Rajesh Nagory along with K. Ahmed, i/b M/s. KS Legal & Associates, Counsel for Respondent No.1.

Mr. Kushal Sawant, i/b Mr. Puneet Gogad, Counsel for Respondent No.2.

No representation for Respondent No.3 despite repeated calls.

2. The matter is taken up for hearing by way of praecipe filed by the applicants/Borrowers for seeking urgent relief.

3. The Learned Counsel for the Applicants/Borrowers would submit that as per the Sale Notice dated 06.05.2026 the Respondent No. 1/Bank has claimed a total outstanding amount of ₹29.43 crore inclusive of interest and expenses; that, for the purpose of registration

of the appeal, the Applicants/Borrowers are required to comply with the mandatory pre-deposit requirement under the 2nd Proviso to Section 18 of the SARFAESI Act; that, accordingly, the present waiver application I.A. No. 613/2026 has been filed seeking waiver of 25% of the aforesaid amount under the 3rd Proviso to Section 18 of the Act.

4. The Learned Counsel for the Applicants/Borrowers would further submit that the waiver is sought for the reason of the financial hardship faced by the Applicants/Borrowers as their bank account have been attached by the Sales Tax and Income Tax Departments.

5. Per contra, the Learned Counsel for the Respondent No. 1/Bank would submit that the Applicants/Borrowers are not entitled to any waiver under the 3rd Proviso to Section 18 of the SARFAESI Act as the grounds urged in support of the application are concocted and fabricated; that, before the DRT-III, Mumbai, the Applicants/Borrowers had stated that their bank accounts had been attached by the Revenue Enforcement Authorities, whereas, in the present application, they have contended that the attachment was effected by the Sales Tax and Income Tax Departments.

He would further submit that in paragraph 16 of the application reference has mentioned Exhibit-E, however, perusal of the index to the application would reflect that no such document Exhibit-E has been stated in the index as Exhibit-E.

6. Considered and perused the records.

7. In view of the absence of any mentioning document corresponding to Exhibit-E in the index to the waiver application and the apparent variance in the submissions made before the DRT-III, Mumbai and before this Appellate Tribunal regarding the authorities responsible for attaching the bank accounts of the Applicants/Borrowers, this Appellate Tribunal is of the considered view that the Applicants/Borrowers have failed to establish any tenable ground for waiver of the mandatory pre-deposit under the 3rd Proviso to Section 18 of the SARFAESI Act.

Accordingly, the application for waiver I.A. No. 613/2026 is dismissed.

8. The Applicants/Borrowers are directed to deposit 50% of the amount of ₹29,43,00,000/- which comes to ₹14,71,50,000/- towards the mandatory pre-deposit as per the 2nd proviso to section 18 of the Act.

The Learned Counsel for the Applicants/Borrowers seeks three days time to deposit the aforesaid amount. Accordingly, the Applicants/Borrowers shall deposit a sum of ₹14,71,50,000/- on or before 26.10.2026.

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

10. 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.

11. With this observation, the I.A. No. 613/2026 is disposed of.

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

The Respondent No. 1/Bank is at liberty to file a reply to the grounds of the Appeal and stay application with an advance copy to the other sides.

13. **At this stage**, the Learned Counsel for the Applicants/Borrowers would pray for Application (Diary) No. 1852/2026 for staying the order passed by the Ld. Presiding Officer, DRT-III, Mumbai.

14. 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.

15. 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.

16. 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. .....
>
> 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."

17. 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)
>
> ……
>
> ……"

18. 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.

19. If the deposit is made as stated in para 8 above on or before 26.10.2026, list the Appeal on 27.10.2026 for reporting compliance and hearing.

In the event of failure to deposit the said amount till 26.10.2026, the Appeal shall stand dismissed automatically without further reference to this Appellate Tribunal.

Sd/-
Chairperson
21.10.2026

Psa-01