

IN THE DEBTS RECOVERY TRIBUNAL – II AT CHENNAI

Dated this 19th day of June, 2026

PRESENT: SHRI SHARANG DHAR UPADHYAY
Presiding Officer

IA No.391 of 2026 in
NDN (SA) No.369 of 2026

Mrs. D. Sasikala
W/o Mr. K. Devendiran
Residing at House No.1502, R Block
Metro Zone, No.44, Pillayar Koil Street
Anna Nagar, Chennai – 600 040

...Petitioner / Applicant

Versus

Indian Bank
Maraimalar Nagar Branch
Thiruvallur Salai, Maraimalai Nagar
Tamil Nadu – 603 209
Rep. by its Authorised Officer

...Respondent / Respondent

ORDER

1. This Interlocutory Application is filed by the applicant praying to condone the delay of 25 days in filing the instant SA filed challenging the order of the Ld. Chief Metropolitan Magistrate, Egmore, Chennai dated 18.12.2025 made in CrI. M.P. No.14654 of 2025.
2. The SA is not numbered by the Registry for the reason that the same is filed beyond the period of limitation.

Case of the Petitioner / Applicant

3. The Petitioner is a mortgagor to the credit facility availed by one Masonkart Private Limited. The said company availed Secured Overdraft Limit of Rs.420 lakhs under General MSME during April 2023

from the respondent for business requirements. The said facility was secured by the equitable mortgage of the immovable property belonging to the petitioner along with three other properties belonging to others.

4. The borrower was making the repayments regularly, however, the respondent wrongly classified the loan account as NPA on 2.3.2025 and even thereafter the borrower continued to make the repayments.
5. The respondent thereafter proceeded under Section 14 of the SARFAESI Act and obtained an order from the Ld. Chief Metropolitan Magistrate dated 18.12.2025 in CrI. M.P. No.14654 of 2025. On coming to know of the same on 7.1.2026, the petitioner approached an Advocate for getting certified copy of the same. The Advocate applied for certified copy of the orders on 19.1.2026 and the certified copy was made ready on 21.1.2026. The time of 45 days for filing the SA from 18.12.2025 expires on 01.02.2026. However, in terms of Section 12 of the Limitation Act the time requisite for obtaining the certified copy of the orders has to be excluded. Taking into account that the application for certified copy was made on 19.1.2026, 31 days after 18.12.2025 and excluding these 31 days, there are 14 days still available for filing the SA from 21.01.2026, the SA should have been filed on or before 04.02.2026.
6. After getting the certified copy the petitioner approached another Advocate for filing the SA and hence there is a delay of 25 days in filing

the SA. The delay is neither willful nor deliberate but due to the aforesaid bonafide reason. If the delay is not condoned the petitioner will be deprived of substantive right of redemption in Section 60 of the Transfer of Property Act.

Counter by Respondent

7. The instant application to condone the delay is not maintainable as the proceedings under Section 17 of SARFAESI Act are akin to a suit as held by the Hon'ble Supreme Court in Mardia Chemicals and therefore the question of condonation of delay under Section 17 of the SARFAESI Act is neither applicable nor maintainable. No such power to condone the delay is conferred on this Tribunal.
8. The main SA itself is not maintainable leave alone the petition to condone the delay. Unless it is established that the SA is maintainable the question of entertaining the delay will arise.
9. Whether the Tribunal can entertain an application under Section 17 of the SARFAESI Act after 45 days of the impugned measures is no more res integra. The Hon'ble Division Bench of the Hon'ble High Court of Madras has held in W.A. No.1797 of 2009 in W.P. (C) No.22192 of 2007 has categorically held that the power to condone the delay in entertaining an application under Section 17 of the SARFAESI Act is not conferred with DRT. It is submitted that Section 5 of the Limitation Act are excluded from the scheme of Section 17 of the SARFAESI Act by

not making any provisions enabling the Tribunal to condone the delay in filing an application under the said provisions of the Special Act. Further it has been held by the Hon'ble Supreme Court that the Tribunal has got no powers to condone the delay in filing application under Section 17 of the SARFAESI Act.

Point for consideration

10. **Whether the instant application filed for condonation of delay of 25 days delay in filing the above SA is liable to be allowed?**

Answer to the Point for consideration

11. Section 17(1) of the SARFAESI Act, which reads as under, prescribes the period of limitation as 45 days for the purposes of challenging the measures initiated under the Act.

“17. (1) Any person (including borrower), aggrieved by any of the measures referred to in sub-section (4) of [section 13](#) taken by the secured creditor or his authorised officer under this Chapter, may make an application along with such fee, as may be prescribed, to the Debts Recovery Tribunal having jurisdiction in the matter **within forty-five days from the date on which such measure had been taken:**

[Provided that different fees may be prescribed for making the application by the borrower and the person other than the borrower.]”

12. Section 17(1) of the SARFAESI Act prescribes the period of limitation as 45 days from the date of measure. Therefore, the applicant ought to have filed the SA within 45 days from the date of the Sale Notice dated

29.10.2020. However, the same has been filed on 10.01.2025 with a delay of 1485 days.

13. In so far as the prayer to condone the delay in filing the SA is concerned, it would be pertinent to refer to the decision of the Hon'ble Apex Court. in "**Bank of Baroda and another Vs. Parasdilal Tursiram Sheetgrah Pvt. Ltd (AIR 2022 SC 3803)**", wherein the Hon'ble Supreme Court in para 12 had held as follows:-

12. " the reason for providing a time limit of 45 days for filing an application under section 17 can easily be inferred from the purpose and object of the enactment. In Transcore v.Union of India and Another (2008(1) SCC 125) this court held that the SARFAESI Act is enacted for quick enforcement of the security. It is unfortunate that proceedings where a property that has been brought to sale had third party rights created under the provisions of the act, have remained inconclusive even after a decade."

14. Moreover, it is no more res-integra that the proceedings under Section 17 of the SARFAESI Act is an original proceeding and necessary amendment in this regard had been brought out in the statute wherein the word 'appeal' had been substituted with 'application' in terms with the decision of the Hon'ble Supreme court in Transcore's Case reported in (2008) 1 SCC 125 holding that mentioning the Section 17 proceedings as appeal is a misnomer. Be that there is no provision for condoning the delay in original jurisdiction".
15. Moreover, in so far as the applicability of the provisions of the Limitation Act, 1963 is concerned, reliance can be placed upon the judgment of

the Division Bench of the Hon'ble Calcutta High Court in "**Akshat Commercial Private Limited & Others v. Kaplana Chakraborty & Others (AIR 2010 CALCUTTA 138)**", wherein the Hon'ble High Court after a detailed analysis has held that since the proceedings under Section 17(1) of the SARFAESI Act are original in nature like a suit, Section 5 of the Limitation Act does not apply to such proceedings and therefore, DRT does not have jurisdiction to condone the delay by allowing the application filed under Section 5 of the Limitation Act. It is to be noted that though Special Leave Petitions (Civil) No.17529-31/2010 were filed against the said judgment and leave was granted by the Hon'ble Supreme Court, however, in view of the settlement between the parties, the said appeals were disposed of by the Hon'ble Supreme Court vide order dated 15.12.2021.

16. Similarly, the Division Bench of the Hon'ble High Court of Madras in "**Velar Engineering Works Private Limited v. The Authorised Officer / Chief Manager, Indian Bank, Kanchipuram and Others – CRP(NPD) Nos. 3785-3787/2012 in W.P. No. 31251/2018**" has held that Section 5 of the Limitation Act has no application in the original proceedings like a suit before the DRT and therefore, the DRT has no jurisdiction to condone the delay in filing an SA by invoking Section 5 of the Limitation Act. Further, the appeal against the said order filed before the Hon'ble Supreme Court in SLP (Civil) Diary No.7023 of 2020

also was dismissed by the Hon'ble Supreme Court by its order dated 9.7.2020.

17. Further, in the recent ruling of the Hon'ble Apex Court in the case of "The Property Company (P) Ltd., Vs. Rohinten Daddy Mazda reported in 2026 LiveLaw (SC) 19, it has been held that the Tribunals have no power to condone the delay.
18. Hence on consideration of the above rulings of the Hon'ble High Courts and the Hon'ble Supreme Court, this Tribunal is of the view that there is no enabling provision permitting this Tribunal to condone the delay in filing application under Section 17 of the SARFAESI Act.
19. For the aforesaid reasons, the following:

ORDER

IA No.391 of 2026 stands dismissed. Consequently, the unregistered SA with SA Dy No.369 of 2026 stands dismissed. All pending IAs stands closed. A copy of this order be communicated to the parties concerned.

**Sd/-
(SHARANG DHAR UPADHYAY)
PRESIDING OFFICER
DRT-II CHENNAI**

(Dictated to PS, who typed in the system directly, corrected, signed and pronounced by me in Open Court, on this 19th day of June, 2026)