2026:AHC:121143

A.F.R.

RESERVED ON: 11.05.2026
DELIVERED ON: 26.05.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 6398 of 2021

Uttar Pradesh State Textile Corporation

.....Petitioner(s)

Versus

Debt Recovery Appellate Tribunal and 7 others

.....Respondent(s)

Counsel for Petitioner(s)	:	Abhinava Krishna Srivastava, Dhirendra Narain Awasthi, Kartikeya Saran, Rajesh Kumar Singh, Sandeep Arora, Siddhartha Krishna Bakhshi, Ujjawal Satsangi
Counsel for Respondent(s)	:	Anadi Krishna Narayana, Ashish Kumar Srivastava, Krishna Mohan Asthana, Maneesh Mehrotra, Sandeep Arora

Court No. - 5

HON'BLE VIKAS BUDHWAR, J.

IN RE: AMENDMENT APPLICATION NO.21 OF 2025

1. Sri Rakesh Pandey, learned Senior Counsel assisted by Sri Abhinav Krishna Srivastava do not press the amendment application.

2. The amendment application is **dismissed** as withdrawn.

ORDER ON PETITION

FACTS

1. Heard Sri Rakesh Pandey, learned Senior Counsel assisted by Sri Abhinav Krishna Srivastava for the writ petitioners, Sri Rahul Agarwal, learned Addl. Advocate General assisted by Sri Anshul Nigam for Respondent no.9/State and Sri Anurag Khanna, learned Senior Counsel assisted by Sri Sandeep Arora for Respondent no.3.

2. A joint statement has been made by learned counsels for the rival parties

that since affidavits have been exchanged between the parties and they do not propose to file any additional affidavit, the writ petitions be decided on the basis of the documents available on record.

3. With the consent of the parties, the writ petition is being decided at the admission stage.

4. The case of the writ petitioner, Uttar Pradesh State Textile Corporation through its Managing Director, having its registered office at 1, Smith Square, 14/72, Civil Lines, Kanpur-208001, is that it is a Government company incorporated under the Companies Act, 1956, and its entire share capital is owned by the Government of Uttar Pradesh. Earlier, the writ petitioner had five textile units in Meerut, Jhansi, Sandila, Kashipur, and Jaspur. For the purposes of running the above-mentioned five mills, the petitioner company obtained credit facilities to the tune of Rs.16,50,00,000 from the respondent Consortium Bank. A chart showing the credit facility availed by the petitioner company is being quoted herein under:-

"

S.No.	Name of the Bank	Unit	Limits (Fund Base)		Total
			C/C	B/P	
1.	Bank of Baroda	Sandila	205	170	375
2.	Bank of Baroda	Jaspur	105	70	175
3.	Syndicate Bank	Meerut	215	160	375
4.	Indian Overseas Bank	Jhansi	205	145	350
5.	Allahabad Bank	Kashipur	205	170	375
		Total	935	715	1650

(Figures in Lakhs)"

5. As per the writ petitioner, on 18.09.1993, the credit facilities stood renewed and, lastly, it was raised to Rs. 2,17,00,00,00. It is claimed that the leader of the Consortium Bank was Bank of Baroda and the second leader was Syndicate Bank.

6. As the ill luck it may be, in the year 1994-95, the units of the petitioner-company went into losses and the production came to a standstill. Due to incurring huge losses, the petitioner-company became sick, attracting the provisions of the Sick Industrial Companies (Special Provisions) Act, 1985, and vide order dated 02.02.1995 passed by the Board of Industrial and Financial Reconstruction, (in short BIFR), the petitioner was declared a sick company.

7. On account of the fact that the petitioner company became sick, the staff of the petitioner-company were offered the benefits of VRS lay off and the management of the petitioner-company was handed over to U.P. State Spinning Company Limited. However, U.P. State Spinning Company Limited also became a sick company and there were only three regular employees retained in the company for looking after the works of it and of the petitioner-company. Since the petitioner-company could not maintain financial discipline, so the respondent-bank approached the Debt Recovery Tribunal, Allahabad, while invoking the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, by filing O.A. No. 123 of 2000 and 161 of 2000. In the meantime, on account of bifurcation of the State of Uttar Pradesh, while carving out a new State of Uttarakhand in the year 2000, out of the five units, two units of the petitioner-company, i.e. Kashipur and Jaspur, were transferred to the State of Uttarakhand along with the entire assets and liabilities. On 21.10.2010, the State of Uttar Pradesh passed an order approving the rehabilitation scheme submitted before the then BIFR, by which liabilities of the petitioner-company were supposed to be settled by selling the assets of the petitioner-company. The above rehabilitation scheme remained pending before the BIFR for approval. In the meanwhile, the Union of India promulgated the Sick Industries Companies (Special Provisions) Repeal Act, 2003, due to which BIFR ceased to exist. However, by virtue of the notification dated 01.11.2016, the Insolvency and Bankruptcy Code, 2016 came into effect, whereby the parties to the pending proceedings before the BIFR were allowed to approach the National

Company Law Tribunal for disposal of such matters within 180 days from the date of notification. Thereafter, on 19.06.2018, an exparte order came to be passed by the Debt Recovery Tribunal, Allahabad, in Original Application No. 161 of 2000, *Bank of India and 3 others versus UP State Textile Corporation Limited and others*, which reads as under (relevant extract):-

"*10. The Original Application is allowed and ordered as under:-*

i) That the bank is entitled to recover an amount of Rs. 21,09,15,523.60 (Rs. Twenty One Crore, Nine lacs, Fifteen Thousand, Five Hundred Twenty Three and Paisa Sixty only) out of which the dues of the applicant No.1 Bank of Baroda is Rs. 1,13,71,027.15, the dues of Applicant No.1A- IARC is Rs. 6,54,36,093.33, the dues of applicant no.2 Syndicate Bank is Rs. 6,81,56,112.29 and dues of applicant no.4 Indian Overseas Bank (now assigned to ARCIL) is Rs. 6,59,52,290.83. The applicants are entitled to pendentelite and future interest 12% simple from the date of filing of Original Application i.e. 15.9.2000 till full recovery is made from the defendant No.1 company and defendant no.2 together with costs of the Original Application.

ii) The Applicants will be entitled to sell the hypothecated goods as well as other personal movable assets and Immovable properties of the defendant company.

iii) The defendants are hereby restrained by means of injunction from depleting, transferring, encumbering, alienating or in any way dealing with its properties/assets without first paying the claim of the applicant bank.

iv) A Recovery Certificate be issued u/s 19(22) of Recovery of Recovery of Debts & Bankruptcy Act, 1993.

Judgment pronounced in the open court on this 19th Day of June, 2018."

8. It is also the case of the writ petitioner that, in the meantime, insolvency proceedings were initiated against U.P. State Spinning Company Limited, which came to be allowed vide order dated 22.10.2019, and thereafter the management of U.P. State Spinning Company Limited was suspended and handed over to the Resolution Professional.

9. Aggrieved by the order dated 19.06.2018 passed in O.A. No. 161 of 2000 by the Debt Recovery Tribunal, Allahabad, *Bank of Baroda and others versus M/s UP State Textile Corporation Limited*, whereby only 12% interest was awarded to the third respondent instead of 16% interest per annum with quarterly rests from the date of filing of the original application

till realization, the International Asset Reconstruction Company Pvt. Ltd., (in short IARC), preferred an appeal before the Debt Recovery Appellate Tribunal, Allahabad, being Appeal Sr No. 135 of 2018, *International Asset Reconstruction Company Pvt. Ltd. versus UP State Textile Corporation Limited and others*. The appeal came to be allowed ex-parte on 21.08.2019, operative portion whereof is as under:-

"*10. The effective rate of interest was 16% at the time of fiting the original application as shown in clause (s) of the O.A. The respondents have not refuted these documents in any manner. The general rule is that the rate of interest during the pendency of the suit and for future period should be at the contractual rate particularly in commercial transactions unless there are circumstances which may disentitle the creditor to get the same. No such circumstances were shown by the borrowers in this case. So, the appellant is entitled to charge the interest on the contractual rate. This view is fortified by the principle laid down in the judgments of* ***Canara Bank Vs. Marshall Cycle (Supra)***.

11. In view of the aforesaid, the appeal is partly allowed and the impugned order dated 19.06,2018 passed by the Tribunal below is modified to the extent that the appellant-company is entitled to charge the interest @ 16% pez annum with quarterly rest from the date of filing of the original application till realization. Rest part of the impugned order is confirmed. No order as to costs."

10. According to the writ petitioner, a settlement stood undertaken between U.P. State Spinning Company Limited and Union Bank of India by virtue of an application under Section 12A of the Insolvency and Bankruptcy Code, 2016, whereby the insolvency order dated 22.10.2019 was recalled by virtue of the order dated 25.06.2020 and the management of U.P. State Spinning Company Limited was restored.

11. Consequent to the restoration of the management of U.P. State Spinning Company Limited, the management of the petitioner-company was also restored, and thereafter, on 04.09.2000, a recall application along with a delay condonation application came to be preferred for recalling the order dated 21.08.2019 passed by the Debt Recovery Appellate Tribunal, Allahabad, Appeal Sr No. 135 of 2018, *International Asset Reconstruction Company Pvt. Ltd. vs. M/s UP State Textile Corporation Limited*. The delay condonation application along with the recall application came to be

contested by IARC, the third respondent, by filing a common reply i.e. to the delay condonation application as well as the recall application. The said recall application along with the delay condonation application was registered as M.A. No. 69 of 2020 in Regular Appeal No. 135 of 2018, *International Asset Reconstruction Company Ltd. vs. M/s UP State Textile Corporation Limited*, and the same came to be rejected on 01.12.2020.

12. Questioning the order dated 01.12.2020 passed by Debt Recovery Tribunal, Allahabad in M.A. No. 69 of 2020 in Regular Appeal No. 135 of 2018 *International Asset Reconstruction Pvt. Ltd. vs UP State Spinning Corporation*, as well as the relief for direction allowing the application of the writ petitioner, i.e. MA No. 69 of 2020 filed in Regular Appeal No. 135 of 2018 and to recall the order dated 21.08.2019 passed by the Debt Recovery Appellate Tribunal, Allahabad in Regular Appeal No. 134 of 2018, as well as for questioning the order dated 19.01.2021 passed by the Recovery Officer, Debt Recovery Tribunal Allahabad in DRC No. 442 of 2018, *Bank of Baroda/ International Assets Reconstruction Company Limited vs. UP State Spinning Corporation*, the present petition has been preferred.

13. This Court entertained the writ petition on 19.03.2021 while passing the following orders:-

"*Notice on behalf of respondent nos. 1, 2 and 8 has been accepted by Sri Vikram Bhalla, Advocate. Sri Sandeep Arora, Advocate has accepted the notice on behalf of respondent no.4. Sri K.M. Asthana, Advocate has accepted the notice on behalf of respondent no.5. Sri Ashish Kumar Srivastava, Advocate has accepted the notice on behalf of respondent no.6. Sri Maneesh Mehrotra, Advocate has accepted the notice on behalf of respondent no.7.*

All the respondents are directed to file their counter affidavits within three weeks. Rejoinder affidavit, if any, may be filed within two weeks thereafter.

List immediately thereafter."

14. Counter and Rejoinder affidavits have been exchanged between the parties. Thereafter, on 31.05.2022, the following orders were passed:-

"*Heard learned counsel for the petitioner and Sri Amit Manohar, Additional Chief Chief Standing Counsel.*

An impleament application has been filed on behalf of State of U.P. stating therein

that the State of UP is major stake holder in recovery proceedings against the petitioner and State of UP was a party before the Debt Recovery Tribunal but the petitioner has not impleaded State who is a necessary and proper party in the case.

Learned counsel for the petitioner submits that he has no objection if the impleadment application is allowed and the State of UP is impleaded as a party.

In view of aforesaid fact, the Impleadment Application No.3 of 2022 is allowed.

Learned counsel for the petitioner is directed to implead 'State of Uttar Pradesh through Additional Chief Secretary, Industrial Development Department, U.P., Lucknow' as respondent no.9 in the array of party.

It is stated by learned counsel for the petitioner that due to inadvertence, the State of UP was not impleaded as a party but the fact remains that it is not in dispute that the State of UP was a necessary and proper party in the case.

In such view of fact, the Sate of UP should have been impleaded by the petitioner inasmuch as for want of impleadment of State of UP, the writ petition was liable to be dismissed.

Accordingly, this Court finds that the stay application may be heard after instructions/counter affidavit may be obtained from the State of UP.

Sri Amit Manohar, Additional Chief Chief Standing Counsel is granted four weeks time to seek instructions in the matter.

List this case on 04.07.2022."

15. On 09.01.2023, the following orders were passed:-

"*1. Heard Sri Kartikey Saran, learned counsel for petitioner and Sri Anurag Khanna, learned Senior Advocate assisted by Sri Sandeep Arora, learned counsel for Respondent-3.*

2. Learned counsel for petitioner seeks and is granted a week?s time to take specific instruction with regard to repayment of loan atleast at the rate of 12% and parties will also come up with calculation regarding payment of loan as on date at the rate of 12%, 16% and 16% per annum quarterly.

3. Learned Standing Counsel may also take instruction, whether there are any progress for settlement of dispute or not."

16. Questioning the said order, the writ petitioner herein preferred Special Leave (Civil) Petition No. (S) 9842 of 2025, Uttar Pradesh State Textile Corporation Ltd. vs. Debt Recovery Tribunal, Allahabad in which on 03.03.2025, the following orders were passed:-

"*UPON hearing the counsel the Court made the following*

ORDER

We dispose of this Special Leave Petition by reserving liberty to the petitioner herein to seek expeditious disposal of the writ petition before the High Court.

If such a request is made by the petitioner to the High Court, the same shall be considered in accordance with law and endeavour shall be made to dispose of the writ petition as expeditiously as possible.

Having regard to the nature of the order passed above, all pending application(s) including the application seeking condonation of delay stand disposed."

17. On 08.07.2025, this Court proceeded to pass the following orders:-

"*1. Shri Anurag Khanna, learned Senior Counsel assisted by Shri Sandeep Arora, learned counsel appearing for respondent no. 3 submitted that by order dated 09.01.2023, the petitioner was granted a week's time to take specific instruction with regard to repayment of loan at least at the rate of 12% and parties will also come up with calculation regarding payment of loan as on date at the rate of 12%, 16% and 16% per annum quarterly. It has been submitted by learned Senior Advocate that nothing has been done.*

2. Learned counsel for the respective parties may provide the amount due as on today as directed by Debt Recovery Tribunal in the original decree within two weeks.

3. List this matter immediately after two weeks."

18. On 15.04.2026, this Court passed the following orders:-

"*Contention of the learned counsel for the writ petitioner is that initially financial assistance was accorded to the petitioner herein to the tune of Rs. 16,50,00,000/- by the concerned banks thereafter on 18.09.1993, the above-noted credit facilities were renewed and lastly was raised to Rs. 21,70,00,000/-. Since there happened to be certain events which were beyond the control and comprehension of the petitioner resulting to a position whereby the petitioner could not stick to the timelines for making the payments so the respondents-bank preferred an Original Application No. 161 of 2000, Bank of Baroda and others v. U.P. State Textile Corporation Ltd. and by virtue of the order dated 19.06.2018, the original application came to be allowed wherein the following directions were issued:*

"10. The Original Application is allowed and ordered as under:-

i) That the bank is entitled to recover an amount of Rs. 21,09,15,523.60 (Rs. Twenty One Crore, Nine lacs, Fifteen Thousand, Five Hundred Twenty Three and Paisa Sixty

only) out of which the dues of the applicant No.1 Bank of Baroda is Rs. 1,13,71,027.15, the dues of Applicant No.1A- IARC is Rs. 6,54,36,093.33, the dues of applicant no.2 Syndicate Bank is Rs. 6,81,56,112.29 and dues of applicant no.4 Indian Overseas Bank (now assigned to ARCIL) is Rs. 6,59,52,290.83. The applicants are entitled to pendentelite and future interest @ 12% simple from the date of filing of Original Application le. 15.9.2000 till full recovery is made from the defendant No.1 company and defendant no. 2 together with word costs of the Original Application.

ii) The Applicants will be entitled to sell the hypothecated goods as well as other personal movable assets and immovable properties of the defendant company.

iii) The defendants are hereby restrained by means of injunction from depleting, transferring, encumbering, alienating or in any way dealing with its properties/assets without first paying the claim of the applicant bank.

iv) A Recovery Certificate be issued u/s 19(22) of Recovery of Recovery of Debts & Bankruptcy Act, 1993."

Submission is that the said order was an exparte one thereafter the respondent no. 3, herein, International Asset Reconstruction Company Pvt. Ltd. preferred an Appeal Sr No. 135 of 2018 before the Debts Recovery Appellate Tribunal, Allahabad seeking to question the rate of interest 18.75% per annum and future period which reduced from 16% to 12% per annum and by virtue of an exparte order dated 21.08.2019, the DRAT proceeded to allow the appeal so preferred by the respondent no. 3, exparte while modifying the order of the Tribunal to the extent that the respondent no. 3 being the appellant before the Appellate Tribunal was entitled to charge the interest @ of 16% per annum quarterly raised from the date of filing of the original application till realization. As per the petitioner herein, the said order was an exparte order so a recall application came to be preferred along with the delay condonation application for condonation of the delay in filing the recall application for getting the exparte order dated 21.08.2019 recalled. The said recall application dated 04.09.2020 has been rejected on 01.12.2020. Argument is that they were various factors attributable in filing the recall application beyond the attributable period. One of the same was the fact that the parties were themselves in the process of settlement, which constrained the writ petitioner to approach the appellate tribunal while filing recall application by delay and not within the time stipulated and secondly, on account of the pandemic related to Covid circumstances which were beyond the control and the comprehension of the petitioner in that regard. During the course of argument, a question arose as to what is the exact reply to the delay condontion application so submitted by the respondents. The Court finds that the same is not available on record.

Learned counsel for the petitioner seeks 10 days' time to file the same.

Put up this case on 05.05.2026 under the same caption."

ARGUMENTS OF THE LEARNED COUNSEL FOR THE PETITIONER AND THE LEARNED ADDL. ADVOCATE GENERAL FOR THE STATE

19. Sri Rakesh Pandey, learned Senior Advocate assisted by Sri Abhinav Krishna, for the petitioner-corporation and Sri Rahul Agarwal, learned Additional Advocate General, assisted by Sri Anshul Nigam, learned Standing Counsel who are on the same lines and for common interest, have submitted that the order dated 01.12.2020 passed by the Debt Recovery Appellate Tribunal Allahabad rejecting the delay condonation application as well as the recall application seeking recall of the order dated 21.08.2019 in Appeal Sr No. 135 of 2018 cannot be sustained even for the a single moment.

20. Elaborating the said submission, it is contended that there were exceptional circumstances which necessitated special treatment to be meted to the writ petitioner, particularly when the writ petitioner-corporation had become a sick unit since the Financial Year 1994-95 and by virtue of the order dated 02.02.1995 passed by the BIFR, the petitioner-corporation was declared sick and once the entire staff of the petitioner-corporation were given VRS, lay off and the management of the petitioner-corporation was handed over to U.P. State Spinning Company Limited, and further, the U.P. State Spinning Company Limited also became a sick company and, there were only three regular employees who remained in the company for looking after the work and affairs of U.P. State Spinning Company Limited as well as the writ petitioner-corporation, namely U.P. State Textile Corporation and also by virtue of the notification dated 01.11.2016, in view of the Insolvency and Bankruptcy Code, 2016, which came into effect, and the pending proceedings before the BIFR stood transferred by operation of law before the National Company Law Tribunal and an order came to be passed on 22.10.2019 whereby, in the insolvency proceedings, the management of U.P. State Spinning Company Limited was suspended and handed over to the Resolution Professional and thereafter, in view of the settlement so entered between Uttar Pradesh State Spinning Corporation and Union Bank of India under Section 12A of the Insolvency and Bankruptcy

Code, 2016, the order dated 22.10.2019 was recalled vide order dated 25.06.2020 and the management of U.P. State Spinning Company Limited was restored and thereupon post passing of the orders by the Debt Recovery Tribunal on 19.06.2018 and the order passed by the Debt Recovery Appellate Tribunal, Allahabad, in Appeal Sr No. 135 of 2018 on 21.08.2019, the recall application along with delay condonation application seeking to recall the order dated 21.08.2019 of the Debt Recovery Appellate Tribunal came to be preferred.

21. Contention is that the circumstances were not only abnormal but beyond the control and comprehension, which resulted in a situation where the petitioner corporation could not either participate in the proceedings before the Debt Recovery Tribunal or before the Debt Recovery Appellate Tribunal and then things stood normalized, the recall application came to be preferred, which has illegally been rejected in a cursory manner without considering the said aspect of the matter.

22. The submission is to the effect that though the grounds taken in the delay condonation application for condonation of delay in filing the recall application, as well as the grounds taken in the recall application itself, are not happily worded, yet the facts and circumstances indicated therein do make out a perfect case wherein the recall application ought to have been allowed while condoning the delay in that regard.

23. Sri Rakesh Pandey, learned Senior Advocate, assisted by Sri Abhinav Krishna for the petitioner-corporation, and Sri Rahul Agarwal, learned Additional Advocate General, assisted by Sri Anshul Nigam, submit that the petitioner-corporation has entered into a settlement with the banks, but insofar as IARC, the third respondent, is concerned, the only dispute is with regard to the interest component, which stands saddled upon the writ petitioners by the order of the Debt Recovery Appellate Tribunal, Allahabad, in Appeal Sr No. 135 of 2018, *International Asset Reconstruction Company Limited versus State of UP*.

24. According to them, as per the instructions received from their clients, they have no objection in complying with the order of the Debt Recovery Tribunal dated 19.06.2018 passed in O.A. No. 161 of 2000. Attention has been drawn towards the fifth supplementary affidavit sworn by one Vinod

Kumar Mishra, claiming himself to be authorized representative of the petitioner, dated 23.07.2025, so as to contend that the total principal liability is Rs. 6,54,36,093/- and the interest component is Rs.19,40,27,872/- for the period from 23.10.2000 to 08.07.2025, totaling to Rs. 25,94,63,965/-, which is in line with the order of the DRT dated 19.06.2018 passed in O.A. No. 161 of 2000. However, now, as per the claim set up by the third respondent, IARC, they are claiming benefits in line with the order of the Debt Recovery Appellate Tribunal dated 21.08.2019, wherein the interest is 16% per annum with quarterly rest from the date of filing of the Original Application till realization, which would amount to Rs.32,54,02,039.13. Submission is to the extent that the Debt Recovery Appellate Tribunal has accorded interest at the rate of 16% while enhancing it from 12% that too on quarterly rest basis and without assigning any basis or reasoning. In case the interest at the rate of 12%, as awarded by the Debt Recovery Tribunal was not as per the expectation, then on an appeal before the Debt Recovery Appellate Tribunal, the matter could have been remitted back to the Debt Recovery Tribunal and it was not proper for the Debt Recovery Appellate Tribunal to assume the function itself. Reliance has been placed upon the judgment of the Hon'ble Apex Court in ***Central Bank of India vs. Ravindra and others*** **(2002) 1 SCC 367*, C.K. Sasankan Vs. Dhanalakshmi Bank Limited*, (2009) 11 SCC 60*, Punjab and Sind Bank Vs. Allied Beverage Company Private Limited and others with Allied Beverage Company Private Limited and others Vs. Punjab and Sind Bank and others,* (2010) 10 SCC 640*, S.P. Polymers Vs. The Registrar, Debt Recovery Appellate Tribunal,* AIR2015Mad102** so as to contend that the interest cannot be awarded on mere asking and the same is to be adjudged in a correct perspective in that regard. It is thus prayed that the impugned orders rejecting the delay condonation application and the recall application be set aside and the writ petition be **allowed** *in toto*.

ARGUMENTS OF THE COUNSEL FOR IARC, THIRD RESPONDENT

25. Countering the said submissions so made by the learned counsels for the writ petitioner and State, Sri Anurag Khanna, assisted by Sri Sandeep Arora, has submitted that none of the contentions so raised by the writ petitioner have any legs to stand. Submission is that right from the very inception, a careless and reckless attitude has been adopted by the petitioner, as though

they had full knowledge about the factum of the institution of the proceedings in O.A. No. 161 of 2000 before the Debt Recovery Tribunal, Allahabad, and the passing of the order dated 19.06.2018 as well as the factum of institution of the appeal so preferred by the IARC, third respondent before the Debt Recovery Appellate Tribunal, Allahabad and passing of the order dated 21.08.2019, but they allowed the proceedings to go on ex-parte. However, now when the time came to reap the fruits, a delay condonation application along with the recall application came to be referred for recalling the order of the Debt Recovery Appellate Tribunal that too without any cogent reasons, just for the sake of filing, despite the fact that the notice was served upon the petitioner on 26.9.2018, and there is a delay of 718 days from the date of service of the summons and 350 days from the date of the order of the Tribunal. Contention is that from the perusal of the delay condonation application as well as the recall application, it is clear that the same does not explain the delay on date-to-date basis, and further the entire story so cooked up by the learned Senior Counsel for the petitioner and learned Additional Advocate General for the State is nothing but an eyewash. Reliance has been placed upon the judgment of the Hon'ble Apex Court in ***Pathapati Subba Reddy (Died) by L.Rs. and Ors. Vs. The Special Deputy Collector (LA),*** **(2024) 12 SCC 336** so as to contend that there should be sufficient cause for adopting a liberal approach for condonation of delay, but the same cannot be as a matter of right and also the judgment in ***H. Guruswamy and Ors. Vs. A. Krishnaiah Since Deceased By L.Rs.*** **2025 2 AWC 1594 SC**, so as to contend that the length of delay is a relevant factor and the Court must take into consideration while considering whether delay should be condoned or not. Reliance has been placed upon the judgment in ***Divyangnakumari Harisinh Parmar (Dead) and Ors. Vs. Union of India (UOI) and Ors,*** **MANU/ SC/1321/2015** so as to contend that whatever has been pleaded in the delay condonation application/recall application that is only to be considered and not anything foreign to it.

ANALYSIS

26. I have heard the submissions made across the bar and perused the records carefully.

27. The bone of contention between the parties is whether the Debt

Recovery Appellate Tribunal was justified in rejecting the delay condonation application/ recall application seeking recall of the order dated 21.8.2019 passed by Debt Recovery Appellate Tribunal, Allahabad in Appeal Sr No. 135 of 2018, *National Asset Reconstruction Company Private Limited Vs. M/s. UP State Textile Corporation Limited* or not.

28. In order to address the said issue, what would be relevant would be the sequence and the chronology of the events, which occurred from time to time. Apparently, financial assistance was extended to the petitioner corporation by the consortium banks. The pleadings reveal that the petitioner-corporation went into losses since the Financial Year 1994-95 and it became Sick by virtue of the provisions contained under Sick Industrial Companies (Special Provisions) Act, 1985, vide order dated 02.02.1995 passed by BIFR. It is claimed that the scheme of VRS and Lay Off was floated and the management of petitioner-corporation was handed over to the U.P. State Spinning Company Limited, and in order to manage the affairs of the petitioner-corporation and U.P. Spinning Company Limited, which also became a sick company, only three regular employees were entrusted with the said work, and they remained in the company. By that time in the year 2000, on account of non-maintenance of financial discipline of the petitioner-corporation, O.A. No. 161 of 2000 came to be instituted by the respondent-bank before the Debt Recovery Appellate Tribunal. Consequent to the U.P. State Reorganization Act 2000, out of five units of petitioner-corporation, two stood transferred along with the assets along with the Uttarakhand and by virtue of the order dated 21.10.2010, the State Government approved the rehabilitation scheme, submitted before the then BIFR by which liabilities of the petitioner were supposed to be paid by selling the assets of the petitioner. Then comes the notification dated 01.11.2016 brought under section 252 of the Insolvency and Bankruptcy Code 2006 by which the parties to the pending proceedings before BIFR were allowed to approach the National Company Law Tribunal vide order dated 01.12.2016 and thereafter, post-repealing of the Sick Industrial Companies Act 1985, the proceedings stood triggered before the Debt Recovery Tribunal and an order came to be passed on 19.06.2018 in O.A. No. 161 of 2024 that too exparte allowing the Original Application of the respondent while making them admissible for an amount of Rs. 21,09,15,523.60 plus 12% interest. Thereafter, on 22.10.2019, the

insolvency proceeding against the U.P. State Spinning Company Limited was allowed and thereafter, the management of U.P. Spinning Company Limited was suspended and handed over to the Resolution Personnel. In the meantime, on an appeal preferred by the International Asset Reconstruction Company (IARC), third respondent, against non-award of 16% interest, that too quarterly rest from the date of filing of Original Application till realization, the Appeal Sr No. 135 of 2018 came to be allowed on 21.08.2019 and thereafter, post-settlement so entered into between U.P. State Spinning Corporation and Union Bank of India by virtue of an application under Section 12A of the Insolvency and Bankruptcy Code, 2016, the order dated 22.10.2019 was recalled vide order dated 25.06.2020 and the management of the U.P. State Spinning Company Limited, petitioner-company was restored. Thereafter, a recall application along with delay condonation application came to be preferred on 04.09.2020 for recalling of the order dated 21.08.2019 passed by Debt Recovery Appellate Tribunal, Allahabad. The aforesaid chronology and sequence of events show that there were several developments which occurred since the institution of the proceedings before the Debt Recovery Tribunal and passing of the orders by the Debt Recovery Appellate Tribunal. Therefore, said circumstances do indicate that there was a roller-coaster in the interregnum period.

29. To be more precise, the management of the petitioner-corporation stood disbanded. It became a part of U.P. State Spinning Company Limited and the petitioner-corporation and the U.P. State Spinning Company were declared sick and post-restoration of the management, the legal proceedings by way of recall / restoration application came to be filed.

30. Now the next question, which would arise for consideration is as to what are the pleadings set forth in the delay condonation application / recall application so preferred by the petitioner -corporation for condonation of delay and recall of the order dated 21.08.2019. For the ready reference, the same is quoted as under:-

PLEADINGS OF RECALL APPLICATION

"1. That the Hon'ble Chairperson DRAT had passed can ex-parte order dated 21/08/2019 in above appeal Sr. No. 135 of 2018 arising out from OA No. 161 of 2000.

2. That the OA No. 161 of 2000 had also decided as ex-parte and Applicant could not

be able to present themselves neither in the Court below nor in the Court of Hon'ble Chairperson DRAT.

3. That there were circumstances beyond the control of Applicant due to which he is not able to present himself before this Hon'ble Court. The Applicant is narrating entire facts of delay in filing recall application before this Hon'ble Court and before the DRT, Allahabad. The delay in filing this application may be condoned and the matter may be heard on merit basis otherwise serious injustice could be occur which is not sustainable in terms of money.

4. That the Applicant Company had been ceases the operation since 2000 and one of the company who was looking after affairs of the company could not be able to file the recall application in time due to non-availability of staff.

5. That therefore the order passed by this Hon'ble Court dated 21/08/2019 may be recalled which is an ex-parte order may be recalled in the interest of justice.

6. The Applicant will file the W.S. against the appeal within 15 days.

Prayer

In view of the above it is prayed from this Hon'ble Court that this suitable order may be passed for recalling the order cated 21/08/2019 passed in appeal Sr. No. 135 of 2018 in the interest of justice or any other order which this tribunal deems fit and proper in the circumstances of the case."

PLEADINGS OF DELAY CONDONATION APPLICATION

"*1) That the Applicant Company had received the order this Hon'ble this Court on 30/08/2019.*

2) That it is pertinent to mention here that the above Applicant Company had ceases to operation from the year 2000 and entire staff of the company had been allowed to V.R.S. Thus, there was non-availability of staff in the company. The residual work of the company was handled by the another State Govt. Company i.e. U.P. State Spinning Company Ltd.

3) That the Applicant could not get the permission from the concerned Govt. aüthority for filing in recall application. Therefore delay had been occurred. The delay is not a deliberate one but it is a genuine and routine in nature. The delay in filing the recall application is 167 days upto 15th March and 5 months of Pandemic Covid-19 may be condoned and the matter may be heard on merit basis. Otherwise the Applicant/ Respondent No. 1 shall suffer the great loss and injury which can not be sustained in terms of money.

(4) That in this regard it is pertinent to mention here that there was a pendency of compromise before the Consortium leader i.e. Bank of Baroda who had neither

accepted nor rejected the offer.

Prayer

In view of the above it is prayed from this Hon'ble Court that the suitable order may be passed for condonation of delay in filing the Misc. Application for recall of the order dated 21/08/2019 passed in Appeal Sr. No. 135 of 2018 filed by International Asset Reconstruction Company Pvt. Ltd. (IARC) versus M/s U.P. State Textile Corporation Ltd. and others, The delay may be condoned and the matter may be heard on merit basis."

31. A reply came to be submitted by the IARC, third respondent, to the delay condonation application / recall application which reads as under:

"*REPLY/OBJECTIONS TO THE APPLICATION SEEKING RECALL*

M.A.60 OF 2020

IN

APPEAL 1350F 2018

I.A.R.C. VS. M/S U.P.STATE TEXTILE CORPORATION LIMITED

The respondent, most respectfully submits as under :-

1. That applicant has made a false statement pertaining to period of delay in its application seeking condonation of delay, applicant was served with the order on 26.08.2019 the recall application, if any, could have been filed within 30 days therefrom, whereas the application seeking recall has been filed on 14.09.2020 l.e 353 days without narrating any sufficient cause of condonation of such an inordinate delay of more than 353 days.

2. That provisions of the Limitation Act, 1963 apply to the proceedings before this Hon'ble Tribunal by virtue of Section 245 of the Act, 1993 and as such in terms of Section 3 of the Limitation Act, 1963 no court has jurisdiction to entertain any application filed beyond the prescribed period of limitation subject to extension of the prescribed period on satisfying the rigors of Section 5 of the Limitation Act, 1963.

3. No cause whatsoever has been pleaded to seek condonation of duration of inordinate delay. The pleadings are vague. It is a matter of record that the applicant was negligent and has not taken necessary steps and has acted without due care and attention as such there is no sufficient cause for condonation of delay and application seeking condonation of delay is liable to be dismissed.

4. That in reply to the contents of para 1 of the recall application it is most respectfully submitted that the applicant herein was duly served with the Memo of Appeal on 26.09.2018, and despite admitted service respondent no.ldid not file any Reply / Written Statement and it had voluntarily chosen not to contest the appeal.

Copy of Affidavit filed by Mr.V.K.Mishra, together with copy of notice evidencing service of notice/summons on applicant is ANNEXURE 1

5. That the contents of para 2 pertaining to alleged disability to not contest the Original Application and Memo of Appeal are utterly false and distorted, whereas, applicant was duly represented before the Ld. Presiding Officer, D.R.T., Allahabad since 04.12.2000 through his Counsel and representatives, however, 19.04.2017 applicant/defendant(s) voluntarily abandoned the proceedings pending before Ld. Presiding Officer, D.R.T., Allahabad as such final hearing was concluded exparte after an year on 29.05.2018, as regards the proceedings before this Hon'ble Appellate Tribunal it is most respectfully submitted that the applicant herein was duly served with the Memo of Appeal on 26.09.2018, and despite admitted service respondent no.1did not file any Reply / Written Statement and it had again voluntarily chosen not to contest the appeal despite knowledge and service.

6. That the contents of para 3 are vexatious & misleading applicant herein has always willingly avoided proceedings before the Ld. Presiding Officer, D.R.T... Allahabad and also before this Hon'ble Appellate Tribunal, and has now come up with a lame excuse with an alleged delay of only 7 days, whereas it is a matter of record that applicant herein was duly served with the Memo of Appeal on 26.09.2018 and thereafter as per applicants own admissions, applicant was also served with order dated 21.08.2019, it is further most respectfully submitted that applicant on 26.08.2019 was served with the order dated 21.08.2019 passed by this Hon'ble Tribunal in the proceedings before the Ld. Recovery Officer, applicant was directed by Ld. Recovery Officer to give details of mode and time frame from payment. Copy of Order dated 26.08.2019 is ANNEXURE 2.

7. That the contents of para 4 are misplaced & misleading. Applicant has also made a false statement pertaining to period of delay, applicant was served with the order on 26.08.2019 the recall application, if any, could have been filed within 30 days therefrom, whereas the application seeking recall has been filed on 14.09.2020 i.e. 353 days without narrating any sufficient cause of condonation of such an inordinate delay of more than 353 days. Provisions of the Limitation Act, 1963 apply to the proceedings before this Hon'ble Tribunal by virtue of Section, 245 of the Act, 1993 and as such in terms of Section 3 of the Limitation Act, 1963 no court has jurisdiction to entertain any application filed beyond the prescribed period of limitation subject to extension of the prescribed period on satisfying the rigors of Section 5 of the Limitation Act, 1963.

8. That the contents of para 5 & 6 are denied.

9. That the applicant is not only casual but also taking all provisions for granted

including the limitation. The casual attitude in the whole of the application would render the application not only incompetent but deserves to be dismissed with exemplary costs. No indulgence can be granted to a fence sitter. The minimum particulars claimed to be cause of delay have not been stated at all. Application seems to be one of the most casual applications wherein the discretionary power of the Hon'ble DRAT be not exercised.

An affidavit in support of the reply is being filed herewith."

32. Evidently the grounds taken in the delay condonation application as well as the application seeking recall of the order dated 21.8.2019 are not happily worded, but looking into the over all aspects of the matter including the orders passed at different stages by appropriate judicial forums, it can be very well said that there was a cloud with respect to the management and affairs and the situation which was emanating was not akin to a situation wherein there was already a management, who was in the helm of the affairs in active control, then too in deep slumber regarding asserting their legal rights. Though in the order dated 01.12.2020 passed by the Debt Recovery Appellate Tribunal rejecting the delay condonation application and the recall application, finding has been recorded that the notice was served upon the petitioner-Corporation on 26.09.2018, then too, no legal action was taken by the petitioner, but what would be relevant is the fact that on 26.09.2018, the petitioner-company was sick. More so, in the application seeking condonation of delay in filing recall application 30.08.2019 is the date mentioned for receiving the copy of the order, but since there happened to be a situation whereby the petitioner-Corporation remained sick, and only there were only three regular employees to manage, the U.P. State Spinning Company, thus the position even otherwise cannot be said to be congenial in that regard. This Court is mindful of the fact that due diligence and promptness is required from the personnel who are in the helm of affairs to assert their right, but looking into the overall fact situation which the petitioner-company was facing, they can be termed to be negligent to certain extent, but the same cannot be endorsed as fatal. There is no quarrel to the proposition of law laid down in ***Pathapati Subba Reddy (supra), H. Guruswamy (supra),*** *and* ***Divyangnakumari Harisinh Parmar (supra)***, but here, there lies a slight distinction regarding the developments which occurred from time to time, creating circumstances in favour of the petitioner -corporation to be given a chance to at least put forward their

stand by being afforded the opportunity before the appellate forum.

33. Notably, an additional factor is also there regarding the financial liability, which would be fastened upon the State with respect to the import and the impact of the order of the Debt Recovery Tribunal and Debt Recovery Appellate Tribunal, whereby the interest stood awarded by the Appellate Tribunal while enhancing from 12% simple to 16% quarterly rest from the date of filing of O.A. till realization. Recently, the Hon'ble Apex Court in ***Inder Singh vs. The State of Madhya Pradesh*, 2025 LiveLaw (SC) 339**, had the occasion to consider the issue relatable to delay in initiating the proceedings before the competent Court of law and following was observed:-

"*16. The Court in Ramchandra Shankar Deodhar v State of Maharashtra, (1974) 1 SCC 317 held:*

> *'10. …There was a delay of more than ten or twelve years in filing the petition since the accrual of the cause of complaint, and this delay, contended the respondents, was sufficient to disentitle the petitioners to any relief in a petition under Article 32 of the Constitution. We do not think this contention should prevail with us. In the first place, it must be remembered that the rule which says that the Court may not inquire into CIVIL APPEAL NO. OF 2025 belated and stale claims is not a rule of law, but a rule of practice based on sound and proper exercise of discretion, and there is no inviolable rule that whenever there is delay, the Court must necessarily refuse to entertain the petition. Each case must depend on its own facts. The question, as pointed out by Hidayatullah, C.J., in Tilokchand Motichand v. H.B. Munshi [(1969) 1 SCC 110, 116 :(1969) 2 SCR 824] "is one of discretion for this Court to follow from case to case. There is no lower limit and there is no upper limit .... It will all depend on what the breach of the fundamental right and the remedy claimed are and how the delay arose".' (emphasis supplied)*

*17. No doubt, **Ramchandra Shankar Deodhar** (supra) relates to a writ petition, but the statement of law laid down is clear. **Sheo Raj Singh** (supra) has also considered the impersonal nature of the functioning of the State, taking note of what was observed in **State of Manipur v Kotin Lamkang, (2019) 10 SCC 408**. In **A B Govardhan v P***

***Ragothaman*, (2024) 10 SCC 613**, *the Court considered as under:*

> *'37. In Collector (LA) v. Katiji [Collector (LA) v. Katiji, (1987) 2 SCC 107], the Court noted that it had been adopting a justifiably liberal approach in condoning delay and that "justice on merits" is to be preferred as against what "scuttles CIVIL APPEAL NO. OF 2025 a decision on merits". Albeit, while reversing an order of the High Court therein condoning delay, principles to guide the consideration of an application for condonation of delay were culled out in Esha Bhattacharjee v. Raghunathpur Nafar Academy [Esha Bhattacharjee v. Raghunathpur Nafar Academy, (2013) 12 SCC 649: (2014) 1 SCC (Civ) 713: (2014) 4 SCC (Cri) 450: (2014) 2 SCC (L&S) 595]. One of the factors taken note of therein was that substantial justice is paramount [Para 21.3 of Esha Bhattacharjee [Esha Bhattacharjee v. Raghunathpur Nafar Academy, (2013) 12 SCC 649: (2014) 1 SCC (Civ) 713: (2014) 4 SCC (Cri) 450: (2014) 2 SCC (L&S) 595]].*
>
> *38. In N.L. Abhyankar v. Union of India [N.L. Abhyankar v. Union of India, 1994 SCC OnLine Bom 574: (1995) 1 Mah LJ 503], a Division Bench of the Bombay High Court at Nagpur considered, though in the context of delay vis-à-vis Article 226 of the Constitution, the decision in Dehri Rohtas Light Railway Co. Ltd. v. District Board, Bhojpur [Dehri Rohtas Light Railway Co. Ltd. v. District Board, Bhojpur, (1992) 2 SCC 598] , and held that: (N.L. Abhyankar case [N.L. Abhyankar v. Union of India, 1994 SCC OnLine Bom 574: (1995) 1 Mah LJ 503], SCC OnLine Bom para 22)*
>
> *"22. … The real test for sound exercise of discretion by the High Court in this regard is not the physical running of time as such, but the test is whether by reason of delay there is such negligence on the part of the petitioner, so as to infer that he has given up his claim or whether before the petitioner has moved CIVIL APPEAL NO. OF 2025 the writ court, the rights of the third parties have come into being which should not be allowed to be disturbed unless there is reasonable explanation for the delay."*
>
> *(emphasis supplied)*"

34. Viewing the case from the four-corners law, this Court is of the opinion that an opportunity is to be accorded to the petitioner-corporation to put forward the stand before the Debt Recovery Appellate Tribunal, however, on the payment of cost.

35. Accordingly, the writ petition is being decided in the following terms:

(a). The Order dated 01.12.2020 passed by the Debt Recovery Appellate Tribunal, Allahabad in M.A. no. 69 of 2020 in Regular Appeal no. 135 of 2018, *International Asset Reconstruction Company Ltd. vs. M/S U.P. State Textile Corporation Ltd.* is set aside.

(b). The delay in filing the restoration application is condoned.

(c). The matter is remitted back to the Debt Recovery Appellate Tribunal, Allahabad to decide the recall application on merits within a period of three months from the date of production of certified copy of the order.

36. Needless to point out that the order passed today may not be construed to be an expression on merit and the Debt Recovery Appellate Tribunal shall pass an order strictly in accordance with law without being influenced with any of the observations made herein above.

37. The third respondent/ IARC is entitled to cost of Rs.25,000/-.

38. With the aforesaid observations, the petition stands **disposed of**.

May 26, 2026
N.S.Rathour

(Vikas Budhwar,J.)