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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 10.02.2026

+ W.P.(C) 19489/2025, CM APPL. 81374-81375/2025

RENU GOYALPetitioner

Through: Mr. Mohit Gupta, Ms. Seema
Ali, Ms. Pallavi, Mr. Adit
Sharma, Advs.

versus

EDELWEISS ASSET RECONSTRUCTION COMPANY LTD
AND ORS.Respondents

Through: Appearance not given

CORAM:
HON'BLE MR. JUSTICE VIVEK CHAUDHARY
HON'BLE MS. JUSTICE RENU BHATNAGAR

RENU BHATNAGAR, J. (ORAL)

1. The present writ petition has been instituted under Article 226 of Constitution of India by the petitioner seeking quashing of the impugned order dated 25.03.2025 passed by the Debts Recovery Appellate Tribunal, Delhi (hereinafter 'DRAT') in M.A. No. 60/2025 in Appeal No. 63/2024, whereby the petitioner's appeal arising out of S.A. No. 51/2020 was dismissed solely on the ground of non-compliance with the pre-deposit requirement under Section 18 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter 'SARFAESI Act').



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16. Learned counsel further submits that the Securitisation Application filed by the petitioner before the DRT was dismissed without adjudication of the principal issues raised by the petitioner, including the validity of the mortgage, the legality of the assignment of debt, and the legality of the auction proceedings.

17. It is submitted that the statutory appeal preferred by the petitioner before the DRAT was dismissed solely on the ground of non-compliance with the pre-deposit requirement under Section 18 of the SARFAESI Act and without consideration of the petitioner's challenge on merits.

18. Learned counsel submits that the petitioner sought waiver of the pre-deposit requirement before the DRAT on the ground that she is a homemaker without independent income and was unable to arrange the amount required to be deposited. It is contended that the DRAT failed to consider the petitioner's financial condition and mechanically dismissed the applications seeking waiver and restoration of appeal.

19. It is further submitted that respondent No. 1 had already realised substantial amounts through the auction of the subject property and that the insistence on pre-deposit without adjustment of the sale proceeds has resulted in denial of the petitioner's statutory remedy of appeal.

20. On the aforesaid grounds, learned counsel for the petitioner submits that the impugned orders passed by the DRT and DRAT are



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liable to be set aside and the petitioner's appeal deserves to be restored for adjudication on merits.

21. Heard learned counsel for the petitioner and perused the material on record.

22. The principal controversy in the present petition relates to the requirement of pre-deposit for maintaining an appeal before the DRAT. It therefore becomes necessary to first examine the requirement of pre-deposit in appeals arising under SARFAESI Act. Section 18 of the SARFAESI Act is reproduced as under:

“18. Appeal to Appellate Tribunal.—(1) Any person aggrieved, by any order made by the Debts Recovery Tribunal[under section 17, may prefer an appeal along with 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.]



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(2) Save as otherwise provided in this Act, the Appellate Tribunal shall, as far as may be, dispose of the appeal in accordance with the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993) and rules made thereunder.”

(emphasis supplied)

23. A plain reading of Section 18 of the SARFAESI Act indicates that the statute confers a right of appeal against an order passed by the DRT under Section 17 of the Act. However, the said right is not absolute. The second proviso to Section 18 expressly stipulates that no appeal shall be entertained unless the borrower deposits fifty percent of the amount of debt due from him, either as claimed by the secured creditor or as determined by the DRT, whichever is less.

24. The third proviso vests a very limited discretion in the DRAT to reduce the amount to be deposited, but such reduction cannot be below twenty-five percent of the debt so due. The legislative language in the provision, particularly “*no appeal shall be entertained*” makes the requirement of pre-deposit a condition precedent for maintainability of an appeal before the DRAT.

25. The said proviso therefore indicates that the discretion available to the DRAT is not an unchained one. While the DRAT may reduce the deposit requirement from fifty percent to twenty five percent for reasons to be recorded in writing, the provision does not talk about complete waiver of the pre-deposit requirement.



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26. In the present case, the impugned order dated 25.03.2025 passed by the DRAT records that the petitioner's appeal and subsequent restoration application were dismissed on account of non-compliance with the pre-deposit requirement as per SARFAESI. DRAT, while considering the petitioner's applications seeking waiver of complete pre-deposit amount, held that compliance with the statutory requirement was mandatory for maintainability of the appeal and declined to grant complete waiver of the deposit condition. The relevant part of the impugned order is reproduced herein below:

“This appeal under Section 18 of the SARFAESI Act was filed against the order dated 24.11.2023 passed by the Ld. DRT. For the entertainment of the appeal, appellant had to make at least minimum pre-deposit of 25% as envisaged under second proviso to Section 18 of the Act. Despite several opportunity afforded to the appellant, she failed to comply with the mandatory requirement of pre-deposit. True, the appellant had also filed application (I.A. No.688/2024) for complete waiver of the condition of pre deposit along with the appeal, urging that she has a meritorious case and the property which she alleged to have been mortgaged has been illegally sold by the bank, but all these contentions on merit can be considered only once the appeal is entertained after due compliance of the condition of predeposit and this Tribunal is not empowered to order Complete waiver of the pre-deposit. What to speak of this Tribunal, the Hon'ble Supreme Court has in Kotak Mahindra Bank Pvt. Ltd vs. Ambuj A Kasliwal & Ors., Civil Appeal No. 538/2021, decided on 16.02.2021, has observed that even the Hon'ble High Court



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does not have the power to waive the pre-deposit in its entirety, nor can it exercise discretion, which is against the mandatory requirements of the statutory provisions.

It may be mentioned that in the application filed by the appellant no prayer has been made by the appellant for time to comply with the condition of pre-deposit or undertaken to comply with the same.

In view of the above discussion, since the appellant has not made any pre-deposit despite opportunities given, no more time can be given to the appellant for compliance of the condition of pre-deposit.

The present application is, therefore, dismissed.”

27. DRAT, while passing the impugned order, has also placed reliance upon the judgment of the Supreme Court in ***Kotak Mahindra Bank (P) Ltd. v. Ambuj A. Kasliwal***, (2021) 3 SCC 549, wherein the Supreme Court examined the statutory requirement of pre-deposit in recovery proceedings. DRAT noted that the Supreme Court has held that where the statute provides that an appeal shall not be entertained without deposit of a specified portion of the debt, such requirement constitutes a mandatory statutory condition governing the exercise of the appellate remedy. The relevant part of the aforesaid judgment is reproduced herein below:

“17. ...In all cases fifty per cent of the decretal amount i.e. the debt due is to be deposited before the DRAT as a mandatory requirement, but in appropriate cases for reasons to be



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recorded the deposit of at least twenty-five per cent of the debt due would be permissible, but not entire waiver. Therefore, any waiver of pre-deposit to the entire extent would be against the statutory provisions and, therefore, not sustainable in law.

18. It is noticed that this Court while considering an analogous provision contained in Section 18 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("Sarfaesi" for short) relating to pre-deposit in order to avail the remedy of appeal has expressed a similar opinion in Narayan Chandra Ghosh v. UCO Bank [Narayan Chandra Ghosh v. UCO Bank, (2011) 4 SCC 548 : (2011) 2 SCC (Civ) 362] , which reads as hereunder:

"7. Section 18(1) of the Act confers a statutory right on a person aggrieved by any order made by the Debts Recovery Tribunal under Section 17 of the Act to prefer an appeal to the Appellate Tribunal. However, the right conferred under Section 18(1) is subject to the condition laid down in the second proviso thereto. The second proviso postulates 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. However, under the third proviso to the sub-section, the Appellate Tribunal has the power to reduce the amount, for the reasons to be recorded in writing, to not less than twenty-five per cent of the debt, referred to in the second proviso. Thus, there is an absolute bar to the entertainment of an appeal under Section 18 of the Act unless the condition precedent, as stipulated, is fulfilled. Unless the borrower



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makes, with the Appellate Tribunal, a pre-deposit of fifty per cent of the debt due from him or determined, an appeal under the said provision cannot be entertained by the Appellate Tribunal. The language of the said proviso is clear and admits of no ambiguity.

*8. It is well settled that when a statute confers a right of appeal, while granting the right, the legislature can impose conditions for the exercise of such right, so long as the conditions are not so onerous as to amount to unreasonable restrictions, rendering the right almost illusory. Bearing in mind the object of the Act, the conditions hedged in the said proviso cannot be said to be onerous. **Thus, we hold that the requirement of pre-deposit under sub-section (1) of Section 18 of the Act is mandatory and there is no reason whatsoever for not giving full effect to the provisions contained in Section 18 of the Act.** In that view of the matter, no court, much less the Appellate Tribunal, a creature of the Act itself, can refuse to give full effect to the provisions of the statute. We have no hesitation in holding that deposit under the second proviso to Section 18(1) of the Act being a condition precedent for preferring an appeal under the said section, the Appellate Tribunal had erred in law in entertaining the appeal without directing the appellant to comply with the said mandatory requirement.”*

(emphasis supplied)

28. The Supreme Court, *inter alia*, observed that the legislative scheme permits only a limited discretion in the Appellate Tribunal to reduce the pre-deposit requirement, but such reduction cannot be below twenty-five per cent of the debt due. It categorically held that the statutory discretion operates only between fifty percent and twenty

