

Navrang Plastic v. Bank of Baroda & Anr.

Navrang Plastic

...Appellant

Bank of Baroda & Anr.

...Respondent

Case No: Misc. Appeal No. 41/2013

Date of Judgement: 09/02/2023

Judges:

Mr Justice Ashok Menon, Chairperson

For Appellant: Ms Sonali Jain, Advocate.

For Respondent: Mr Anant B. Shinde, Advocate.

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Facts:

This is an order passed in Misc. Appeal No. 41/2013 by the Debts Recovery Appellate Tribunal, Mumbai. The appellant, Navrang Plastic, a sole proprietorship, is appealing against the judgment dated 20/05/2011 of the Debts Recovery Tribunal-II, Ahmedabad (DRT). The DRT rejected the application for condonation of delay in filing an appeal under Section 30 of the Recovery of Debts to Banks and Financial Institution Act, 1993 (RDBB & FI Act). The appeal challenged the order of the Recovery Officer in Recovery Proceedings No. 67/2008 dated 28/09/2010, ordering forfeiture of the initial 25% of the bid amount deposited by the appellant as the successful auction purchaser.

Court's Elaborate Opinions:

The court held that the delay in filing the appeal under Section 30 of

the RDBB & FI Act could not be condoned. The court relied on the Supreme Court's decision in International Asset Reconstruction Company of India Ltd. vs. Official Liquidator of Aldrich Pharmaceuticals Ltd. and Ors (2017) 16 SCC 137, which held that the prescribed period of 30 days for preferring an appeal against the order of the Recovery Officer under Sections 25 to 28 cannot be condoned by applying Section 5 of the Limitation Act. The court rejected the appellant's argument based on the Supreme Court's decision in Asst. Excise Commissioner, Kottayam & Ors. vs. Esthappan Cherian & Ano. (2021) 9 SCC 210, stating that the legal position at the time of filing the application for condonation of delay was different. The court found that the appeal lacked merit and dismissed it.

Arguments by All Parties:

Appellant's Arguments: The appellant's counsel, Ms. Sonali Jain, argued that the appellant had a good case on merits, and the DRT should have allowed the application for condonation of delay. Ms. Jain relied on the Supreme Court's decision in Asst. Excise Commissioner, Kottayam & Ors. vs. Esthappan Cherian & Ano. (2021) 9 SCC 210, arguing that the legal position when the application for condonation of delay was filed was different, and an application under Section 5 of the Limitation Act could have been entertained.

Respondent Bank's Arguments: The respondent bank's counsel, Mr. Anant B Shinde, argued that the question of entertaining an application for condonation of delay under Section 5 of the Limitation Act by considering an appeal under Section 30 of the RDBB & FI Act is no longer an open issue, citing the Supreme Court's decision in International Asset Reconstruction Company of India Ltd. vs. Official Liquidator of Aldrich Pharmaceuticals Ltd. and Ors (2017) 16 SCC 137.

Cases Cited:

International Asset Reconstruction Company of India Ltd. vs. Official Liquidator of Aldrich Pharmaceuticals Ltd. and Ors (2017) 16 SCC 137

Asst. Excise Commissioner, Kottayam & Ors. vs. Esthappan Cherian & Ano. (2021) 9 SCC 210

Sakuru vs. Tanaji (1985) 3 SCC 590

Sections and Laws Referred:

Section 30 of the Recovery of Debts to Banks and Financial Institution Act, 1993 (RDBB & FI Act)

Section 5 of the Limitation Act, 1963

Section 19 of the RDBB & FI Act

Section 20(3) of the RDBB & FI Act

Section 29(2) of the Limitation Act, 1963