# Trent Ltd. v. Kotak Mahindra Bank Ltd. & Ors.

Trent Ltd.

**…Appellant**

Kotak Mahindra Bank Ltd. & Ors.

**…Respondent**

**Case No: Appeal No. 55/2007**

**Date of Judgement: 23/08/2023**

**Judges:**

Mr Justice Ashok Menon, Chairperson

**For Appellant: Mr Pervez M Rustomkhan, Advocate.**

**For Respondent: Mr Rohit Gupta along with Mr D. Chaurasia, i/b M/s. M. K. Ambalal & Co., Advocate.**

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**Facts:**

The case revolves around an appeal (Appeal No. 55/2007) filed by Trent Ltd. (Appellant) against Kotak Mahindra Bank Ltd. & Others (Respondents) before the Debts Recovery Appellate Tribunal, Mumbai. The appeal challenges the judgment dated 03.07.2006 passed by the Debts Recovery Tribunal (D.R.T.)-II, Mumbai, in Original Application (O.A.) No. 50 of 2004. The Original Application (O.A.) was filed by Kotak Mahindra Bank Ltd. (1st Respondent) for the recovery of debt due from Defendants Nos. 1 and 2 in the O.A. The Applicant (Kotak Mahindra Bank Ltd.) is the assignee of the debt from ICICI Bank Ltd., the original creditor. Defendant No. 1 in the O.A. is a sole proprietorship belonging to Defendant No. 2. ICICI

Bank Ltd. had discounted 14 Hundies (promissory notes) aggregating ₹1,35,71,440/- drawn on and allegedly accepted by Hindustan Lever Ltd. (HLL) by Defendant No. 2 for Defendant No. 1. ICICI Bank Ltd. dispersed a sum of ₹13,162,140.25 by way of a cheque to Defendant No. 3 (Standard Chartered Bank), which was credited into the account maintained in the name of Defendant No. 1 (sole proprietorship) and operated by Defendant No. 2. On 27.12.2000, ICICI Bank Ltd. learned from HLL that Defendant No. 1 had not made any supplies to them, and the Hundies were forged and fabricated. An FIR was lodged, and a criminal case was registered against Defendants Nos. 1 and 2. Investigation revealed that Defendant No. 2 had issued nine pay orders for varied amounts to different parties, including Defendants Nos. 4, 8, 9, and 10, from the money received from ICICI Bank Ltd. Some money was still lying in the account of Defendant No. 1 maintained with Defendant No. 3 (Standard Chartered Bank). The investigating officer issued a notice to Defendants Nos. 3 to 7 to stop payment of money lying in the deposit of the account maintained by Defendant No. 1. ICICI Bank Ltd. (Applicant) applied to the Additional Chief Metropolitan Magistrate under Section 457 of the CrPC, seeking the release of the amount. ICICI Bank Ltd. called upon Defendant No. 1 to repay the amount, but there was no positive response, leading to the filing of the O.A.

**Arguments by Parties:**

Defendant No. 3 (Standard Chartered Bank): a. Stated that Defendant No. 2, in the name of Defendant No. 1, had a banking relationship with it since 1997. b. The cheque issued by the Applicant Bank was credited to the account maintained by Defendant No. 1. c. Nine pay orders were issued on the request made by Defendant No. 1 to various parties, including Defendants Nos. 4, 8, 9, and 10, and three self-drawn cheques were issued by Defendant No. 1 withdrawing over ₹14 lakhs. d. A sum of ₹28 lakhs was still lying in the account maintained in the name of Defendant No. 1, which was frozen due to the

orders of the investigating officer. e. Contended that it is not liable to pay any interest to the Applicant since the money lying in the deposit was not utilized by it. Defendant No. 4 (IDBI Ltd.): a. Contended that Defendants Nos. 1 and 2 had availed of bills discounting facility from them as well, and the discounted bills were found to be fake. b. Filed a police complaint and a separate O.A. No. 92/2001, which was allowed by the D.R.T. Defendant No. 6 (Central Bank of India): a. Contended that the account had a balance of ₹14,430/- after transferring the amount to the creditor's account. The Appellant (Defendant No. 8 – Trent Ltd.): a. Being a third party, no amount can be claimed by the Applicant Bank from them. b. The company had discounted 21 Hundies aggregating ₹2,03,71,922/- for goods allegedly purchased by HLL. c. Only ₹58,26,229/- was received towards the aforesaid amount, which is due from Defendant No. 1. d. The company had approached the court for cancellation of the order passed by the police to freeze its account. Defendant No. 9: a. Contended that she had received ₹9,63,970/- from Defendant No. 1 towards the amount due. Defendant No. 10: a. Contended that various bills drawn by Defendant No. 1 were discounted by it, and a sum of ₹1,39,29,848/- is due. b. Defendant No. 1 had paid only ₹14,33,634/- towards the amount due. c. Six postdated cheques given by Defendant No. 1 towards the amount due were dishonored. d. Claimed entitlement to receive a huge amount from Defendants Nos. 1 and 2.

**Court's Elaborate Opinions:**

The main contention that arose for consideration before the D.R.T. was whether the Applicant could claim the amount from the Defendants other than Defendants Nos. 1 and 2 as a debt due to it. The Ld. Presiding Officer of the D.R.T. concluded that the amounts due from Defendants Nos. 1 and 2 were distributed to the rest of the Defendants, but this would not alter the nature of the transaction, and it would remain a debt, leading to the allowance of the O.A. The Appellate

Tribunal observed that there was no doubt that the Applicant had discounted forged Hundies produced by Defendant No. 1 and wrongly credited the amount into the account of Defendant No. 1 maintained with Defendant No. 3 (Standard Chartered Bank). Defendant No. 1 thereafter distributed the amounts received from the Applicant to various other Defendants. The Appellate Tribunal noted that the scope of the word 'debt' defined in Section 2(g) of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 ('RDDB & FI Act') is very wide. When an amount has been wrongly credited into the account of Defendants Nos. 1 and 2, and a demand is made to repay that amount, the appropriation of that amount by Defendants Nos. 1 and 2 amounts to unjust enrichment. Such an obligation to repay or return the money received by fraud or misrepresentation is a liability constituting 'debt' within the meaning of the word defined in Section 2(g) of the RDDB & FI Act. The Appellate Tribunal relied on the decision in Eureka Forbes Ltd vs. Allahabad Bank & Ors (2010) 6 SCC 193, where the Hon'ble Supreme Court held that the expression 'debt' under Section 2(g) of the RDDB & FI Act should be given a general and wider meaning, and not a narrower or restricted meaning. The Appellate Tribunal applied the maxim nullus commodum capere potest de injuria sua propria, which mandates that a person who manipulates a process to frustrate the legal rights of others should not be permitted to take advantage of their wrong or manipulation. The Appellate Tribunal held that the fact that the Appellant (Trent Ltd.) is also due to receive money from Defendant No. 1 is no reason to cling to the money that was wrongfully transferred to them by the wrongdoer. The Appellate Tribunal found no reason to interfere with the impugned judgment and dismissed the appeal.

**Sections and Laws Referred:**

Recovery of Debts Due to Banks and Financial Institutions Act, 1993 ('RDDB & FI Act') a. Section 2(g) – Definition of 'debt'

Code of Criminal Procedure (CrPC) a. Section 457 – Procedure

for investigation into cases punishable with more than six years’ imprisonment

**Cases Cited:**

Eureka Forbes Ltd vs. Allahabad Bank & Ors (2010) 6 SCC 193