

A XLO INDIA LIMITED AND ANOTHER
v.
INTERNATIONAL ASSET RECONSTRUCTION COMPANY
PRIVATE LIMITED & OTHERS

B (Civil Appeal No. 6518 of 2021)

OCTOBER 27, 2021.

[M. R. SHAH AND A.S. BOPANNA, JJ.]

C *Recovery of Debts and Bankruptcy Act, 1993 – s.25 – Appeal arising out of impugned judgment passed by High Court by which the High Court dismissed writ petition preferred by appellants confirming the order passed by Debts Recovery Appellate Tribunal (DRAT), Delhi passed in Appeal No.82/2020 – DRAT, Delhi disposed of said appeal preferred by respondents maintaining the order of attachment of share held by appellant no.1 during pendency of*
D *Appeal No.1/2020 – However, DRAT also directed and observed that in the meanwhile recovery proceedings will go on before the Recovery Officer who will try to recover the decretal amount in accordance with provisions of s.25 of the Recovery of Debts and Bankruptcy Act – Appeal No.1/2020 pending consideration by Debts Recovery Tribunal (DRT), Jaipur – According to respondent no.1*
E *approximately a sum of Rs.29 crores was due and payable by appellant no.1, which is disputed by appellants, more particularly appellant no.1 – Case of appellant no.1 in Appeal No.1/2020 that the amount due and payable by appellant no.1 had been paid and the question was of discharge of debt in the execution proceedings*
F *– However, at the suggestion of the Court, broad consensus arrived at between the parties – Appeal accordingly disposed of, on such terms.*

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 6518 of 2021.

G From the Judgment and Order dated 06.09.2021 of the High Court of Judicature for Rajasthan, Jaipur, in S.B. Civil Writ Petition No. 9260 of 2021.

H Dhruv Mehta, Sr. Adv., Mrs. Suruchi Kasliwal, Shyam Aggarwal, Amit Pawan, Hassan Zubair Waris, Ms. Shivangi, Advs. for the Appellants.

K.V. Viswanathan, Sr. Adv., Amarjit Singh Bedi, R.P. Agrawal, A
Ms. Manisha Agrawal, Ms. Pragati Agrawal, Ms. Priyal Modi, Varun
Chandiok, Ms. Riya Seth, Advs. for the Respondents.

The Order of the Court was passed by

M. R. SHAH, J.

B

1. Leave granted.

2. The present appeal arises out of the impugned judgment and
order dated 06.09.2021 passed by the High Court of Judicature for
Rajasthan at Jaipur in S.B. Civil Writ Petition No.9260/2021 by which
the High Court has dismissed the said writ petition preferred by the
appellants herein confirming the judgment and order passed by the Debts
Recovery Appellate Tribunal (DRAT), Delhi passed in Appeal No.82/
2020.

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3. By judgment and order dated 9.8.2021, the DRAT, Delhi has
disposed of the said appeal preferred by the respondents herein
maintaining the order of attachment of share held by appellant no.1 as
XLO India Limited during the pendency of Appeal No.1/2020. However,
the DRAT has also directed and observed that in the meanwhile recovery
proceedings will go on before the Recovery Officer who will try to recover
the decretal amount in accordance with the provisions of Section 25 of
the Recovery of Debts and Bankruptcy Act, 1993.

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4. We have heard Shri Dhruv Mehta, learned senior counsel
appearing on behalf of the appellants and Shri K. V. Viswanathan, learned
senior counsel appearing on behalf of respondent no.1 herein.

5. It is not in dispute that Appeal No.1/2020 is pending consideration
by the Debts Recovery Tribunal (DRT), Jaipur. However, at the same
time, according to respondent no.1 herein approximately a sum of Rs.29
crores is due and payable by appellant no.1, which is disputed by Shri
Dhruv Mehta, learned senior counsel appearing on behalf of the
appellants, more particularly on behalf of appellant no.1.

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6. It appears that the case on behalf of appellant no.1 in Appeal
No.1/2020 seems to be that the amount due and payable by appellant
no.1 has been paid and the question is of discharge of debt in the execution
proceedings.

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7. The aforesaid is disputed by learned counsel appearing on behalf
of respondent no.1.

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A 8. Having heard learned counsel appearing for the respective parties and at the suggestion by the Court, there is broad consensus between the learned counsel for the parties to dispose of the present appeal in the following terms -

- B i) that appellant no.1 to deposit a further sum of Rs.5 crores with the Presiding Officer, DRT, Jaipur within a period of four weeks from today, without prejudice to the rights and contentions of appellant no.1 in the pending Appeal No.1/2020;
- C ii) that respondent no.1 may be permitted to withdraw the amount of Rs.5 crores to be deposited by appellant no.1, as observed hereinabove along with Rs.1.53 crores with interest accrued thereon which has been deposited by appellant no.1 as a pre-deposit while preferring the Appeal No.1/2020;
- D iii) that respondent no.1 may also be permitted to withdraw the amount of Rs.25 lakhs which is lying with the Recovery Officer;
- E iv) that the withdrawal of the aforesaid amount (Rs.5 crores + Rs.1.53 crores with interest accrued thereon + Rs. 25 lakhs) by respondent no.1 shall be without prejudice to the rights and contentions of the respective parties in Appeal No.1/2020 as well as subject to the ultimate outcome of the Appeal No.1/2020;
- F v) the DRT, Jaipur may be directed to finally decide and dispose of Appeal No.1/2020 at the earliest and preferably within a period of eight weeks from today.

9. In view of the above broad consensus between the learned counsel for the respective parties recorded hereinabove, we dispose of the present appeal as under -

- G a) That appellant no.1 shall deposit a further sum of Rs.5 crores with the Presiding Officer, DRT, Jaipur within a period of four weeks from today, which shall be without prejudice to the rights and contentions of the respective parties in Appeal No.1/2020 and on such deposit, the respondent no.1 is permitted to withdraw the said amount;
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- b) that respondent no.1 is permitted to withdraw a sum of Rs.1.53 crores with interest accrued thereon which appellant no.1 has deposited as pre-deposit while preferring the Appeal No.1/2020; A
- c) that respondent no.1 is also permitted to withdraw the amount of Rs.25 lakhs which is lying with the Recovery Officer; B
- d) that the aforesaid withdrawal by respondent no.1 shall be without prejudice to the rights and contentions of the respective parties in Appeal No.1/2020 and subject to the ultimate outcome of the Appeal No.1/2020 and that in case appellant no.1 succeeds and the order is passed in appeal against the respondents, the respondents will pay the amount paid in excess, if any, within a period of four weeks to appellant no.1; C
- e) the DRT, Jaipur is directed to finally decide and dispose of Appeal No.1 in accordance with law and on its own merits within a period of eight weeks from today; D
- f) either of the parties to place copy of the present order before the DRT, Jaipur within a period of one week from today;
- g) the questions of law, if any, are kept open which may be considered in appropriate case; E
- h) the order of attachment of shares held by appellant no.1, as confirmed by the DRAT is directed to be continued till the final disposal of Appeal No.1/2020. Till Appeal No.1/2020 is decided and disposed of within the time stipulated hereinabove, the further recovery proceedings are directed to be stayed; F
- i) It is also reported that the appeal by respondent no.1 against the order of pre-deposit of Rs.1.53 crores is challenged before the DRAT. In view of the aforesaid, the said appeal preferred by respondent no.1 before the DRAT challenging the order of pre-deposit stands disposed of. G

Pending application(s) shall stand disposed of.