

LEGAL UPDATES

SC: APPEAL AGAINST RECOVERY OFFICER'S ORDER INVALID DUE TO INAPPLICABILITY OF SECTION 5 OF LIMITATION ACT

The Hon'ble Supreme Court SC nullified the Delhi High Court's decision upholding the DRT's order that exempted the delay in applying Section 5 of the Limitation Act (extension of the prescribed period in certain cases) to the appeal under Section 30 of the Banks and Financial Institutions Act, 1933 (the "BFI Act") while adjudging the order as "unsustainable" the Hon'ble court noted that -

(i) Respondent appealed against a recovery officer's ruling that DRT allowed a 31-day delay under Section 5 of the Limitation Act.

(ii) Consequently, DRAT overturned the DRT ruling, noting that an appeal under Section 30 of the BFI Act is exempt from the provisions of Section 5 of the Limitation Act.

(iii) Upon fresh appeal, the HC overturned the DRAT decision and reinstated the DRT decision;

The Hon'ble Supreme Court further noted that the issue raised in the current appeal is not res integra in light of the Hon'ble court's ruling in International Asset Reconstruction Co. of India Ltd. vs. Official Liquidator of Aldrich Pharmaceuticals Ltd. Ors., in which it was held that appeals under Section 30 of the BFI Act are expressly exempt from Section 5 of the Limitation Act.

Additionally, underlining how the Hon'ble Supreme Court's ruling in International Asset Reconstruction Co. of India Ltd. invalidated the case on which the High Court had relied, the Hon'ble SC declared, "*...High Court has committed a grave error in...condoning the delay in preferring the appeal under Section 30 by applying Section 5 of the Limitation Act.*"

While concluding it was stressed by the Court that *“Section 5 of the Limitation Act shall not apply to an appeal against the order of the Recovery Officer...”*