

(2011) 10 GUJ CK 0011
In the Gujarat High Court

Case No : Special Civil Application No. 14573 of 2011 With Special Civil Application No. 14579 of 2011

Vision Organics Limited and Others

APPELLANT

Vs

IDBI Bank Ltd. and Others

RESPONDENT

Date of Decision : 07-10-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 195
Debt Recovery Appellate Tribunal (Procedure) Rules, 1994 — Rule 5(3), 6, 8, 8, 9
Debts Recovery Appellate Tribunal Regulations of Practice, 2001 — Regulation 4
Debts Recovery Tribunal (Procedure) Rules, 1993 — Rule 7
Penal Code, 1860 (IPC) — Section 196
Recovery of Debts Due to Banks and Financial Institutions Act, 1993 — Section 17, 19, 19(1)(2), 20, 20(1)

Citation : AIR 2012 Guj 54 : (2012) 3 BC 126 : (2011) 3 GLH 663

Hon'ble Judges : A.L. Dave, Acting C.J.;J.B. Pardiwala, J

Bench : Division Bench

Advocate : Vishwas K. Shah, Mr. Masoom K. Shah for Petitioners - 3 and Mr. Nachiket Dave for Petitioners 1 - 3, for the Appellant; Mahesh Thakar for Respondent 1 and Mr. Kaushik P. Bhatiya, for the Respondent

Final Decision : Dismissed

Judgement

Mr. J.B. Pardiwala, J.—As common questions of law and facts are involved in the above captioned two writ petitions, the same were heard together and are being disposed of by this common judgment and order.

2. The petitioners in both the writ petitions are common. The subject matter of challenge in both the writ petitions is the common judgment and order dated 20th September 2011 passed by the Debts Recovery Appellate Tribunal, Mumbai (at Kolkata) in Miscellaneous Appeal Nos. 136, 137, 138 and 139 of 2011 arising from an order passed by the Debts Recovery Tribunal-II, Ahmedabad in Claim Petition No.-Review Application Nos. 6 to 9.

3. It appears that vide order dated 31st May 2011, the Debts Recovery Tribunal-

II, Ahmedabad disposed of four Review Applications preferred by the petitioners - original borrowers) being Review Application Nos. 6 of 2010, 7 of 2010, 8 of 2010 and 9 of 2010. The petitioners are the original borrowers, they are the original defendants in a batch of O.A. Filed by the respondent - Bank before the Debts Recovery Tribunal-II, Ahmedabad. It also appears that the claim in each of the O.As is approximately Rs. 58 crores. The Debts Recovery Tribunal-II, Ahmedabad decided the batch of O.As against the petitioners vide judgment, order and decree dated 17th September 2010. Thus, final orders came to be passed u/s 19 of the Recovery of Debts due to Banks and Financial Institutions Act, 1993 (for short, "the RDDBFI Act").

4. It appears that instead of challenging the final order passed by the Debts Recovery Tribunal, Ahmedabad before the Appellate Tribunal, the petitioners thought fit to prefer review applications in the respective O.A. before the Debts Recovery Tribunal-II, Ahmedabad. The review applications were adjudicated by the Debts Recovery Tribunal-II, Ahmedabad and by a common judgment and order dated 31st May 2011, rejected all the review applications substantially on the ground that they were all time-barred and the Debts Recovery Tribunal has no powers under the RDDBFI Act to condone the delay in preferring the review applications after the expiry of the statutory time period.

5. Record reveals that the common judgment and order dated 31st May 2011 came to be challenged by the petitioners before the Debts Recovery Appellate Tribunal. Mumbai (at Kolkata) by filing Miscellaneous Appeal Nos. 136 to 139 of 2011.

6. During the course of hearing of Miscellaneous Appeals before the Appellate Tribunal, a preliminary objection was raised by learned Counsel for the respondent - Bank that since the petitioners herein (original appellants) have not paid the registration fee in respect of four appeals as prescribed under Rule 8 of the Debts Recovery Appellate Tribunal (Procedure) Rules, 1994, the Appellate Tribunal cannot proceed further with the hearing of the same. In light of such objection being raised by the learned Counsel for the Bank before the Appellate Tribunal, the Appellate Tribunal proceeded to examine the same, and ultimately, came to the conclusion that the petitioners herein (original appellants) are obliged to deposit the requisite fess as per Rule 8(1) & (2) of the Procedure Rules, 1994.

7. The Appellate Tribunal came to the conclusion that since the amount of debts due was more than Rs. 30 lakhs, the petitioners herein (original appellants) are obliged to deposit a sum of Rs. 30,000=00 in each of the Miscellaneous Appeals preferred by the petitioners.

8. The Appellate Tribunal noticed that all that was deposited by the petitioners was an amount of Rs. 250=00 in each of the Miscellaneous Appeals. The contention before the Appellate Tribunal was that since the appeals were Miscellaneous Appeals and not Regular Appeals against the final order passed by

the Debts Recovery Tribunal, Rule 8 of the Procedure Rules, 1994 will not apply and all that the petitioners are obliged to deposit is an amount of Rs. 250=00 in each of the Miscellaneous Appeals. This contention was negated by the Appellate Tribunal and the objection raised by the learned Counsel for the respondent - Bank was upheld.

9. Aggrieved by the said order passed by the Debts Recovery Appellate Tribunal, Mumbai (at Kolkata) dated 20th September 2011, the petitioners are here before us by way of this two writ petitions.

10. We have heard learned Advocate Mr. Vishwas K. Shah and learned Advocate Mr. Nachiket Dave for the petitioners and learned Advocate Mr. Kaushik Bhatiya for the respondent - Bank.

11. Learned Counsels for the petitioners vehemently contended that the order passed by the Appellate Tribunal is erroneous and untenable in law. Counsels would submit that once the Miscellaneous Appeals are registered and numbered in the register of the Appellate Tribunal, the Chairperson has to decide the same as provided in Section 20 of the RDDBFI Act. Counsels would submit that as the Debts Recovery Appellate Tribunal is a statutory Authority constituted under the RDDBFI Act, it has to function within the four corners of law. The sum and substance of the contention relying on Section 20 of the RDDBFI Act is to the effect that on receipt of an appeal under sub-Section (1) of Section 20, the Appellate Tribunal, after giving an opportunity of hearing, is obliged to pass orders confirming, modifying or setting aside the order appealed against. Counsels would vehemently submit that in the present case at the time of registration of the appeal, the registry did not raise any objection as regards the requisite: fee to be deposited as per Rule 8 (2) of the Rules and, therefore, after the registration of the same, the Appellate Tribunal could not have entertained the preliminary objection raised by the Bank in this regard. In substance, what is suggested by the learned Counsel is that the Appellate Tribunal ought to have either confirmed, modified or set-aside the order impugned in the Miscellaneous Appeals.

12. Learned Counsels vehemently submitted that there are two kinds of appeals contemplated under the RDDBFI Act: (1) Miscellaneous Appeals, and (2) Regular Appeals. As per the Contention, Rule 8 of the Rules will apply only in the case of a regular appeal preferred against a final order passed by the Debts Recovery Tribunal u/s 19 of the RDDBFI Act. Counsels would submit that if any interim order or any interlocutory order or any other order other than a final order is to be appealed before the Appellate Tribunal, then in that case. miscellaneous appeal has to be preferred and in cases of miscellaneous appeal, Rule 8 will not apply. They would submit that there are regulations called "The Debts Recovery Appellate Tribunal Regulations of Practice, 2001". Relying on these regulations, more particularly, regulation 4. Counsels tried to substantiate their contention that the appeals can be classified as: (1) Regular Appeals, and (2) Miscellaneous Appeals.

13. Counsels for the petitioners invited our attention to Appendix-A and Appendix-B of the Regulations, 2001, more particularly, Column-8 of the two Appendix. Column-8 of the specimen for register of appeals of Appendix-A provides for the information as regards the amount of value, whereas in Column-8 of the specimen for register of miscellaneous appeals of Appendix-B the amount of value is not to be shown but the gist of the order of Debts Recovery Tribunal is to be stated.

14. According to the learned Counsels, filing and registration of appeal before the Appellate Tribunal is governed by the Debts Recovery Appellate Tribunal, Mumbai (Procedure) Regulations, 2001.

15. Lastly, learned Counsels for the petitioners invited out attention to Rule 6 of Procedure Rules, 1994 which provides for presentation and scrutiny of memorandum of appeal. Relying on Rule 6, the Counsel submitted that if an appeal, on scrutiny by the registry, is found to be defective and the defect noticed is formal in nature, the Registrar may allow the appellant to rectify the same in his presence and if the said defect is not formal in nature, the Registrar may allow the appellant such time to rectify the defect as he may deem fit. The sum and substance of the argument is that at the time of presentation and scrutiny of memorandum of miscellaneous appeal, the objection as regards non-payment of requisite fees as prescribed under Rule 8 of the Procedure Rules, 1994 was never raised.

16. Per contra, learned Counsel appearing for the Bank vehemently opposed the petitions and submitted that the petitioners are defaulters and they owe a huge sum of crores of rupees to the Bank. He submitted that on one pretext or the other, the petitioners are abusing the process of law by preferring frivolous applications. He would submit that though appeals can be classified as Regular Appeals and Miscellaneous Appeals, still Section 20 of the RDDBFI Act does not clarify as regards the Miscellaneous Appeal or Regular Appeal. It speaks only about an order. He would submit that any order passed by the Debts Recovery Tribunal would be appealable u/s 20 only. There is no other provision in the RDDBFI Act providing for Miscellaneous Appeal. He submitted that the petitioners do not deserve any relief from this Court and requested the Court to reject the petitions.

17. Having given our anxious thoughts and considerations to the rival contentions of the respective parties we shall now proceed to examine the contentions on merits. Before dealing with the rival contentions, we would like to go through certain provisions of law, which are applicable in the present case.

18. Section 20 of the RDDBFI Act provides for an appeal before the Tribunal, which reads as under :-

20. Appeal to the Appellate Tribunal.- (1) Save as provided in sub-Section (2), any person aggrieved by an order made, or deemed to have been made, by a Tribunal under this Act, may prefer an appeal to an Appellate Tribunal having

jurisdiction in the matter.

(2) No appeal shall lie to the Appellate Tribunal from an order made by a Tribunal with the consent of the parties.

(3) Every appeal under sub-Section(1) shall be filed within a period of forty-five days from the date on which a copy of the order made, or deemed to have been made, by the Tribunal is received by him and it shall be in such form and be accompanied by such fee as may be prescribed:-

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-Section (1), the Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned Tribunal.

(6) The appeal filed before the Appellate Tribunal under sub-Section (1) shall be dealt with by it as expeditiously as possible and endeavor shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Section 21 of the RDDBFI Act is with regard to deposit of amount of debt due, on filing appeal. The said Section 21 reads as under:--

21. Deposit of amount of debt due, on filing appeal.-Where an appeal is preferred by any person from whom the amount of debt is due to a Bank or a Financial Institution or a consortium of Banks or Financial Institutions, such appeal shall not be entertained by the Appellate Tribunal unless such person has deposited with the Appellate Tribunal seventy-five per cent of the amount of debt so due from him as determined by the Tribunal u/s 19 :-

Provided that the Appellate Tribunal may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this Section.

Section 22 of the RDDBFI Act is with regard to the procedure and powers of the Tribunal and the Appellate Tribunal, which reads as under :-

22. Procedure and Powers of the Tribunal and the Appellate Tribunal.-(1) The Tribunal and the Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and. subject to the other provisions of this Act and of any rules, the Tribunal and the Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Tribunal and the Appellate Tribunal shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a civil Court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it ex parte;
- (g) setting aside any order of dismissal of any application for default or any other passed by it ex parte;
- (h) any other matter which may be prescribed.

(3) Any proceeding before the Tribunal or the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228, and for the purposes of Section 196 of the Indian Penal Code (45 of 1860) and the Tribunal or the Appellate Tribunal shall be deemed to be a civil Court for all the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

19. We may now go to the rules called "the Debts Recovery Appellate Tribunal (Procedure) Rules, 1994".

Rule 6 thereto is with regard to presentation and scrutiny of memorandum of appeal. Rule 6 reads as under :--

6. Presentation and scrutiny of memorandum of appeal.-(1) The Registrar shall endorse on every appeal the date on which it is presented under Rule 5 or deemed to have been presented under that rule and shall sign endorsement.

(2) If, on scrutiny, the appeal is found to be in order, it shall be duly registered and given a serial number.

(3) If an appeal, on scrutiny, is found to be defective and the defect noticed is formal in nature, the Registrar may allow the appellant to rectify the same in his presence and if the said defect is not formal in nature, the Registrar, may allow the appellant such time to rectify the defect as he may deem fit.

(4) If the concerned appellant fails to rectify the defect within the time allowed in sub-rule (3), the Registrar may by order and for reasons to be recorded in writing, decline to register such memorandum of appeal.

(5) An appeal against the order of the Registrar under sub-rule (4) shall be made within fifteen days of making of such order to the Presiding Officer concerned in his chamber, whose decision thereon shall be final.

Rule 8 thereof is with regard to Fee. It reads as under:-

8. Fee-(1) Every memorandum of appeal u/s 20 of the Act shall be accompanied with a fee provided in sub-rule (2) and such fee may be remitted either in the form of crossed demand draft drawn on a nationalised bank in favour of the Registrar and payable at the station where the Registrar's office is situated or remitted through a crossed Indian Postal Order drawn in favour of the Registrar and payable in Central Post Office of the station where the Appellate Tribunal is located.

(2) The amount of fee payable in respect of appeal u/s 20 shall be as follows :-

Rule 9 of the said Rules is with regard to deposit of amount of debt due. which reads as under:-

Amount of debt due

Amount of fees payable

1. Less than Rupees 10 lakh

Rupees 12,000

2. Rupees 10 lakh or more but less than Rupees 30 lakh.

Rupees 20,000

3. Rupees 30 lakh or more.

Rupees 30,000

9. Deposit of amount of debt due.-Where an appeal is preferred by a person referred to in Section 21 of the Act, such appeal shall not be entertained by the Appellate Tribunal unless such person has deposited with the Appellate Tribunal seventy-five per cent of the amount of debt so due from him as determined by the Tribunal u/s 19 of the Act, provided that the Appellate Tribunal may, for reasons to be recorded in writing, waive or reduce the amount to be deposited u/s 21 of the Act.

20. We may now consider the Debts Recovery Appellate Tribunal, Mumbai (Procedure) Regulations, 2001. Chapter-II of the Regulations, more particularly, Regulation 4 is with regard to Classification of Appeals, which reads as under:-

R.4 Classification of Appeals

1. Appeals filed before Appellate Tribunal shall be classified as 1) Regular Appeals and 2) Miscellaneous Appeals.

2. Appeals preferred against order finally disposing of Application made under

sub-Section (1) or sub-Section (2) of Section 19 of the Act shall be numbered and registered as Regular Appeals and shall be entered in the Register prescribed for that purpose in Appendix A.

Appendix A and B to the Regulations are as under:--

APPENDIX-A

SPECIMEN FOR REGISTER OF APPEALS

- (1)
- (2)
- (3)
- (4)
- (5)
- (6)
- (7)
- (8)
- (9)
- (10) (11)

Sr No

Appeal No.

Dale of filing and Name of Advocate or Agent

Name of Appellant/s

Name of Respt/s

Of what Tribunal

No. of Original Appln or T.A (old Suit No.)

Amount of value

Gist of the order of DRT

Judgment Remarks confirmed/ reversed or varied (etc)

APPENDIX-B

SPECIMEN FOR REGISTER OF MISCELLANEOUS APPEALS

(

(1)

(2)

(3)

(4)

(5) (6)

(7)

(8)

(9) (10)

Sr No

Appeal No.

Date of filing and Name of Advocate or Agent

Name of Appellant/s

Name of what Respt/s Tribunal

No. of Original Application

Gist of the order of DRT

Judgment Remarks confirmed /reversed or varied (etc)

21. From the provisions of the Act, rules and the notification issued by the Ministry of Finance, it appears that only provision for filing the appeal before the D.R.A.T. is Section 20 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993. It provides for filing of the appeal by any person aggrieved by an order passed by the Tribunal i.e. the D.R.T. Rule 8 of the Rules of 1994 provides for Court-fee payable in respect of the appeal filed u/s 20 under which the minimum Court-fee payable is Rs. 12,000/- if the amount of debt is less than Rs. 10 lacs, Rs. 20,000/- if the amount of debt is Rs. 10 lacs or more, but less than Rs. 30 lacs and Rs. 30,000/- if the amount of debt is Rs. 30 lacs or more. The only provision for payment of Rs. 250/- is made by the notification issued by the Ministry of Finance, Department of Economic Affairs, Banking Division dated 21st January 2003, whereby a sum of Rs. 250/- is payable by way of Court-fee in respect of any application made for interlocutory order as per Clause 4 thereof. The said notification also prescribes Court-fee on the lines of Rule 8 of the Rules of 1994 in respect of the appeal filed against the orders of the Recovery Officer.

22. The argument that the appeal preferred before the Appellate Tribunal will not be a regular appeal but a miscellaneous appeal as what is challenged is the order passed by the Debts Recovery Tribunal-II, Ahmedabad rejecting the delay condonation applications preferred in review applications and, therefore, the Court-fee which would be payable is Rs. 250/-, is without any merit.

23. The Act does not provide for or makes any distinction between the appeals and the miscellaneous appeals. The classification of appeals as regular appeals and miscellaneous appeals has been made by Regulation 4 in Chapter-II of the Debts Recovery Appellate Tribunal, Mumbai (Procedure) Regulations of Practice, 2001, to distinguish between the appeals preferred against the orders finally disposing of the applications under Sub-Sections (1) and (2) of Section 19 of the RDDBFI Act and other appeals filed against the interim orders passed by the D.R.T. The former appeals are numbered and registered as appeals while the latter are numbered and registered as miscellaneous appeals. All appeals whether regular appeals or miscellaneous appeals are filed u/s 20 of the RDDBFI Act only. There is no separate provision under the Rules providing for payment of separate or different Court-fee in respect of regular appeals and the miscellaneous appeals. So far as the payment of Court-fee is concerned, the provision is made only in Rule 8 of the Rules of 1994, under which the Court-fee is payable on ad valorem basis. On the other hand, the payment of fixed Court-fee of Rs. 250/- is provided by the aforesaid notification of 2003 in respect of application made for interlocutory orders as observed earlier.

24. The perusal of the memorandum of appeals would go to show that what was challenged in the Miscellaneous Appeals was a common order passed by the Debts Recovery Tribunal-II, Ahmedabad. The said Appeals, undoubtedly, have been filed u/s 20 of the RDDBFI Act. There is no other provision under the RDDBFI Act providing for any other kind of appeal and the Court-fee payable in respect of such appeals is prescribed by Rule 8 of the Rules only.

25. We are of the view that the Appellate Tribunal has rightly upheld the preliminary objection raised by the Bank as regards the payment of fees.

26. In taking this view, we are fully fortified by a Full Bench decision of Madhya Pradesh High Court in the case of M/s. Kowa Spinning Limited and others v. Debt Recovery Tribunal and others, reported in AIR 2004 Madhya Pradesh 1, wherein in paragraphs 16, 17, 18 and 19, the Full Bench held as under:-

16. After noticing the aforesaid pronouncements we think it condign to deal with another facet of submission of Mr. Kishore Shrivastava that no rules having been prescribed, it is an exercise in futility to state that an appeal lies. Emphasis has been laid on the unworkability of the provisions. The 1994 Rules deals with the procedure before the Appellate Tribunal. Rule 8 deals with fee and Rule 9 stipulates in regard to deposit of amount of debt due. We think it apropos to reproduce both the rules.

8. Fee.-(1) Every memorandum of appeal u/s 20 of the Act shall be accompanied with a fee provided in sub-rule (2) and such fee may be remitted either in the form of crossed demand draft drawn on a nationalised bank in favour of the Registrar and payable at the station where the Registrar's office is situated or remitted through a crossed Indian Postal Order drawn in favour of the Registrar and payable in Central Post Office of the station where the Appellate Tribunal is

located.

(2) The amount of fee payable in respect of appeal u/s 20 shall be as follows:-

Amount of debt due

Amount of fees payable

1.

Less than Rupees 10 lakh

Rupees 12,000

2.

Rupees 10 lakh or more but less than Rupees 30 lakh

Rupees 20,000

3.

Rupees 30 lakh or more

Rupees 30,000

9. Deposit of amount of debt due. -where an appeal is preferred by a person referred to in Section 21 of the Act. such appeal shall not be entertained by the Appellate Tribunal unless such person has deposited with the Appellate Tribunal seventy five per cent of the amount of debt so due from him as determined by the Tribunal u/s 19 of the Act, provided that the Appellate Tribunal may, for reasons to be recorded in writing, wave or reduce the amount to be deposited u/s 21 of the Act.

17. Submission of Mr. Shrivastava is that no procedure has been prescribed for preferring an appeal against interim orders. The aforesaid submission, in our considered view, is comparable to the concept of building a castle in Spain. Rule 9 deals with respect of an appeal preferred by a person referred to in Section 21. Section 21 of the Act clearly postulates deposit of amount of debt due, on filing appeal as determined by the Tribunal u/s 19. Thus, it clearly and squarely is applicable to an appeal preferred after final adjudication and determination of the same by the Debts Recovery Tribunal. Rule 8 deals with fee qua an appeal u/s 20. We are not impressed by the submission of Mr. Shrivastava that it is only Section 20 which confers the power on the Tribunal to entertain an appeal. Section 17(2) uses the word "any order made" and Section 20(1) uses the word "an order made." Though Mr. Shrivastava has made a herculean endeavor to point out the difference between the terminology used in Section 17 and Section 20 on the backdrop that in one provision the word "an" is used and in another provision the word "any" is used. There is no difference between the two terms, namely, "an" and "any". If the words used are understood in proper perspective taking into consideration the text and the context, we are of the considered view

that the expressions used in Sections 17 and 20 are not repugnant to each other. In fact, they point out to a complete harmonious whole leading to a specific, precise, appropriate destination i.e.. The tenability of appeal from an order or any order. The distinction which is sought to be drawn by Mr. Shrivastava on the basis of the use of the word, in our considered opinion, is absolutely fallacious. The High Court of Delhi in the case of M. C. Mittal and others (1996 (2) Bank CLR 86) (supra) accepted the interpretation that any order would mean interlocutory orders which substantially affect the rights of the parties. The Court presided by the learned Chief Justice M. Jagannatha Rao (as His Lordship then was) has also referred to the term "an order" and held that the same would convey that an appeal lies against the interim order which substantially affects the rights of the parties and those words are not confined to an order which finally disposes an application before the Tribunal. We are in respectful agreement with the meaning given to the terms "an order" and "any order" in the said judgment.

18. As far as the fee structure is concerned, we think it appropriate to refer to the Tribunal Rules meant for the Tribunal of the first instance. Rule 7 of the Debts Recovery Tribunal (Procedure) Rules, 1993 deals with fee. It reads as under:-

7. Application fee - (1) 1 [Every application u/s 19, interlocutory application or application for review of decision of Tribunal) shall be accompanied with a fee provided in sub-rule (2) and such fee may be remitted either in the form of crossed demand draft drawn on a nationalised bank in favour of the Registrar and payable at the station where Registrar's office is situated or remitted through a crossed Indian Postal Order drawn in favour of the Registrar and payable in Central Post Office of the station 1[located at any place within the local limits of the jurisdiction of a Tribunal.]

S. No.

Nature of Application

Amount of fee payable

1.

Application for recovering of debts due,-

(a)

Where amount of debt due is Rs. 10 lakh

Rs. 12,000

(b)

Where amount of debt due is above 10 lakh

Rs. 12,000 plus Rs. 1,000 for every one lakh of debt due or part thereof in excess of Rs. 10 lakh, subject to a maximum of Rs. 1,50,000

2.

Application for review

50 per cent of the fee paid

3.

Application for interlocutory order

Rs. 10

4.

Vakalatnama

Rs. 5

19. The words used here are "debts due" and the words used in the Appellate Rules are "amount of debt due". Unless the competent Authority, namely, Central Government frames a different set of rules, in our considered view, the fee structure provided under Rule 8 of the Appellate Tribunal Rules would apply on all fours to all category of appeals. Any litigant who intends to have the luxury of preferring an appeal has to be guided by the procedure prescribed. He cannot be allowed to dictate terms and put forth a spacious proponent that he has to pay a less fee or for that matter the fee provided under Rule 8 is only applicable to appeals preferred against the final adjudication but not against the interim orders. The acceptance of this nature would defeat the science of interpretation. Judged from all this angle, we are inclined to hold that an appeal lies against any order or an order which substantially affect some rights or liabilities of the party and is not confined to the final order alone.

27. In the above view of the matter, we have no hesitation in coming to the conclusion that Section 20 is the only provision under which a Miscellaneous Appeal as well as Regular Appeal can be preferred against the order passed by the Debts Recovery Tribunal. Even in cases of Miscellaneous Appeal, rule 8 of the Rules of 1994 would apply and the appellant is obliged to deposit the requisite fee as per the amount of debt due as provided under Rule 8 (2) of the Rules of 1994.

28. We are of the view that any litigant who intends to have the luxury of preferring an appeal has to be guided by the procedure prescribed. He cannot be allowed to dictate terms and put forth a spacious proponent that he has to pay a less fee or for that matter the fee provided under Rule 8 is only applicable to appeals preferred against the final adjudication but not against the interim orders. The acceptance of this nature would defeat the science of interpretation.

29. The petitions being devoid of any merits are hereby rejected with no order as to cost.