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OTHER TRIBUNALS: AN ANALYSIS ON DEBT RECOVERY TRIBUNAL

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ABSTRACT :

Tribunals constitute an important part of the Indian Legal system. The constitution provides for tribunals in relation to certain specified matters. The establishment of these tribunals was intended to provide a specialized mechanism for adjudication of particular classes of disputes. Article 323 - B deals with tribunals for other matters than those covered by Article 323 - A. The matters contemplated under Article 323 - B are taxation, foreign exchange, industrial and labour disputes, land reforms, ceiling on urban property, elections to Parliament and state legislature, foodstuffs, rent and tenancy matters and other matters specified by parliament or state legislature. The Debt Recovery Tribunal (DRT) is one such specialized tribunal concerned with the adjudication and recovery of debts due to banks and financial institutions. The legislation relating to debt recovery was introduced against the background of difficulties experienced by banks and financial institutions in recovering their dues through the ordinary procedure. The Tiwari committee had examined the legal and other difficulties faced by bank and financial institutions and suggested remedial measures, including the establishment of special tribunals for recovery of dues ie the Debt Recovery Tribunal.

Keywords: Specialized mechanism, 323 - B - Other Matters, DRT, Due, Financial Institutions, Tiwari Committee.

INTRODUCTION:

Tribunals are established as specialized adjudicatory bodies for dealing with particular classes of disputes. The Constitution of India contains provisions relating to tribunals under Part XIV-A. Article 323-B specifically empowers the appropriate Legislature to provide by law for the adjudication or trial by tribunals of disputes, complaints or offenses relating to specified matters. These matters include taxation, foreign exchange, industrial and labour disputes, land reforms, urban property, elections, essential commodities, rent and other incidental matters.¹

Article 323-B also permits legislation to provide for the establishment of a hierarchy of tribunals, specify their jurisdiction and powers, prescribe their procedure, provide for the transfer of pending cases and, subject to the constitutional position regarding judicial review, exclude the jurisdiction of courts in matters falling within the jurisdiction of such tribunals.²

The Debt Recovery Tribunal forms part of this specialized tribunal framework. The Recovery of Debts Due to Banks and Financial Institutions Act, 1993 was enacted to provide for the establishment of Tribunals for the expeditious adjudication and recovery of debts due to banks and financial institutions.³ The establishment of the Debt Recovery Tribunal was intended to provide a specialized and comparatively speedy mechanism for recovery of debts instead of leaving such matters to the ordinary civil court process.

CONSTITUTIONAL BASIS OF TRIBUNALS FOR OTHER MATTERS:

Article 323-B:

Article 323-B deals with “Tribunals for other matters.” It empowers the appropriate Legislature to provide for adjudication or trial by tribunals of disputes, complaints or offences with respect to the matters specified in Article 323-B(2).⁴

¹ Dr. J. N. Pandey, The Constitutional Law of India, 47th ed., discussion on “Tribunals for other matters”, Art. 323-B, Pg. No.: 704.

² Ibid., Art. 323-B(3).

³ M. L. Tannan, Tannan’s Banking Law, Student Edition, Chapter 14, The Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

⁴ Dr. J. N. Pandey, The Constitutional Law of India, Art. 323-B.

The matters specified include:

1. levy, assessment, collection and enforcement of any tax;
2. foreign exchange, import and export across customs frontiers;
3. industrial and labour disputes;
4. land reforms;
5. ceiling on urban property;
6. election disputes of Parliament and State Legislatures, subject to the constitutional exclusions;
7. production, procurement, supply and distribution of foodstuffs and essential goods;
8. rent, its regulation and control and tenancy issues;
9. offences relating to the matters specified above and fees relating to them; and
10. matters incidental to the matters specified above.

A law made under Article 323-B may establish a hierarchy of tribunals, prescribe their jurisdiction and powers, provide for their procedure and rules of evidence, provide for transfer of pending cases and make supplementary provisions for their effective functioning and speedy disposal.

Difference between Articles 323-A and 323-B

Article 323-A is confined to matters relating to public services, whereas Article 323-B concerns tribunals dealing with the matters specifically mentioned in clause (2). Under Article 323-A, the power to make the law belongs exclusively to Parliament. Under Article 323-B, the appropriate Legislature is empowered to legislate according to its respective legislative competence. Thus, Article 323-B provides the constitutional framework within which tribunals dealing with specified subjects can be established.

JUDICIAL REVIEW AND TRIBUNALS:

In *S.P. Sampath Kumar v. Union of India*,⁵ the validity of the Administrative Tribunals Act, 1985 was challenged, particularly on the ground that exclusion of the jurisdiction of High Courts under Articles 226 and 227 affected judicial review. The Supreme Court upheld the validity of the Act subject to the requirement that the tribunal should provide an effective and efficacious alternative institutional mechanism for judicial review.

The position was further considered in *L. Chandra Kumar v. Union of India*,⁶ The Supreme Court held that judicial review under Articles 226 and 227 by the High Courts and under Article 32 by the Supreme Court is a basic feature of the Constitution. The jurisdiction of the High Courts and the Supreme Court cannot therefore be completely excluded.

The tribunals may perform a supplementary role in relation to the powers of the High Courts and Supreme Court, but their decisions remain subject to scrutiny before the appropriate High Court.

DEBT RECOVERY TRIBUNAL:

Background and need for establishment:

The Recovery of Debts Due to Banks and Financial Institutions Act, 1993 was enacted for the establishment of Tribunals for the expeditious adjudication and recovery of debts due to banks and financial institutions.⁷

Before 1993, regular civil courts took many years to resolve standard suits, banks could not unlock money locked in legal processes, financial institutions faced liquidity crunches and potential paralysis. To sort out this RDBFI Act was established. It was established to provide a fast track legal process for banks to recover overdue loans without involving in the slow procedures of traditional civil courts. The existing procedure for recovery of debts was stated to result in a significant portion of funds being blocked in unproductive litigation, while the value of the securities deteriorated with the passage of time.

The Tiwari Committee, which had examined the legal and other difficulties faced by banks and financial institutions and suggested remedial measures, including changes in law and the establishment of Special Tribunals for recovery of debts. The setting up of Special Tribunals was considered necessary because of the large number of cases filed by public sector banks and the considerable amount of public money involved in pending debt-recovery litigation. The Act therefore sought to establish a specialised machinery for the speedy recovery of debts due to banks and financial institutions.

⁵ *S.P. Sampath Kumar v. Union of India*, (1987) 1 SCC 124; AIR 1987 SC 386.

⁶ *L. Chandra Kumar v. Union of India*, (1997) 3 SCC 261; AIR 1997 SC 1125.

⁷ M. L. Tannan, Tannan's Banking Law, Student Edition, Ch. 14.

Object, purpose and scope of the Act:

The principal object of the Act is to facilitate the creation of special machinery for the speedy recovery of debts due to banks and financial institutions.⁸ The differential treatment is permissible where the interest of the general public is involved and that the provisions of the Act were calculated to provide a simpler and speedier remedy for recovery of debts. The procedure was intended to avoid the dilatory procedure of an ordinary civil suit. The applicability of the Act was also subject to the statutory monetary threshold contained in the Act.

ESTABLISHMENT OF DEBT RECOVERY TRIBUNAL:**Establishment under Section 3:**

Section 3 provides for the establishment of one or more Tribunals by notification of the Central Government. These Tribunals are known as Debt Recovery Tribunals and exercise the jurisdiction, powers and authority conferred upon them by the Act. The Central Government is also required to specify the areas within which a Tribunal may exercise jurisdiction for entertaining and deciding applications.⁹

The Tribunal is established in relation to debts due to banks and financial institutions and that the statutory scheme determines the territorial jurisdiction of the Tribunal.

Composition of the Tribunal:

According to Section 4, a Tribunal consists of one person, referred to as the Presiding Officer, appointed by notification by the Central Government. The Central Government may also authorize the Presiding Officer of one Tribunal to discharge the functions of the Presiding Officer of another Tribunal. The qualification for appointment as Presiding Officer is that the person must be or must have been, or be qualified to be, a District Judge.¹⁰ The Presiding Officer holds office for the statutory term prescribed in the Act, subject to the prescribed age limit.¹¹

Staff of the Tribunal:

Section 7—Staff of Tribunal: The Central Government is required to provide the Tribunal with one or more Recovery Officers and such other officers and employees as may be considered necessary. The Recovery Officers and other officers and employees function under the general superintendence of the Presiding Officer. The staff and their conditions of service are governed by the provisions prescribed under the Act.

DEBT RECOVERY APPELLATE TRIBUNAL:

The Act also provides for the establishment of Debt Recovery Appellate Tribunals.

Under Section 8, the Central Government may establish one or more Appellate Tribunals known as Debt Recovery Appellate Tribunals to exercise the jurisdiction, powers and authority conferred upon them by the Act.

Sections 9 and 10—Composition and qualifications of Appellate Tribunal: The Appellate Tribunal consists of a Chairperson.

The Act also provides for staff and for the salary, allowances and other terms and conditions of service of the Presiding Officers and Chairpersons.¹²

JURISDICTION OF THE DEBT RECOVERY TRIBUNAL:

The jurisdiction of the DRT is an important feature of the statutory scheme. The jurisdiction of the Civil Court is excluded in matters falling within the jurisdiction of the DRT or the Appellate Tribunal. Section 17 confers jurisdiction on the Tribunal in relation to applications by banks and financial institutions for recovery of debts due to them.¹³

The jurisdiction is connected with the recovery of debts as defined under the Act. Where a matter is one falling within the scope of recovery of debt under the Act, the Tribunal exercises the jurisdiction provided by the legislation.

The jurisdiction of the Civil Court is not excluded in every matter involving a bank. For example, where the claim is not for recovery of an amount

⁸ Ibid., Notes on aims, object, purpose and scope of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

⁹ Section 3—Establishment of Tribunal of Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

¹⁰ Section 5—Qualifications for appointment as Presiding Officer, of Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

¹¹ Section 6—Term of office. Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

¹² Sections 12 and 13 of Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

¹³ 26. Discussion on DRT jurisdiction and Sections 17, 18 and 19.

advanced or lent by a bank, but concerns a different cause of action, the matter may fall outside the DRT's jurisdiction.

In *Har Sahai Mal Tika Ram v. Punjab National Bank*,¹⁴ discusses the operation of Sections 31 and 34 and explains the exclusion of Civil Court jurisdiction in matters falling within the statutory jurisdiction of the Tribunal. In this case the defendants had taken a loan from the Punjab National Bank branch located in Badaun, Uttar Pradesh. The loan agreement explicitly stated that the legal jurisdiction for any disputes would be confined to Badaun, given that the bank was located there and the business was transacted there. A legal challenge arose when an order attempted to transfer the case to a tribunal located in Jabalpur, Madhya Pradesh. The petitioner's counsel argued that since the debt recovery tribunal was outside the territorial jurisdiction of the local civil judge, the civil judge did not hold the authority to transfer a case outside his jurisdiction. The court held that because the designated tribunal sat entirely outside the jurisdiction of local civil judge in Uttar Pradesh, the local judge could not order a cross state transfer.

APPLICATION FOR RECOVERY:

Application by banks and financial institutions:

The procedure for recovery begins with an application before the Tribunal. The bank or financial institution approaches the Tribunal within whose jurisdiction the defendant resides or carries on business or where the cause of action arises.¹⁵ The application is required to be made in the prescribed form and accompanied by the prescribed documents and fee.

Notice to the defendant:

The Tribunal issues notice to the defendant to show cause within the prescribed period why the claim should not be admitted. The defendant is entitled to submit a written statement of defence. The defendant may also claim set-off against the applicant's demand where legally recoverable and may raise a counter-claim by stating the grounds for it. The Tribunal may also make an interim order by way of injunction or stay or order attachment against the defendant where necessary to prevent acts that may undermine the applicant's interest in the case. The Tribunal may require the defendant to furnish security where necessary to satisfy the certificate for recovery of debt.

PROCEDURE BEFORE THE DRT:

DRT is a Tribunal and not a Civil Court:

The DRT is a Tribunal and not a Court. Proceedings before it are initiated by an application and not by a suit. The Tribunal does not pass a decree; instead, it issues a certificate which is executed through the Recovery Officer. Section 22 gives the Tribunal powers to regulate its own procedure, subject to the provisions of the Act and the principles of natural justice.

Principles of natural justice:

Although the Tribunal is not bound by the procedure laid down by the Code of Civil Procedure in the same manner as an ordinary civil court. The Tribunal is guided by the principles of natural justice. The Tribunal has the power to regulate its own procedure and can consider the circumstances of individual cases while exercising its jurisdiction. In *State Bank of India v. Madhumita Construction Pvt. Ltd.*,¹⁶ where it was ruled that banking fraud and institutional scam cases remain under the exclusive jurisdiction of the DRT.

POWERS OF THE DEBT RECOVERY TRIBUNAL:

The Tribunal possesses powers necessary for the adjudication and recovery of debts under the Act. The powers of the Tribunal and the Appellate Tribunal are similar to those vested in a civil court while trying a suit in respect of specified matters. The Tribunal may issue interim orders, including orders relating to injunction, stay and attachment. It may also require security to be furnished and may make orders necessary for enforcement of its recovery certificate. The Tribunal also has powers concerning the production of documents and material and the attendance and examination of witnesses.

In *Kiran Batra v. PO, DRT*,¹⁷ discusses the powers of the Tribunal under the Act.

RECOVERY OFFICER AND RECOVERY OF DEBT:

An important feature of the DRT mechanism is that the final recovery process is carried out through the Recovery Officer. Section 31-A provides for the issue of a certificate of recovery in cases where a decree or order has been passed by a court before the commencement of the relevant amendment and has not been executed. The decree-holder may apply to the Tribunal for an order for recovery, and upon the application the Tribunal may issue a

¹⁴ *Har Sahai Mal Tika Ram v. Punjab National Bank*, (2000) 1 BC 7 (All)

¹⁵ M. L. Tannan, *Tannan's Banking Law*, discussion under "Application to Debt Recovery Tribunal."

¹⁶ *State Bank of India v. Madhumita Construction Pvt. Ltd.*, (2003) 2 BC 610 (Cal); AIR 2003 Cal 7,

¹⁷ *Kiran Batra v. PO, DRT*, (2004) 2 BC 290 (Mad),

certificate to the Recovery Officer. Upon receipt of the certificate, the Recovery Officer proceeds to recover the amount as if it were a certificate in respect of a debt recoverable under the Act.

EXCLUSION OF CIVIL COURT JURISDICTION:

The Act contains provisions excluding the jurisdiction of Civil Courts in matters falling within the jurisdiction of the DRT or the Appellate Tribunal. Section 18 provides that no court or other authority shall have jurisdiction in relation to matters specified in Section 17, except as otherwise provided by the Act.

In *United Bank of India v. Abhijit Tea Co. P. Ltd.*,¹⁸ discusses the relationship between Civil Court jurisdiction and proceedings under the Act. An agreement between parties cannot itself override the statutory exclusion of jurisdiction under Section 34 of the Act.

TRANSFER OF CASES TO THE DRT:

The Act contains provisions relating to the transfer of cases pending before courts immediately before the establishment of the Tribunal. Where proceedings fall within the jurisdiction of the Tribunal, the statutory provisions operate to transfer the relevant proceedings and records to the Tribunal.

CONSOLIDATION OF PROCEEDINGS:

The DRT may be required to deal with situations where more than one proceeding concerns connected debts or common issues. A single application for recovery of more than one debt may be maintainable in appropriate circumstances. The power of the Tribunal to consolidate proceedings is necessary for a smooth and speedy trial and where the principles of natural justice justify such a course.

DRT AND THE NATURE OF EVIDENCE:

The procedure before the DRT differs from the ordinary procedure before a Civil Court. The Tribunal is not bound by the procedure laid down by the Code of Civil Procedure, but is guided by the principles of natural justice. The evidence may generally be received by way of affidavits, while oral evidence may be considered in exceptional or special circumstances depending upon the nature of the facts. The purpose of such procedure is connected with the statutory objective of speedy disposal.

LIMITATIONS ON THE POWERS OF THE DRT:

Section 22 provides that the Tribunal and the Appellate Tribunal are not bound by the procedure laid down by the Code of Civil Procedure, but are guided by the principles of natural justice. This does not mean that the Tribunal possesses unlimited powers. The Tribunal's powers must be exercised within the framework of the Act and the principles governing its jurisdiction. The DRT therefore has procedural flexibility, but that flexibility is connected with the purpose and scheme of the legislation.

APPEAL AGAINST THE DECISION OF THE DRT:

The Act provides for an appellate mechanism through the Debt Recovery Appellate Tribunal. The establishment of an Appellate Tribunal is provided under Section 8. The Appellate Tribunal exercises the jurisdiction and powers conferred upon it by the Act.

In *Kunak Udyog India v. State of Assam*,¹⁹ discusses the issue concerning the levy of fees and the appeal mechanism. The existence of the appellate mechanism forms part of the overall statutory structure for adjudication and recovery.

HIGH COURT AND JUDICIAL REVIEW:

Although the Act provides for specialised adjudication and excludes Civil Court jurisdiction in matters falling within the DRT's jurisdiction, the constitutional power of judicial review remains relevant. Article 323-B explains that the exclusion of court jurisdiction under tribunal legislation cannot completely eliminate the constitutional jurisdiction of the High Courts and Supreme Court.²⁰

In *L. Chandra Kumar v. Union of India*, the Supreme Court held that judicial review under Articles 226 and 227 and Article 32 constitutes an essential feature of the Constitution. Decisions of tribunals are therefore subject to scrutiny by the appropriate High Court.

Accordingly, the DRT operates as a specialised adjudicatory forum, while the constitutional framework concerning judicial review continues to apply.

¹⁸ *United Bank of India v. Abhijit Tea Co. P. Ltd.*, (2001) 1 BC 1; (2000) 4 SLR 651; AIR 2000 SC 2957,

¹⁹ *Kunak Udyog India v. State of Assam*, (2007) 3 BC 222 (Gau)

²⁰ Dr. J. N. Pandey, *The Constitutional Law of India*, discussion on exclusion of jurisdiction of courts under Articles 323-A and 323-B.

RECENT DISCUSSION:

The Supreme Court on 16 September 2026 discussed that, Does an earlier DRT decree bar an ARC from initiating SARFAESI proceedings for same debt?

The petitioner challenged proceedings initiated by an Asset Reconstruction Company under the SARFAESI Act and the Recovery of Debts and Bankruptcy Act. The Supreme Court has dismissed a writ petition challenging recovery proceedings initiated under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), holding that the law's overriding provision can operate even when the Debts Recovery Tribunal (DRT) has already passed a decree concerning the same debt.

A bench of Justice BV Nagarathna and Justice R Mahadevan passed the 5-page order dated September 9, in a writ petition filed by one KK Praveen against JM Financial Asset Reconstruction Company Pvt. Ltd. and others.

What was the dispute?

The petitioner challenged proceedings initiated by an Asset Reconstruction Company (ARC) under the SARFAESI Act and the Recovery of Debts and Bankruptcy Act, 1993 (RDB Act). The dispute arose after an ex parte decree had already been passed by the Ernakulam DRT in an application. The petitioner argued that once the DRT had passed the decree, the original cause of action had merged into it and could no longer be pursued independently through another legal route.

Counsel for the petitioner, Mathews J Nedumpara, relied on the principle of "transit in rem judicatam" and the general doctrine of res judicata. His argument was that the decree was final and binding unless overturned through review, appeal, or another legally recognised process. Therefore, according to the petitioner, the respondent JM Financial Asset Reconstruction Company Pvt. Ltd could enforce its rights only by executing the DRT decree and could not initiate fresh proceedings under the SARFAESI Act. The petitioner also questioned whether ARCs could fall within the expression "banking" under Entry 45 of the Union List, since they do not accept deposits or lend money like banks. The petitioner consequently sought a declaration that the RDB Act and SARFAESI Act could not apply to ARCs.

The petition further raised issues concerning MSME borrowers and a May 29, 2015 notification under the Micro, Small and Medium Enterprises Development Act (MSMED Act), including whether a committee for resolution of financial stress had been constituted. It also argued that banks and NBFCs should be barred from pursuing multiple proceedings under the SARFAESI Act, RDB Act and Insolvency and Bankruptcy Code, 2016 for the same cause of action.

The petitioner also sought records relating to classification of the account as a Non-Performing Asset (NPA), notices under Sections 13(2) and 13(4), the Section 14 order and proceedings under Section 19 of the RDB Act, besides an interim restraint on further recovery action.

Why did the Supreme Court reject the argument?

The bench focused on Section 35 of the SARFAESI Act, which gives the legislation an overriding effect. It states: "35. The provisions of this Act to override other laws. - The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law." The court held that, because of this overriding provision, the SARFAESI Act would prevail where there is an inconsistency with another law or an instrument operating under another law. "Having regard to the fact that the provisions of the SARFAESI Act, 2002 have an overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any other law, we find that the provisions of the said Act would override," it said.

The court therefore declined to accept the petitioner's submissions and dismissed the writ petition. Pending applications were also disposed.²¹

CONCLUSION:

The Debt Recovery Tribunal is a specialised adjudicatory mechanism created under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 for the expeditious adjudication and recovery of debts due to banks and financial institutions. The statutory scheme provides for the establishment of Debt Recovery Tribunals and Debt Recovery Appellate Tribunals, their composition, jurisdiction, procedure and powers.²²

The DRT differs from an ordinary Civil Court in its constitution and procedure. Proceedings are initiated by an application rather than a suit, the Tribunal does not pass a conventional decree, and the recovery process is carried forward through the Recovery Officer. The Tribunal is not bound by the ordinary procedure of the Code of Civil Procedure but is guided by the principles of natural justice.

The Act also provides for exclusion of Civil Court jurisdiction in matters falling within the jurisdiction of the Tribunal, transfer of relevant proceedings and an appellate mechanism. At the same time, the constitutional framework concerning judicial review places the decisions of tribunals within the supervisory jurisdiction contemplated by the Constitution.

²¹ <https://www.moneycontrol.com>

²² M. L. Tannan, Tannan's Banking Law, Ch. 14.

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