

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 16082 OF 2025

Bank of Maharashtra ...Petitioner
Versus
Food Pharma India Private Limited and Others ...Respondents

Mr. Abhishek Samant a/w. Mr. Sagar Rohra i/b. Abhishek Samant and Associates, for the Petitioner.

Mr. Charles De' Souza a/w. Mr. Aayush Kothari, Ms. Priyanka Fadia i/b. Mr. Shashank Fadia, for Respondents No. 1 to 4.

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**CORAM : MANISH PITALE AND
SHREERAM V. SHIRSAT, JJ.**

DATE : 14th OCTOBER, 2026

PC. :

1. In this writ petition, on 10.07.2026, this court had passed the following order:

. Having heard Mr. Samant, learned counsel for the petitioner for some time, prima facie, we find substance in the contention raised on behalf of the petitioner bank (secured creditor) that the Debts Recovery Tribunal-III, Mumbai ought not to have reached the conclusion that a moratorium was operating in the context of a proceeding initiated for personal insolvency by one of the guarantors before the National Company Law Tribunal, when it is an admitted position that the properties forming secured assets in respect of which the petitioner bank intends to proceed, do not even belong to the said guarantor.

2. Reliance is also placed on a recent order dated 05.02.2026 passed by the Debts Recovery Appellate Tribunal, Chennai (In-charge DRAT, Mumbai), which needs to be considered while disposing of the present writ petition.

3. The learned counsel appearing for respondent Nos.1 to 4 seeks short adjournment to respond to the submissions made on behalf of the petitioner bank and also to put in a reply affidavit.

4. Reply affidavit on behalf of the said respondents shall be filed on or before 24.07.2026.

5. List the petition for further consideration on 29.07.2026 in the supplementary list.

2. By this writ petition, the petitioner has challenged order dated 07.11.2025 passed by the Debt Recovery Tribunal III, Mumbai (DRT), whereby reference was made to a proceeding pending before the National Company Law Tribunal (NCLT) under Section 95 of the Insolvency and Bankruptcy Code, 2016 (IBC), and in that context, the effect of a moratorium. It is brought to out notice that the petition was actually filed under section 94 of the IBC. After referring to the said facts, the DRT proceeded to hold that in view of the pending moratorium, the petitioner bank could not proceed with the intended possession of the secured asset till the moratorium was either altered or lifted by the NCLT.

3. We are of the opinion that with passage of time, the basis on which the impugned order was passed by the DRT itself is taken away. This is in the light of introduction of sub-section (4) in Section 96 of the IBC, whereby the moratorium does not apply to insolvency proceedings of personal guarantors to a corporate debtor.

4. The question as to whether the said amendment would apply to

pending proceedings or not has been decided by this Court in a bunch of writ petitions by judgment and order dated 18.09.2026 passed in **Indian Bank vs. Shabbir Abbas Patel and Ors. (Writ Petition No. 2819 of 2026 and connected writ petitions)**. It has been categorically held that the amendment would apply even to pending proceedings.

5. As a consequence, the present writ petition deserves to be allowed, as the very basis of the impugned interim order passed by the DRT is taken away.

6. Consequently, the writ petition is allowed in terms of prayer clause (a).

7. The learned counsel for the parties inform this court that the pending Securitisation Application is ready for hearing and can be disposed of as early as possible.

8. In that light, DRT is directed to expeditiously dispose of pending Securitisation Application No. 107 of 2024. An endeavour shall be made to dispose of the Securitisation Application on or before 15th January, 2027.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)