

IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)
APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

W.P.A. No. 2692 of 2026

M/s. S.S. Trade Link & Anr.

Vs.

Union of India & Ors.

Mr. Sashwat Nayak

Ms. Saheli Biswas

....For the petitioners.

Mr. Dhiraj Kumar Trivedi, Ld. ASGI

Mr. Siddhartha Lahiri

Mr. Rananjay Chatterjee

Ms. Shaista Afreen

....For the U.O.I.

Mr. Billwadal Bhattacharyya, Ld. AAG

Mr. Arghaprava Sen

Mr. Megha Dutta

....For the State.

Ms. Soni Ojha

....For the respondent nos. 4 and 5.

Mr. Shounak Mukhopadhyay

Mr. Sasmbrita B. Chatterjee

Mr. Pranit Biswas

....For the respondent no. 9.

Hearing Concluded On : 12.08.2026

Judgment Delivered On : 19.08.2026

Judgment Uploaded On : 19.08.2026

Krishna Rao, J.:

1. The petitioners have filed the present writ petition praying for quashing of the administrative act/ endorsement dated 12th January, 2026, wherein the pending application of the petitioners under Section 17 of the SARFAESI Act, 2002, has been transferred from the Debts Recovery Tribunal-II, Kolkata (hereinafter referred to as "DRT-II") to the Debts Recovery Tribunal, Siliguri, without any notice and without any opportunity of hearing.
2. The petitioners have initiated a proceeding under Section 17 of the SARFAESI Act, 2002, before the DRT-II, Kolkata on 14th December, 2018, being SA No. 303 of 2018 and the petitioners are proceeding with the matter before the Learned Tribunal.
3. On 16th December, 2025, the Ministry of Finance (Department of Financial Services), New Delhi, had issued a Notification dated 16th

December, 2025, being S.O. 5087 (E) in exercise of powers conferred by Section 3 of the Recovery of Debts and Bankruptcy Act, 1993 (51 of 1993), the Central Government makes the amendments in the Notification of the Government of India, Ministry of Finance, Department of Financial Services being S.O. 831(E) dated 15th March, 2017, by substituting Serial No. 4 in Colum No. 4 of the entries by incorporating the following Districts of the State of West Bengal, namely, Birbhum, Alipurduar and Kalimpong. The case filed by the petitioners before the DRT-II, Kolkata, being S.A. No. 303 of 2018 is connected with the District of Birbhum and thus as per the Notification dated 16th December, 2025, the said case is to be heard by the DRT, Siliguri. After the Notification dated 16th December, 2025, the DRT-II, Kolkata, has *suo motu* transferred the case of the petitioners to DRT, Siliguri by assigning new No. TSA No. 106 of 2026.

4. Mr. Sashwat Nayak, Learned Advocate, representing the petitioners submits that in the Notification dated 16th December, 2025, there is no mentioning that the said notification will have retrospective effect but the DRT-II, Kolkata, has transferred the said case to the DRT, Siliguri which the notification does not authorize for transfer of the case from DRT-II, Kolkata to DRT, Siliguri.
5. Mr. Nayak submits that unless and until in the notification, it is not mentioned that the notification will be effective retrospectively, the pending cases prior to Notification dated 16th December, 2025, cannot be transferred to DRT, Siliguri.

6. Mr. Nayak submits that the transfer was affected without any judicial order or without any notice or without giving any opportunity of hearing to the petitioners. He submits that only by an administrative order, the case cannot be transferred from DRT-II, Kolkata to DRT, Siliguri as the notification does not reflect that the notification will have retrospective effect.
7. Mr. Nayak submits that the petitioner no. 2 is aged about 60 years and is suffering from various ailments and is under continuing medical treatment, and is residing at Bolpur, District- Birbhum. Siliguri is about 460 kms. from Bolpur and required 10 to 12 hours to travel from Bolpur to Siliguri by road or by train though the DRT-II, Kolkata is only 165 kms. which covered within 3 to 4 hours to travel from Bolpur to Kolkata and return.
8. Mr. Nayak submits that the petitioners have filed the application under Section 17 of the SARFAESI ACT, 2002, before the DRT-II, Kolkata in the year 2018 and the notification do not reflect about the retrospective effect and thus, the case filed by the petitioners be remain before the DRT-II, Kolkata. In support of his submission, he has relied upon the judgment in the case of ***Director General of Foreign Trade & Anr. vs. Kanak Exports & Anr.*** reported in ***(2016) 2 SCC 226*** and submits that a delegated or subordinate legislation can only be prospective and not retrospective, unless the Rule-Making Authority has been vested with power under a statute to make rules with retrospective effect.

9. Mr. Nayak further relied upon the judgment in the case of ***Assistant Excise Commissioner, Kottayam & Ors. vs. Esthappan Cherian & Anr.*** reported in **(2021) 10 SCC 210** and submits that the courts will not, therefore, ascribed retrospectivity to new laws affecting rights unless by express words or necessary implication, it appears that such was the intention of the legislature.

10. Mr. Dhiraj Kumar Trivedi, Learned ASGI, appearing for the Union of India submits that by the Notification dated 16th December, 2025, Districts of Kalimpong, Alipurduar and Birbhum were placed under the jurisdiction of DRT, Siliguri. He submits that the abovementioned three districts have been transferred within the jurisdiction of DRT, Siliguri taking into consideration that before the Tribunal at Siluguri only 612 cases are pending, though in DRT-II, Kolkata, altogether 3866 cases are pending.

11. Mr. Trivedi submits that for easy access to DRTs by all litigants and Advocates, the three districts have been transferred from the jurisdiction DRT-II, Kolkata to DRT, Siliguri. He submits that though in the said notification, there is no specifically mentioned that the notification will have retrospective effect but the Debts Recovery Appellate Tribunal, Kolkata, shall exercise its general power of superintendence and control over the Tribunals under his jurisdiction by transferring the cases from one Tribunal to other Tribunal under Section 17A(2) of the RDB Act, 1993.

- 12.** Mr. Trivedi submits that the Chairperson of DRT-II, Kolkata, by exercising the general power of superintendence and control over the Debts Recovery Tribunals, has transferred the case of the petitioners from the DRT-II, Kolkata to DRT, Siliguri.
- 13.** Heard the Learned Counsel for the respective parties, perused the materials on record and the judgments relied by the petitioners. Prior to notification dated 16th December, 2025, the cases relating to the District of Birbhum was under the jurisdiction of DRT-II, Kolkata. By the said notification, the cases relating to the District of Birbhum, is coming under the jurisdiction of DRT, Siliguri. Admittedly, in the notification dated 16th December, 2025, there is no mentioning that the said notification shall have the retrospective effect, meaning thereby the notification dated 16th December, 2025, is having prospective effect.
- 14.** Now, the issue is that if the notification is not having the retrospective effect how the cases pending before the DRT-II, Kolkata with regard to the District of Birbhum be transferred to DRT, Siliguri. Section 17A(2) of the RDB Act, 1993, provides power to the Chairperson of the Appellate Tribunal on the application of any of the parties or on his own motion after notice to the parties and after hearing them transfer any case from one Tribunal for disposal to other Tribunal. After the notification dated 16th December, 2025, the Chairperson of Debts Recovery Appellate Tribunal transferred the cases of Birbhum District from DRT-II, Kolkata to DRT, Siliguri.

- 15.** It is the specific case of the petitioners that the petitioners have received the information of transfer of the case of the petitioners being S.A. No. 303 of 2018 from DRT-II, Kolkata to DRT, Siliguri and assigned new number being TSA No. 106 of 2026 without any notice to the petitioners and without any opportunity of hearing to the petitioners.
- 16.** The petitioners have not challenged the notification dated 16th December, 2025. The only grievance of the petitioners is that the Tribunal cannot transfer the case from DRT-II, Kolkata to DRT, Siliguri as the Notification does not have retrospective effect and the case of the petitioners should remain with DRT-II, Kolkata as the petitioners initiated the case in the year 2018 prior to the notification dated 16th December, 2025.
- 17.** Prior to publication of the Notification dated 16th December, 2025, the Notification dated 15th March, 2017 was in force. The Notifications reads as follows:

“MINISTRY OF FINANCE

(Department of Financial Services)

NOTIFICATION

New Delhi, the 15th March, 2017

S.O. 831 (E). –*In exercise of the powers conferred by section 3 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993), the Central Government hereby notifies the establishment of the Debts Recovery Tribunal at Siliguri with effect from the 16th day of March, 2017 and consequent upon establishment of the Debts Recovery Tribunal at Siliguri and in suppression of the notification of the Government of India, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 84(E), dated the 6th*

February 2002, except as respects things done or omitted to be done before such suppression, the jurisdictions of Debts Recovery Tribunal No.1, Kolkata, Debts Recovery Tribunal No.2, Kolkata, Debts Recovery Tribunal No.3, Kolkata and Debts Recovery Tribunal Siliguri in the State of West Bengal will be as shown in the Table given below:-

TABLE

S. No.	Name of Debts Recovery Tribunal	Location	Area of Jurisdiction
(1)	(2)	(3)	(4)
1.	Debts Recovery Tribunal No.1, Kolkata	9 th Floor, Jevan Sudha, 42C, Jawaharlal Nehru Road, Kolkata - 700071	Kolkata city covering the areas of the following police stations:- Hare Street, Park Street, Shakespear Sarani, Bowbazar, Muchipara, Taltolla, Hastings, North port and Districts of Howrah and Hooghly of West Bengal.
2.	Debts Recovery Tribunal No.2, Kolkata	7 th Floor, Jevan Sudha, 42C, Jawaharlal Nehru Road, Kolkata - 700071	All Districts of West Bengal (except Kolkata City, Districts of Howrah, Hooghly, North and South 24 Parganas, Darjeeling, Jalpaiguri, Coochbehar, Uttar Dinajpur, Dakshin Dinajpur, Malda and Murshidabad) and Union Territory of Andaman and Nicobar Islands
3.	Debts Recovery Tribunal No.3, Kolkata	8 th Floor, Jevan Sudha, 42C, Jawaharlal Nehru Road, Kolkata - 700071	Kolkata city covering the areas of the following police stations:- Shyampukur, Jorabagan, Burtolla, Burrazar, Posta, Jorasanko, Amherst Street and area of any other Police Station which may be created in future in Kolkata

			City and Districts of North and South 24 Parganas of West Bengal.
4.	Debts Recovery Tribunal, Siliguri	Hawkers' Co-operative Secretary Ltd. 1 st Floor, Opp. United Bank of India, North Bengal Regional Office, Hill Cart Road, Pradhan Nagar, Siliguri - 734003	Darjeeling, Jalpaiguri, Coochbehar, Uttar Dinajpur, Dakshin Dinajpur, Malda and Murshidabad districts of West Bengal.

MINISTRY OF FINANCE

(Department of Financial Services)

NOTIFICATION

New Delhi, the 16th December, 2025

S.O. 5807 (E). -In exercise of the powers conferred by section 3 of the Recovery of Debts and Bankruptcy Act, 1993 (51 of 1993), the Central Government hereby makes the following amendments in the notification of the Government of India, Ministry of Finance, Department of Financial Services number S.O.831(E), dated the 15th March, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated 15th March, 2017, namely:-

In the said notification, in the Table:-

- (i) Against serial number 2 in column (4), for the entries, the following entries shall be substituted, namely:-

“All districts of West Bengal (except Kolkata City, districts of Howrah, Hooghly, South 24 Parganas, Darjeeling, Jalpaiguri, Coochbehar, Uttar Dakshin, Dinajpur, Malda, Murshidabad, Birbhum, Alipurduar and Kalimpong) and Union territory of Andaman and Nicobar Islands”;

- (ii) Against serial number 3 in column (4), for the entries, the following entries shall be substituted, namely:-

“Kolkata city covering the areas of the following police stations namely – Shyampukur, Jorabagan, Burtolla,

Burrabazar, Posta, Jorasanko, Amherst Street, and area of any other Police Station which may be created in future in Kolkata City and District of South 24 Parganas of West Bengal”;

- (iii) *Against serial number 4 in column (4), for the entries, the following entries shall be substituted, namely:-*

“Darjeeling, Jalpaiguri, Coochbehar, Uttar Dinajpur, Dakshin Dinajpur, Malda, Murshidabad, Birbhum, Alipurduar and Kalimpong districts of West Bengal.

*[F. No. 09/22/2025-DRT]
SUDHIR SHYAM, Economic Advisor.”*

18. Admittedly, the Notification dated 16th December, 2025, is not having retrospective effect. The petitioners have filed the case in the year 2018 in terms of notification dated 15th March, 2017 and before issuance of the Notification dated 16th December, 2025, the case of the petitioners’ was pending before the DRT-II, Kolkata.

19. Realizing that the Notification dated 16th December, 2025, is not having retrospective effect, the Chairperson, Debts Recovery Appellate Tribunal, Kolkata, has issued an Office Order dated 18th December, 2025, which reads as follows:

“F. No. 11/2/DRAT/Kol/2025/1166

dated 18.12.2025

OFFICE ORDER

In pursuance to the Gazette Notification S.O. No. 5807 (E) dated 16.12.2025 issued by Ministry of Finance, Department of Financial Services, New Delhi and in exercise of the powers under section 17A(2) of RDB Act, 1993, the Hon’ble Chairperson, DRAT, Kolkata having the general power of superintendence and control over the Debt Recovery Tribunals under the jurisdiction of DRAT, Kolkata with respect to transfer of cases from one Tribunal to any other Tribunal for disposal, Debts Recovery Tribunal No. II & III Kolkata and Debts Recovery Tribunal- Siliguri are directed to transfer the cases of their jurisdiction to

concerned Tribunals forthwith as per the Ministry of Finance Gazette Notification dated 16.12.2025.

New cases will be taken up by the concerned Debts Recovery Tribunals as per their jurisdiction vide Ministry of Finance Gazette Notification dated 16th December, 2025.

Compliance reports to be submitted on 01.01.2026.

*Ms. Sangeeta Saha
Registrar,
DRAT, Kolkata*

Copy to:

(i) Registrar, DRT-II & III Kolkata and DRT- Siliguri for information and necessary action.”

20. The Debts Recovery Appellate Tribunal has issued the office order dated 18th December, 2025, under Section 17A(2) of the Recovery of Debts and Bankruptcy Act, 1993. By the said order, the DRAT directed the DRT-II and DRT-III, Kolkata to transfer the cases of their jurisdiction to the concern Tribunals in terms of the Notification dated 16th December, 2025.

21. Section 17A (2) of the Recovery of Debts and Bankruptcy Act, 1993, reads as follows:

“17A. Power of Chairperson of Appellate Tribunal.- (2) *The Chairperson of an Appellate Tribunal having jurisdiction over the Tribunals may, on the application of any of the parties or on his own motion after notice to the parties and after hearing them, transfer any case from one Tribunal for disposal to any other Tribunal.”*

As per Section 17A(2), the Chairperson of the Learned Appellate Tribunal having jurisdiction over the Tribunals to transfer any case

from one Tribunal to another Tribunal for its disposal on an application of the parties or its own motion after notice and hearing of the parties. In the case of the petitioners, there is no order passed by the Learned Appellate Tribunal for transfer of the case of the petitioners from DRT-II Kolkata to DRT, Siliguri. The Learned Appellate Tribunal neither initiated any proceeding in its own motion nor the petitioners have filed any application for transfer of case. By an office order dated 18th December, 2025, the case of the petitioners has been transferred from DRT-II, Kolkata to DRT, Siliguri and after transfer of the case of the petitioners, a new number was also assigned and information was uploaded in the website.

- 22.** Admittedly, there is no proceeding initiated by the Learned Appellate Tribunal and no opportunity of hearing was granted to the petitioners before transfer of the case from DRT-II, Kolkata to DRT, Siliguri.
- 23.** It is admitted fact that the Notification dated 16th December, 2025, is not having any retrospective effect. The case of the petitioners is transferred on the basis of the office order dated 18th December, 2025, without initiating any proceeding by the Appellate Tribunal in its own motion or the petitioners have filed any application for transfer of the case. No opportunity of hearing was provided to the petitioners before transfer of the case of the petitioners.
- 24.** In view of the above, the transfer of the case of the petitioners being S.A. No. 303 of 2018 (*M/s. S.S. Trade Link & Anr. Vs. HDFC Bank Ltd. & Ors.*) from DRT-II, Kolkata to DRT, Siliguri dated 12th January, 2026, is

set aside and quashed. The DRT-II, Kolkata, shall proceed with case of the petitioners in accordance with law.

- 25.** However, if the Learned Appellate Tribunal is intending to transfer the case of the petitioners from DRT-II, Kolkata to DRT, Siliguri, the Learned Appellate Tribunal shall act strictly in terms of Section 17A(2) of the Recovery of Debts and Bankruptcy Act, 1993, by giving an opportunity of hearing to the petitioners.

- 26. WPA No. 2692 of 2026 is allowed.**

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)