SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			WPMS/2362/2026 Sri Kartikey Garg --Petitioner **Versus** State Bank Of India --Respondent **Hon'ble Manoj Kumar Tiwari, J** 1. Mr. Piyush Garg, learned counsel for the petitioner. 2. Mr. Ravi Sehgal, learned counsel for the respondent is connected virtually. 3. Petitioner has challenged the order dated 28.04.2026 passed by Debts Recovery Appellate Tribunal, Allahabad in Dy. No. 1777 of 2024, whereby he was asked to deposit minimum 25 percent of the amount due, as a condition for entertaining his appeal under Section 18 of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (*in short 'SARFAESI Act'*). It is further provided in the said order that if petitioner does not deposit the said amount, before the next date fixed, his appeal shall be treated to have been dismissed. 4. Petitioner contends that he is neither the borrower nor the guarantor in respect of any loan from State Bank of India, therefore, the condition of pre-deposit of minimum 25 percent of the amount of debt would not apply to him. It is contended that first proviso to Section 18(1) of SARFAESI Act makes a distinction between a borrower and a person other than borrower; as regards borrower, second proviso to Section

			18(1) provides that his appeal shall not be entertained unless he deposits with the Appellate Tribunal 50 percent of the amount of debt due from him, which can be reduced from 50 percent to 25 percent by third proviso to Section 18(1), however, for persons other than borrower, there is no mandatory condition regarding pre-deposit of any amount for filing appeal. 5. Learned counsel for the petitioner further submits that by the impugned order, it is provided that in case petitioner fails to deposit minimum 25 percent of the amount due, then his appeal shall be treated to have been dismissed. It is thus contended that since the scheme of Section 18(1) of SARFAESI Act was not considered in its entirety by learned Appellate Tribunal, therefore, the order impugned deserves to be set-aside. 6. This Court finds some substance in the contention raised on behalf of the petitioner. First proviso to Section 18(1) of the SARFAESI Act provides that fee for filing appeal may be different for a borrower and person other than the borrower. Second proviso to Section 18(1) mandates that borrower will be required to deposit 50 percent of the amount of debt due from him, as claimed by Secured Creditors or determined by the Debts Recovery Tribunal, whichever is less. Third proviso to Section 18(1), however, enables the Appellate Tribunal to reduce the amount of pre-deposit, in case of a borrower, from 50 percent to 25 percent. However, it is silent about person other than borrower. There is no provision in Section 18(1), dealing with

the amount which persons other than the borrower are required to deposit as a condition for maintaining the appeal.

7. Learned Appellate Tribunal has relied upon third proviso to Section 18(1) of the SARFAESI Act for holding that the amount cannot be reduced below 25 percent of debt due. Since petitioner contends that he is neither borrower nor guarantor, therefore, whether third proviso would be attracted to the appeal, filed by petitioner, is a debatable issue, although on a plain reading, third proviso does not appear to be attracted in case of other person.

8. Since this aspect has not been dealt with in the impugned order dated 28.04.2026, therefore, the same is set-aside. Accordingly, the writ petition is allowed. The matter is remitted back to learned Debts Recovery Appellate Tribunal to decide the question whether the condition regarding pre-deposit of certain amount of debt due, as contained in third proviso to Section 18(1) would be attracted to a person, who is neither borrower nor guarantor.

(Manoj Kumar Tiwari, J)
25.08.2026

Aswal

NITI RAJ SINGH ASWAL