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HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1889 of 2015

1. Scania Metaalicks Ltd, through Shri Sanjay Gadodia, aged about 50 years, S/o Shri Sawarmaal Gadodia, R/o Q-1, Civil Township, Rourkela, District Sundergarh, Odisha - 796004

---- Petitioner

Versus

1. Reserve Bank Of India Department Of Banking Regulations 13th Floor, Central Office Building, S. Bhagat Singh Marg, Mumbai 400001
2. Punjab National Bank, Through Chief Manager, Anathalay Marg, Raigarh,
3. Assistant General Manager, Punjab National Bank, Anathalay Marg, Raigarh.
4. Committee On Willful Defaulters, Punjab National Bank, Anathalay Marg, Raigarh.

---- Respondent

For Petitioner : Shri Amit Sahni, Advocate.
For Respondent/PNB : Shri Sachin Singh Rajput, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

26/10/2015

1. The petitioner is guarantor for M/s Alok Ispat Pvt. Ltd. who has availed the credit facility of Rs.3.25 crores from the respondent No.2 Punjab National Bank (henceforth 'the Bank'). As M/s Alok Ispat Pvt. Limited failed to repay the loan amount as also the amount of interest, installments and the recalled amount, the respondent Bank has issued

notice to the borrower as well as guarantor on 30.12.2014 for payment of outstanding dues failing which they shall be classified as willful defaulters.

2. Since the petitioner or borrower failed to clear the outstanding dues, the respondent Bank has identified them as willful defaulters by issuing a communication on 19.9.2015 (Annexure-P/2). It is these two communications i.e. Annexure-P/1 & P/2 which are under challenge before this Court on the ground that before identifying them as willful defaulters, the respondent Bank has not issued any notice to the petitioner in terms of RBI Guidelines which has statutory flavour. It is also put-forth that the credit facility was availed before July, 2014, therefore, the guarantor cannot be identified as willful defaulter. It is argued that since show cause notice issued on 30.12.2014 was not issued by the Committee headed by the Executive Director, consisting of 2 other senior officers of the rank of GM/DGM, the entire procedure for identifying the petitioners or for that matter the borrower as willful defaulter is arbitrary and illegal being dehors the RBI Guidelines.

3. Perusal of the papers annexed with the writ petition, particularly communication dated 19.9.2015 would indicate that the said communication itself is a notice informing the petitioner that 'Committee on Willful Defaulters' headed by the Executive Director has identified the default as willful. It also records that if the petitioner is aggrieved by the decision of the 'Committee on Willful Defaulters', it

may make representation to the Grievance Redressal Committee headed by the Chairman and Managing Director of the Bank within 15 days. If no representation is filed, the Bank would publish their names as willful defaulters to the RBI/CIBIL/other credit information Companies.

4. The petitioner instead of preferring representation before the Grievance Redressal Committee has rushed to this Court by preferring this writ petition. Even if the said representation is not statutory in nature, since the Bank has provided opportunity to the petitioner for making representation, in the considered opinion of this Court, the writ petition is not maintainable at this stage. For this, this Court would draw support from the law laid down by the Supreme Court in (2014) 5 SCC 762 {**Devi Ispat Ltd. & another Vs. State Bank of India & Others**}.

5. The writ petition is dismissed as not maintainable. However, liberty is reserved in favour of the petitioner to make a representation before the aforesaid committee within a period of 15 days from today.

Sd/-
Judge
(Prashant Kumar Mishra)

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