IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Writ Petition No.26080 of 2016
Date of Decision: 16.12.2016

M/s Capital Financial Consultancy India Limited through its authorised signatory and Director, Mr. Parveen Bansal.

..Petitioner

versus

Bank of Baroda and another ..Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Vipul Dharmani, Advocate, for the petitioner.

RAMENDRA JAIN, J.

1. In the writ petition, filed under Article 226 of the Constitution of India, challenge has been laid to the order, dated 19.11.2016 (Annexure P-1), passed by the respondent-bank qua marking of lien in the account of the petitioner-company on the ground that one of its Directors, namely, Shri Parveen Bansal, was a partner/guarantor in another account of firm M/s Shree Balaji Industries, which has been declared as NPA and the respondent-bank has to recover more than Rs.3.71 crore plus interest from it.

2. Put pithily, Shri Parveen Bansal, Director of the petitioner-company, deposited an amount of Rs. 59.70 lac in the current account of the petitioner-company, on 17.11.2016 and requested the respondent-bank to transmit Rs.59.70 lac by way of RTGS, to M/s BMW India Financial

Services Private Limited but the respondent-bank kept on putting off the matter on one pretext or the other and ultimately, urged the petitioner-company to submit some documents. However, despite submitting requisite documents and supplying necessary information, the respondent-bank did not accede to the request of the petitioner-company for transmission of Rs.59.70 lac from its account through RTGS, for the reason that Mr. Parveen Bansal, one of the Directors of the petitioner-company, was also one of the partners of M/s Shree Balaji Industries, from whom the respondent-bank had to recover Rs.3.71 crore plus interest and, therefore, a lien was created in the account of the petitioner-company.

3. Learned counsel for the petitioner-company has submitted that there was no nexus or connection in between the petitioner-company and M/s Shree Balaji Industries as both are separate and independent entity. The respondent-bank legally could not put any lien in the current account of the petitioner, simply because one of the Directors of the petitioner-company, namely, Shri Parveen Bansal, was also the partner/guarantor in the firm M/s Shree Balaji Industries, from which the bank had to recover Rs.3.71 crore plus interest. Learned counsel for the petitioner-company has further pointed out that on account of the registration of a case, being FIR No.231 dated 14.10.2014 under Sections 420/467/468 and 471 of the Indian Penal Code by Shri Parveen Bansal, Director of the petitioner-company, against the officials of the respondent bank, the respondent-bank, illegally, arbitrarily and with the intention, to take revenge, did not release the amount in question, in favour of the petitioner-company.

4. After giving our thoughtful consideration to the submissions made by learned counsel for the petitioner-company, we find that the writ

petition is devoid of any merit and deserves to be dismissed.

5. Admittedly, Shri Parveen Bansal, the Director of the petitioner-company, is also a partner/guarantor in the account of M/s Shree Balaji Industries, which, has been declared as NPA. A reference in this regard has been made in letter, dated 18.11.2016 (Annexure P-2), issued by the respondent-Bank to its Advocate, Shri G.S.Ahluwalia. The respondent-bank has to recover more than Rs.3.71 crore plus interest from M/s Shree Balaji Industries, of which Shri Parveen Bansal is the partner/guarantor and thus, has every right to recover its loan amount. Shri Parveen Bansal, Director of the petitioner-company, instead of repaying the loan amount due against M/s Shri Balaji Industries, deposited some amount cleverly, in the account of the petitioner-company, in which he is the key person, to make further transaction without any hurdle. The action of Shri Parveen Bansal, Director of the petitioner-company, cannot, therefore, be justified. The factum of lodging of the aforementioned FIR by Shri Parveen Bansal, Director of the petitioner-company, against the officials of the respondent-bank, has no material bearing while deciding the instant petition on merits. An averment in the writ petition would reveal that a litigation regarding non-payment of the loan amount is already pending against Shri Parveen Bansal, Director of the petitioner-company. It is needless to mention here that it was the bounden duty of Mr. Parveen Bansal, to get his NPA account regular, before depositing the amount of Rs. 59.70 lac, in the current account of the petitioner-company of which, he is the Director and thereafter, to make any further transaction. A judicial notice can be taken of the fact that such type of defaulters have extorted the public money in millions by not depositing the loan amount in the bank and, therefore, they cannot be permitted to take

benefit of intricacies of law or in other words, cannot be permitted to eat hard earned money of the tax payers.

6. In view of the foregoing reasons, we do not find any merit in the instant writ petition and the same is hereby dismissed.

7. Registry is directed to bring this judgment to the notice of respondent nos. 1 and 2, so as to avoid any concealment of this fact by the petitioner or other similarly situated persons, if any, while filing any such petition before this court in future.

(RAMENDRA JAIN)
JUDGE

16.12.2016 (AJAY KUMAR MITTAL)
VK JUDGE

1. Whether speaking/reasoned Yes/No

2. Whether reportable Yes/No