IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP No.18184 of 2017
Date of Decision: 08.12.2017

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M/s Esteem Industries Inc.

. . . . Petitioner

Vs.

Punjab National Bank and others

. . . .Respondents

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CORAM: - HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

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Present: Mr.Anmol Rattan Sidhu, Sr. Advocate, with
Mr.Manhar S. Saini, Advocate, and
Mr.Vineet Sehgal, Advocate,
for the petitioner.

Mr.Vipul Dharmani, Advocate, for respondent No.1.

None for respondent No.3.

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RAKESH KUMAR JAIN, J.

The petitioner has challenged the order dated 31.8.2015 by which it was informed to have been classified as a 'Willful Defaulter'.

At the time of preliminary hearing on 17.8.2017, this Court passed the following order: -

> *"Counsel for the petitioner inter-alia contends that the total outstanding as on 15.2.2017 against the petitioner is ₹93,89,046/- in terms of One Time Settlement between the petitioner and respondent No.1. It is submitted that he is ready and willing to pay ₹25 lakhs immediately and the remaining amount by*

> *way of installments as directed by the Court.*
>
> *In order to adjudge the bonafides of the petitioner, let notice be issued to respondent No.1 only for 21.08.2017."*

Apropos, it is alleged that the petitioner has submitted a cheque of ₹25 lac which has been encashed. The controversy then boiled down to the revised One Time Settlement Scheme [OTS]. The revised OTS was received from the petitioner which was to be put up before the Committee for approval and on 30.11.2017, the counsel appearing on behalf of the Bank made a statement that the fresh OTS has been accepted by the Bank on 29.11.2017 and has decided to remove the name of the petitioner from the defaulters list only after receiving the entire amount due.

Learned counsel for the petitioner, however, did not agree to the payment of the entire amount due and thus, the counsel for the bank has also retraced his steps in acknowledging the fresh One Time Settlement offered by the petitioner. As a result thereof, the issue regarding One Time Settlement did not materialize.

Learned counsel for the petitioner has submitted that he is unable to pay the entire amount due in one go because of the financial sickness of the petitioner but counsel for respondent No.1 has refuted this argument by referring to the averments made by the petitioner in para No.22 of the writ petition which is contrary to the argument raised by learned counsel for the petitioner because it is mentioned therein that *"moreover the petitioner firm is doing well in terms of finances and has sound financial health which may be verified from the Income Tax Return of the year 2014-*

15 and 2015-16". It is thus submitted that if it is the averment of the petitioner in the writ petition itself that it has a sound financial health then there is no reason for the petitioner to deny the payment of the entire amount in terms of the fresh One Time Settlement Scheme which has been approved by the bank, in view of the pendency of this petition, on 29.11.2017.

The argument raised by counsel for the petitioner about the violation of the RBI guidelines has no reference in the writ petition to which there could have been a reply by the bank, therefore, I do not find any reason to interfere in this petition as no case is made out by the petitioner. The present petition is thus, hereby dismissed though without any order as to cost.

(RAKESH KUMAR JAIN)
JUDGE

08.12.2017
Vivek

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*