**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.23322 of 2017 (O&M)
Date of decision : 11.10.2017

M/s. Rupana Paper Mills Pvt. Ltd. and others
.. Petitioners

versus

Punjab National Bank
.. Respondent

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Gurvinder Singh Gill**

Present: Mr. Anand Chhibbar, Senior Advocate with
Mr. Aditya Jain and
Ms. Palak Dev, Advocates, for the petitioners.

Rajesh Bindal, J.

The petitioners have filed the present petition impugning order dated 18.08.2017 passed by the Debts Recovery Appellate Tribunal, Chandigarh (for short, 'Appellate Tribunal') directing the petitioners to deposit 50% of the amount which was found recoverable by the Debts Recovery Tribunal (for short, 'the Tribunal').

Learned counsel for the petitioners submitted that the petitioners' company had raised a loan for which petitioners No.2 to 6 were the guarantors. As there was default, the Bank filed application before the Tribunal. During the pendency thereof, application was filed by the Bank seeking a direction to the private respondents therein, namely, Directors/Guarantors of the petitioners' company to surrender their Passports. Reply was filed to the application. Thereafter, vide order dated 16.12.2016, the Tribunal ignoring the settled position of law restrained the Directors/Guarantors from leaving the country without permission of the

Tribunal and surrender the Passports, which were directed to be impounded. The petitioners preferred appeal against the aforesaid order before the Appellate Tribunal, in which vide impugned order dated 18.08.2017, the petitioners have been directed to deposit 50% of the amount of the decree passed by the Tribunal. It was for the reason that during the pendency of the appeal before the Appellate Tribunal, main OA had been decided by the Tribunal against the petitioners finding a total sum of ₹ 220,27,83,199/- along with interest @ 11% per annum from 22.12.2015 and the cost, to be due to the bank. The Appellate Tribunal directed for deposit of 50% of the amount found recoverable by the Tribunal.

The contention raised by learned counsel for the petitioners is that the petitioners had not impugned before the Appellate Tribunal the order passed by the Tribunal finding any amount recoverable from the petitioners. The appeal was directed only against the order passed in the application directing impounding of Passports of the Directors/Guarantors, hence, there could not be any pre-condition for deposit of any amount. The petitioners are yet to file appeal against the order passed by the Tribunal accepting the application filed by the Bank for recovery of the loan amount. He submitted that period of 30 days has been provided for filing appeal, however, the petitioners are arranging funds for deposit before appeal could be filed. It was further submitted that the factory premises had been taken over by the Bank. Even company has been ordered to be wound up by Delhi High Court and Official Liquidator has been appointed to take over the assets in February, 2017. On a query by the Court, the learned counsel for the petitioners submitted that presently the petitioners are not doing any business, however, they wish to visit foreign countries to explore new business opportunities.

While referring a Division Bench judgment of Delhi High Court in **W.P. (C) No.10765 of 2015** titled as **ICICI Bank Ltd.** v. **Kapil Puri and others**, decided on 08.03.2017, it was submitted that the Tribunal/Appellate Tribunal have no jurisdiction to direct impounding of Passports or restrain any of the Directors/Guarantors to leave country. The order being without jurisdiction deserves to be set aside.

After hearing learned counsel for the petitioners, we do not find any reason to interfere in the present petition.

The undisputed facts on record are that two Banks, namely, Punjab National Bank and Indian Overseas Bank filed OA No.934 of 2017 before the Tribunal. Application was filed as the petitioners had failed to repay the loans taken by them. The application was allowed on 28.06.2017 holding the Banks to be entitled to recover the amount of ₹ 220,27,83,199/- along with interest @ 11% per annum from 22.12.2015 and the cost. In terms of Section 20 (3) of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, appeal against the order passed by the Tribunal can be filed before the Appellate Tribunal within a period of 30 days. However, if there is any delay, which is satisfactorily explained, the same can be condoned. As a pre-condition the appellant before the Appellate Tribunal is required to deposit 50% of the amount found to be recoverable from him/her, however, the same can be reduced to 25% by the Appellate Tribunal for the reasons to be recorded. Though order was passed by the Tribunal on 28.06.2017 and the period of 30 days expired on 27.07.2017, and more than two months have passed thereafter, the petitioners have not yet preferred any appeal before the Appellate Tribunal.

Further, it was stated by learned counsel for the petitioners at the time of hearing that the assets of the petitioners' company have been taken over the Bank, the company has been ordered to be wound up by the Delhi High Court and Official Liquidator was appointed in February, 2017. It was further stated that the Directors/Guarantors are not doing any business at present but still wish to visit foreign countries for exploring new business opportunities.

Here is a case in which more than ₹ 220 crores are recoverable from the petitioners and the amount as on date is undisputed, as the petitioners have not even preferred appeal against the order passed by the Tribunal, though more than three months have expired after passing of the order and limitation for filing appeal being 30 days. Assets of the company has already been taken over, as the company had been directed to be wound up. It has been observed by the Tribunal in the order dated 16.12.2016 that the securities furnished by the petitioners are not sufficient to secure the debts of Banks and to avoid the coercive steps, the petitioners may be trying to leave the country.

Considering the aforesaid factual matrix, without going into the nicety of technical arguments raised by counsel for the petitioners regarding jurisdiction of the Tribunal, we do not find any reason to interfere in the order in our extra-ordinary jurisdiction. In our view the petitioners should not be permitted to leave the country without permission of the Tribunal as the same will scuttle the process of recovery of huge amount of money of the financial institutions. In addition, there may be amounts due to the workmen, State exchequer and other unsecured business creditors as well, which may be determined by the Official Liquidator as the company has been ordered to be wound up. As far as impounding of passports is concerned, the same is not required. The authorities concerned to take appropriate steps to ensure compliance of the order.

The petition stands dismissed.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

11.10.2017
sharmila

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No