

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-17582-2017

Date of Decision: February 08, 2018

Prabhu Dayal Memorial Religious & Educational Trust

.....Petitioner

Versus

Kotak Mahindra Bank Limited

.....Respondent

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SHEKHER DHAWAN

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|----|---|---------|
| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.V.K.Sachdeva, Advocate for the petitioner.

Mr.Anand Chhibbar, Sr.Advocate with
Mr.Jaswinder Singh Mann, Advocate
for the respondent.

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SURYA KANT, J.

The question which arises for consideration in the instant writ petition is whether or not the petitioner-Institute falls within the definition of 'Micro, Small and Medium Enterprises' under the Micro, Small and Medium Enterprises Development Act, 2006 read with RBI guidelines dated 17.03.2016, updated on 24.07.2016? Since the respondent-Bank has taken a categoric stand that the petitioner does not fall within the above-stated category as no such claim was raised at the time of availing loan facilities. It is obvious that the question as to whether or not the petitioner falls in the above-stated category and is consequently entitled to restructuring of its loan account in terms of RBI guidelines, are question of facts which can

effectively be determined by the Debts Recovery Tribunal (for brevity,'the DRT') on the basis of the documents/evidence that may be led by both the parties.

[2] Consequently, the instant writ petition is disposed of by relegating the petitioner to avail the above-stated remedy with a direction to the DRT to specifically determine the above-stated questions in accordance with law.

[3] Parties are directed to maintain status quo for a period of three weeks to enable the petitioner to approach the DRT and thereafter the DRT shall decide the *ad interim* stay matter in accordance with law.

(SURYA KANT)
JUDGE

February 08, 2018
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(SHEKHER DHAWAN)
JUDGE

1.	Whether speaking/reasoned ?	Yes/No
2.	Whether reportable ?	Yes/No