IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.20560 of 2018
Decided on : 17.12.2018

Jasbir Kaur ...... Petitioner

Versus

State Bank of India and anr. ...... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Alok Jain, Advocate
for the petitioner.

Mr. Saurabh Bhardwaj, Advocate
for the respondents.

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Manjari Nehru Kaul, J.

The instant petition has been filed under Article 226 of the Constitution of India for issuance of a writ for setting aside the action of classifying the account of the petitioner as Non Performing Asset (NPA) in terms of letter dated 01.02.2018 (Annexure P-5) by the respondent Bank.

2. The petitioner-firm, who is engaged in the business of manufacturing of agriculture equipments, availed Cash Credit Limit of ₹ 1,75,00,000/- from the respondent-bank in the year 2015 for a period of 8 years @ 11.45% per annum but subsequently bank reduced its cash credit limit to ₹ 1,35,00,000/-. For the sanction of the said loan, all types of stock i.e. raw and finished/semi-finished including all types of book debts and furniture and picture were hypothecated.

3. According to the petitioner, he was regularly paying the installments but due to demonitization and financial crunch, it could not pay the installments in time and its account was classified as Non Performing

Asset (in short 'NPA') on 01.02.2018. Thereafter, the bank issued a notice dated 07.05.2018 under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcment of Security Interest Act, 2002 (hereinafter referred as 'Act') and asked the petitioner to make payment of ₹ 1,43,04,649.85 as on 24.04.2018. The possession notice dated 19.07.2018 under Section 13(4) of the Act was issued to the petitioner. Hence, the present writ petition.

4. Learned counsel for the petitioner submitted that the petitioner is ready and willing to clear the outstanding dues or to regularize its account within a reasonable period in a time bound manner.

5. Learned counsel for the respondent-bank has submitted that in the eventuality of a reasonable proposal made by the petitioner, the respondent-Bank shall consider the same.

6. After hearing learned counsel for the parties, perusing the petition and without expressing any opinion on the merits of the case, the present writ petition is disposed of with the following directions:

1. The petitioner shall approach the respondent-bank within one month from today by filing a detailed and comprehensive representation for clearing the outstanding dues or to regularize the loan account.
2. The petitioner shall deposit a draft amounting to ₹ 3 lakhs along with the representation.
3. Respondent-bank shall consider the representation submitted by the petitioner sympathetically in accordance with law, after affording an opportunity of hearing to the petitioner and pass a speaking order.

4. The decision on the representation shall be taken at the earliest by the respondent-bank but not later than one month from the receipt of such representation.
5. It is clarified that in case the petitioner fails either to submit its representation within the specified time or fails to deposit a draft of ₹ 3 lakhs, the respondent-bank would be at liberty to proceed in accordance with law.

7. No coercive step shall be taken by the respondent-bank till a decision is taken by it on the representation submitted by the petitioner. However, it is clarified that the interim protection shall not be construed as an expression of opinion on the merits of the case by this Court.

(MANJARI NEHRU KAUL)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

17.12.2018
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No