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

**CWP No.22963 of 2017
Decided on : 14.08.2018**

M/s Samarth Woolen Mills, Ludhiana

Petitioner

Versus

Allahabad Bank, Industrial Finance Branch (IFB), Cheema Chowk, Ludhiana and another

Respondents

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**CORAM : HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present : Mr. Aalok Jagga, Advocate
for the petitioner.

Mr. K.P.S. Dhillon, Advocate
for respondents.

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AVNEESH JHINGAN, J.

The petitioner is a partnership firm and the writ petition has been filed through one of its partner. The grievance raised in the writ petition is that the respondent No.1-Bank i.e. Allahabad Bank, Cheema Chowk, Ludhiana has not referred the proposals dated 22.05.2017 (Annexure P-8) for re-structuring of loan account to the Committee constituted in terms of Clause 3.3 of the "Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises (MSMEs) (hereinafter referred to as 'the designated Committee').

2. Allahabad Bank, Cheema Chowk, Ludhiana and Chairman

of the designated Committee have been arrayed as respondent Nos.1 and 2, respectively.

3. The petitioner set up a partnership firm for the purpose of manufacturing and trading of yarn, knitted cloth and hosiery goods. The petitioner falls in the category of Micro, Small and Medium Enterprises (for brevity 'MSMEs'). The petitioner availed the various credit facilities from respondent No.1 :~

Cash credit (including ILC/FLC)	8,00,00,000/-
Bank Guarantee	30,00,000/-
Term Loan-I	2,15,00,000/-
Term Loan-II	7,46,00,000/-
Term Loan-III	40,00,000/-

The said credit facilities were secured by mortgaging the factory, machinery, fixed assets and other current assets.

4. During the end of year 2006, the petitioner unit faced financial difficulties and cash credit limit was marginally over-drawn. There were early signs of incipient stress in the unit. Vide letter dated 14.03.2017 the petitioner requested the bank for re-structuring of the credit facilities.

5. Reserve Bank of India, on 17.03.2016, issued Framework for Revival and Rehabilitation of MSMEs having loan limit upto ₹25 crores. Thereafter, petitioner gave a number of reminders to the respondent-bank for placing the matter before the Designated Committee. Communications dated 31.05.2017 and 08.06.2017 were directly written to the Chairman of Designated Committee for consideration of re-structuring of credit facilities of the petitioner.

6. The matter was not put up before the Designated

Committee rather respondent-bank wrote letter dated 13.07.2017 stating that the petitioner firm has maintained current account with Union Bank of India and has diverted bank funds. Petitioner was informed that there were over-dues of ₹2.7 crores against the sanctioned limit of ₹18.31 crores and if the over-dues were not deposited, the account may go into the Non-Performing Asset (N.P.A.) category.

7. Notice of motion was issued. Reply was filed by respondent no.1 annexing R-1 dated 13.10.2017 vide which Bank rejected the request of petitioner for re-structuring the accounts.

8. Learned counsel for the petitioner contended that the request has been rejected by the bank without affording an opportunity of hearing. Further grievance is that the request for re-structuring/ rehabilitiation should have been put up before the Designated Committee and bank cannot reject the same.

9. Learned counsel for the bank resisted the contentions made by learned counsel for the petitioner. He relied upon Annexure R-1 stating that petitioner was requested six times vide various letters that there are violation of terms & conditions of RBI guidelines on the part of the firm and corrective measures be taken by firm on immediate basis. But the petitioner neither submitted any reply nor informed the bank regarding the necessary actions taken by it.

10. At this stage, it would be pertinent to reproduce certain clauses of Framework for Revival and Rehabilitation of MSMEs :

> "***2.1 Identification by banks or creditors*** – *Before a loan account of a Micro, Small and Medium Enterprise turns*

into a Non-Performing Asset (NPA), banks or creditors should identify incipient stress in the account by creating three sub-categories under the Special Mention Account (SMA) category as given in the Table below:

SMA Sub-Categories	***Basis for classification***
SMA-0	*Principal or interest payment not overdue for more than 30 days but account showing signs of incipient stress (Please see Annex-I)*
SMA-1	*Principal or interest payemnt overdue between 31-60 days.*
SMA-2	*Principal or interest payment overdue between 61-90 days*

On the basis of the above early warning signals, the branch maintaining the account should consider forwarding the stressed accounts with aggregate loan limits about Rs. 10 lakh to the Committee as referred in para 3.3 ***within five working days*** *for a suitable corrective action plan (CAP). Forwarding the account to the Committee for CAP will be mandatory in cases of accounts reported as SMA-2.*

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2.3 Identification by the Borrower Enterprise – *Any MSME borrower may voluntarily initiate proceedings under this Framework, if the enterprise reasonably apprehends failure of its business or its inability or likely inability to pay debts or there is erosion in the net worth due to accumulated losses to the extent of 50% of its net worth during the previous accounting year, by making an application to the branch or directly to the Committee as referred in para 3.3, wherever applicable. When such a request is received by the lender, the account with* *aggregate loan limits above Rs.10 lakh should be referred to the Committee. The Committee should convene its meeting at the earliest* ***but not later than five working days*** *from the receipt of the application, to examine the account for a suitable CAP. The accounts with aggregate loan limit upto Rs.10 lakh may be dealt with by the branch manager/ designated official for a suitable CAP.*

3. Committees for Stressed Micro, Small and Medium Enterprises:

In order to enable faster resolution of stress in an MSME account, every bank shall form Committees for Stressed Micro, Small and Medium Enterprises as per the following arrangements:

3.1 All banks have exposure towards MSME sector shall constitute a Committee at each District where they are present or a Division level or Regional Office level, depending upon the number of MSME units financed in the region. These Committees will be Standing Committees and will resolve the reported stress of MSME accounts of the branches falling under their jurisdiction.

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3.3 The Composition of the Committee shall be as under:-

(a) The regional or zonal head of the convener bank, shall be the Chairperson of the Committee;

(b) Officer-in-charge of the Micro, Small and Medium Enterprises Credit Department of the convener bank at the regional or zonal office level, shall be the member and convener of the Committee;

(c) One independent external expert with expertise in Micro, Small and Medium Enterprises related matters to be nominated by the bank.

(d) One representative from the concerned State Government. Endeavour should be made to bring representative from the respective State Government in the Committee. In case State Government does not nominate any member, then the convening bank should proceed to include an independent expert in the Committee, namely a retired executive of another bank of the rank of AGM and above.

(e) When handling accounts under consortium or MBA, senior representatives of all banks/lenders having exposure to the borrower.

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3.5 All eligible stressed MSMEs shall have access to the Committee for resolving the stress in these accounts in accordance with regulations prescribed in this Framework."

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11. After hearing learned counsel(s) for the parties and on perusal of paper book, there is no dispute on the fact that the petitioner being MSME Unit, applied for re-structuring of account. The bank, instead of putting the matter before the Designated Committee, itself rejected the application. The application was rejected without providing any opportunity of hearing to the petitioner.

12. Without expressing any opinion on the merits of the case, the present petition is disposed of with liberty to the petitioner to complete the requisite documents as required by the bank, in its earlier six letters referred to in Annexure R-1. Needful be done till 31.08.2018. Even in case of failure of petitioner to supply the requisite

documents, the bank shall place the matter before the Designated Committee and take the final decision till 31.10.2018. The Committee shall decide the matter in accordance with law after affording an opportunity of hearing to the petitioner.

13. Ordered accordingly.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

14.08.2018
pankaj baweja

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