

\$~24

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

W.P. (C) 1428/2018, CM APPL.5898-5899/2018

M/S UTTAM STRIPS LIMITED

..... Petitioner

Through: Mr. Arvind Kr. Gupta with Ms. Purti
Marwaha Gupta and Ms. Shruti Munjal, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Vinod Diwakar, CGSC with Mr. Sanjay
Pal, Advocate for R-1.

Mr. H.S. Parihar with Mr. K.S. Parihar, Advocates for
RBI.

Mr. S.K. Sharma, Advocate for R-3/OBC.

Mr. Satish Aggarwala, Advocate.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

15.02.2018

%

CM APPL.5899/2018 (for exemption)

1. Allowed, subject to all just exceptions.

W.P. (C) 1428/2018, CM APPL.5898/2018 (for interim directions)

2. Issue notice. Mr. Vinod Diwakar, accepts notice on behalf of respondent no. 1, Mr. H.S. Parihar accepts notice on behalf of RBI and Mr. S.K. Sharma accepts notice on behalf of Oriental Bank of Commerce/ respondent no. 3.

3. This is a writ petition wherein the following prayers are sought: -

(A) *Issue a Writ of Mandamus for directions to the*

respondent no.3 being the Lead Bank of the Joint Lenders' Form to adhere to the guidelines issued by Respondent No.1&2;

(B) Issue a writ of Mandamus for directions to Respondent no.2 to direct the Joint Lenders' Form to adhere to the Master Restructuring Agreement and disburse the Additional Working Capital sanctioned on different dates by the Individual Members of the Joint Lenders' Forum;

(C) Issue a Writ of Mandamus for directions to Respondent No.1&2 to formulate a Policy in view of the violation and non-compliance of the Master Restructuring Agreement and to take corrective action against the respondent no.3 being the lead bank of the Joint Lenders' Forum to compensate for the recurring loss being caused in view of the violation of decisions of the Joint Lenders' Forum;”

4. The petitioner has approached this Court after NCLT, admittedly, has issued a notice on the application made by the financial creditor/respondent no.3 under the Insolvency and Bankruptcy Code, 2016. I am told that the next date of hearing in NCLT is 19.2.2018.

5. The main contention of the petitioner is that a Master Restructuring Agreement (for short “MRA”) was executed between itself and a consortium of banks; the lead Bank being respondent no.3 i.e., Oriental Bank of Commerce.

5.1 The petitioner’s grievance is that even though the MRA was in operation, respondent no.3 has moved the NCLT. Furthermore, it is stated that working capital facilities which were agreed to be extended to the petitioner were not extended in accordance with MRA.

5.2 In other words, in sum and substance, the petitioner says that there has been a breach of the terms of the MRA. A perusal of the

application moved by respondent no.3 before the NCLT shows that as of 30.11.2017, the total outstanding amount qua the petitioner which includes principal and recorded interest is a sum of Rs.366,40,91,122.28.

6. It is the contention of respondent no.3 that there have been defaults even after the MRA was executed between the petitioner and respondent no.3 along with other members of the consortium.

7. According to me, this writ petition is pre-mature as only a notice has been issued at this stage by the NCLT. The application has not been admitted as yet. Therefore, the petitioner would be free to urge all submissions before the NCLT prior to admission of the application moved by respondent no.3. Furthermore, the reliefs which have been sought by the petitioner in prayer (B) and (C) *prima facie* to my mind cannot in any event be granted by way of mandamus in the writ proceedings. Insofar as prayer clause (A) is concerned above it appears even after execution of the MRA, there have been defaults. But as indicated above, the writ petition in any event is pre-mature.

8. Writ Petition is accordingly dismissed along with pending application.

FEBRUARY 15, 2018
/vikas/

RAJIV SHAKDHER, J