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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 9693/2018& CM No. 37795/2018

M/S STARLIT POWER SYSTEMS LTD. ..... Petitioner

Through: Mr Sanjiv Kakra, Mr Ashim Shridhar, Ms Mahima Gupta and Mr Shahi Pratap Singh, Advocates.

versus

PUNJAB NATIONAL BANK ..... Respondent

Through: Mr Ajay Bahl, Advocate.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

O R D E R

% 11.10.2018

1. The petitioner has filed the present petition, *inter alia*, impugning a communication dated 06.09.2018, whereby the petitioner was informed that the bank accounts maintained with the respondent bank would be rendered inoperative.

2. The respondent bank has stopped the operation of the petitioner's bank account on the ground that the petitioner has failed to comply with the conditions regarding change of management.

3. The controversy in this petition arises in the context of the following facts.

3.1 The petitioner had availed of certain credit facilities from the respondent bank in the year 2010. Admittedly, the petitioner defaulted in repayment of the said facilities and its account was declared as a Non Performing Asset (NPA).

3.2 Thereafter, in the year 2016, proceedings were initiated by the respondent bank under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) as well as under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993. The said proceedings are still pending before the concerned Tribunal.

3.3 During the course of the present proceedings, the petitioner once again approached the respondent bank to settle its dues. It is stated that after a number of meetings and protracted negotiations, the parties arrived at a settlement, whereby the respondent bank accepted the restructuring proposal and refinanced the limits. In terms of the said settlement, a sum of ₹3,01,00,000/- was to be paid upfront by the petitioner; which the petitioner did on 31.03.2018. The terms of the settlement expressly provide that there would be change in the management of the petitioner

3.4 Although, the petitioner states that it took steps to effect the change of management; the same is disputed by the respondent bank. Since, the change of management had not been effected, the respondent bank issued the impugned letter freezing the operation of the petitioner's bank account.

3.5 Aggrieved by the same, the petitioner has filed the present petition.

4. Mr Kakra, learned counsel appearing for the petitioner contends that the petitioner made sincere efforts for change of management. However, the same could not be effected immediately as the process is inherently time consuming. He further, states that as per the Circular issued by the respondent bank, a period of twelve months is available to effect the change of management. Thus, the insistence on the part of the respondnet bank that

management of the petitioner company be changed instantaneously is impossible to comply.

5. Mr Bahl, the learned counsel appearing for the respondent disputes the aforesaid contention. He submits that the petitioner had sufficient time to change its management but the petitioner took no steps to do so for a period of five months despite several communications sent by the respondent bank. Therefore, the respondent had no option but to freeze the petitioner's bank account.

6. The counter affidavit filed by the respondent bank indicates that the petitioner had informed the respondent by a letter dated 12.07.2018 that it was going to change its management by 30.09.2018 and accordingly, the respondent bank had processed the scheme of refinancing. It is stated that the petitioner had also informed the respondent bank that a board meeting was proposed to be held on 11.09.2018 and the Annual General Meeting of the petitioner was called on 25.09.2018. This Court is informed that the said meetings have been held and the necessary corporate approvals for change of management have been obtained. Mr Kakra, also states, on instructions, that the change of management will be effected within a period of eight weeks from today.

7. It is apparent from the above that the controversy involved is limited only to the delay in effecting the change of management. It is also apparent from the counter affidavit filed on behalf of the respondent bank that the respondent bank was agreeable to the same being implemented by 30.09.2018. In the given facts, this Court is of the view that the undertaking of the petitioner to change its management within the next eight weeks ought to be accepted.

8. In view of the above, the respondent bank is directed to permit the operation of the bank accounts in question subject to the petitioner submitting an undertaking to this Court that the management would be changed within a period eight weeks from today.

9. It is clarified that, this would not preclude the respondent bank for takingany other action that the respondent bank may otherwise be entitled to. The above order is passed only on two premises; first, that the respondent has no objection for continuing with the re-financing subject to change of the petitioner's management and second that the petitioner is committed to comply with the said conditions within a period of eight weeks from today.

10. The said undertaking would be filed in this Court within a period of one week from today. It is clarified that if the same is not done or the change of management is not effected within the specified time, the petitioner would no longer enjoy the protection of this order and the respondent would be at liberty to take such steps as advised.

11. The petition is disposed of with the aforesaid observations.

12. The pending application is also disposed of.

13. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

OCTOBER 11, 2018
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