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

\+ W.P.(C) 9777/2018 & CM No. 38094/2018

M/S KANNU ADITYA INDIA LTD. ..... Petitioner

Through: Ms Anjali Jha Manish, Mr Priyadarshi Manish, Ms Shweta and Mr Prem Kandpal, Advocates.

versus

UNION OF INDIA AND ORS. ..... Respondents

Through: Mr Ashim Sood, CGSC with Mr Aditya Kumar, Advocates for R-1.
Mr Aditya Singh, Sr. Standing Counsel for DRI.
Mr Ankur Mittal, Advocate for SBI.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

O R D E R

% **24.09.2018**

1. The petitioner has filed the present petition, *inter alia,* praying as under:-

> "(a) Issue a writ, order or direction in the nature of declaration that the act of the Respondent no.3 to freeze 13 bank accounts (5 bank accounts of erstwhile State Bank of Travancore, Commercial Branch, 3 bank account of erstwhile State Bank of Bikaner and Jaipur and erstwhile State Bank of Mysore, Naya Bazar Branch) all of which have merged with State Bank of India as per accounts mentioned in Annexure P-6, as well as the consequential action or otherwise to declare them as N.P.A. and S.M.A-2 are illegal; and /or
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> (b) Issue a writ order or direction in the nature mandamus

to the Respondents to de-freeze 13 bank accounts (5 bank accounts of erstwhile State Bank of Travancore, Commercial Branch, 3 bank account of erstwhile State Bank of Bikaner and Jaipur and erstwhile State Bank of Mysore, Naya Bazar Branch) all of which have merged with State Bank of India as per accounts mentioned in Annexure P-6; and/or

(c) Issue a writ order or direction in nature of mandamus to the Respondent no.3 to treat all the 13 bank accounts (5 bank accounts of erstwhile State Bank of Travancore, Commercial Branch, 3 bank account of erstwhile State Bank of Bikaner and Jaipur and erstwhile State Bank of Mysore, Naya Bazar Branch) all of which have merged with State bank of India as per accounts mentioned in Annexure P-6 as standard; and/or

(d) Issue a writ order or direction in nature of mandamus to the Respondent no.3 to treat all the 13 bank accounts (5 bank accounts of erstwhile State Bank of Travancore, Commercial Branch, 3 bank account of erstwhile State Bank of Bikaner and Jaipur and erstwhile State Bank of Mysore, Naya Bazar Branch) all of which have merged with State bank of India as per accounts mentioned in Annexure P-6 as it existed on 26.12.2016;"

2. It is the case of the petitioner that it had thirteen bank accounts with various banks – State Bank of Travancore, State Bank of Bikaner and Jaipur and State Bank of Mysore. These accounts stated transferred to the State Bank of India. It is the petitioner's case that the said accounts had been illegally frozen on a communication issued by the Directorate of Revenue Intelligence (DRI). And, since the said accounts were frozen the petitioner was prevented from operating the accounts and depositing any amount in the

said accounts. It is stated that due to non operation of the accounts, the same became irregular and were subsequently categorised as NPAs (Non Performing Assets). The respondent bank has also initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) for recovery of its dues. The thrust of the present petition is to seek a direction that since the act of freezing the bank account was illegal the consequential effect of the accounts being declared as a NPA and the recovery proceedings initiated by the respondent bank, are illegal.

3. The present petition was taken up for hearing on 17.09.2018 and this Court had held that since the action under SARFAESI Act has already commenced, no directions could be issued for the accounts to be made operational. SARFAESI Act is a self contained code and no interference with the said proceedings under the said enactment is warranted.

4. The only issue that remains to be examined is whether the petitioner was prevented from making any deposits into the bank accounts that are stated to have been frozen by the concerned banks. It was earnestly contended on behalf of the petitioner that since the above accounts were frozen the petitioner was also disabled from depositing any amount to ensure that the accounts remain regular.

5. In this regard, learned counsel appearing for the respondent bank (State Bank of India), had stated that only five accounts were frozen and eight out of the thirteen accounts remained operational; they were never frozen. He further stated that the petitioner was also not precluded from depositing funds into those accounts. An affidavit has now been filed on behalf of State Bank of India, wherein it is affirmed that pursuant to a

communication received from the DRI, certain accounts were frozen but eight bank accounts of the petitioner maintained with the erstwhile State Bank of Bikaner and Jaipur and State Bank of Travancore were in fact, never frozen. It is further stated that out of the five accounts maintained by the petitioner with the State Bank of Mysore only two accounts (being cash credit account 64052962336 and PCFC account no.64098307114) were frozen in terms of the letter 23.12.2016 sent by the DRI. However, these accounts were subsequently de-freezed on 27.02.2017. It is further stated that the petitioner had also maintained three other accounts with the State Bank of Mysore, which were not frozen at all.

6. There is a controversy, whether the DRI had, in fact, directed freezing of the accounts of the petitioner. DRI had sent a letter for freezing the accounts of Shri Lal Mahal Limited and related accounts. The petitioner's accounts were frozen as the same were considered as related to Shri Lal Mahal Limited. This was so because the promoters of the two companies were common/related. The learned counsel appearing for the DRI states that the DRI had never sought freezing of the accounts of the petitioner. The said controversy need not detain this Court for the reason that it is apparent from the above that only two bank accounts of the petitioner remained frozen and that too for a limited period from 23.12.2016 to 27.02.2017.

7. Undoubtedly, there would be disruption in the petitioner's business to some extent. However, there is no material on record to show that the petitioner was disabled from making any deposits in the accounts to ensure that its bank accounts continued to remain regular. It is also noted that considerable time has elapsed since the accounts were de-frozen on 27.02.2017. They were de-frozen and it was open for the petitioner to

arrange its affairs to ensure that dues of the banks are repaid or at the very least the account is made regular.

8. Ms Manish, the learned counsel appearing for the petitioner states that the fact that accounts had been de-frozen was never communicated to the petitioner and, therefore, the petitioner had no method of knowing whether the accounts were operational. This Court is not inclined to entertain this controversy as well. It is not necessary to examine the question whether the concerned banks had communicated their decision to de-freeze the accounts as it is clear from the facts of this case that the petitioner was not precluded in any manner from making deposits into the bank accounts even if the same were otherwise frozen. There is no material to indicate that the petitioner had made any attempt to deposit funds in any of its accounts and such attempt was rebuffed. Concededly, there is no communication on record, from the petitioner tendering any amount to the concerned bank nor any communication from the bank refusing to accept any such money in any of the accounts.

9. In view of the above, this Court finds no merit in this petition. The same is, accordingly, dismissed. All applications are also disposed of.

VIBHU BAKHRU, J

SEPTEMBER 24, 2018
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