

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 12-11-2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI

AND

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.29146 OF 2019

M/s.Premier Distilleries (P) Ltd.
rep by its Managing Director,
M.Sekar Kumareswamy
No.377,First Floor,
Anna Salai,
Pondicherry-605 001.

...

Petitioner

-vs-

1.The Registrar,
Debt Recovery Tribunal-I,
Spencer Tower,
770-A, 6th Floor,
Anna Salai,
Chennai-600 002.

2.The Authorised Officer/Deputy General Manager,
State Bank of India,
Stressed Assets Management Branch,
Red Cross Building,
No.32, Montieth Road,
Egmore,
Chennai-600 008.

3.Indian Bank,
rep.by its Branch Manager,
100 Feet Road Branch,
No.66/4A - East Coast Road,
Pakkammudaiyanpet,
Puducherry.

...

Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the second respondent Bank, dated 24.09.2019, in SAMB/CLO-11/942, quash the same and to further direct the second respondent Bank to extend the benefit of the OTS Scheme "SBI OTS 2019" of the second

respondent Bank to the petitioner company.

For Petitioner : Mr.SR.Mounaswamynathan

For Respondent 2 : Mr.M.L.Ganesh

For Respondent 3 : Mrs.S.R.Sumathy

ORDER

(By Dr.Vineet Kothari,J.)

The Petitioner-Borrower M/s.Premier Distilleries (P) Ltd., Pondicherry, has approached this Court, aggrieved by the summary rejection of the One Time Settlement (OTS) Proposal by the State Bank of India through the second respondent-Deputy General Manager, as communicated to the petitioner vide order, dated 24.09.2019. The Two Line Order of the second respondent reads as under :

"We refer to your letter dated 20.09.2019, seeking sanction of compromise settlement through One Time Settlement (OTS) under "SBI OTS 2019" and it is informed that your account is not eligible under the said scheme."

2. The O.A.No.314 of 2017, filed by the Bank, is said to have been decided by the learned Debt Recovery Tribunal and, according to the learned counsel for the petitioner-borrower, it was an ex parte order, against which, an application for setting aside has been filed before the learned Tribunal, which is pending consideration.

3. This Court is not presently concerned with the proceedings pending before the learned Tribunal.

4. Having perused the impugned rejection of the OTS Proposal by the second respondent-Bank vide the communication, dated 24.09.2019, quoted above, we are constrained to observe that the second respondent-State Bank of India, through its Deputy General Manager, has summarily rejected the proposal of the petitioner-borrower, without assigning proper reasons as to how the Scheme - SBI OTS 2019 - AUCA- does not apply to the petitioner. Such rejection of OTS Proposal could be made after giving an opportunity to the petitioner-borrower and allowing him to explain his stand thereon and then by assigning cogent and proper reasons for such rejection.

5. The alleged reason assigned by the learned counsel for the second respondent-Bank, during the course of argument before us, that the petitioner's loan account was categorised as D1 Defaulter, whereas, the Scheme was applicable for D2 and

D3 Categories only, is also not supported by any document placed on record.

6. It is not known when the petitioner's account was declared as D1 Defaulter. In this regard, the learned counsel for the petitioner-borrower has submitted that the assets of the petitioner company were declared as NPAs shortly even after the sanction of the loan itself, which is disputed by the learned counsel for the second respondent-Bank.

7. We need not go into all these rival contentions, because, all these contentions can be raised before the learned DRT itself. However, we are not satisfied with the manner in which the OTS Proposal was summarily rejected by the second respondent - State Bank of India, that too without giving an opportunity of hearing to the petitioner-borrower.

8. Therefore, we allow this Writ Petition and set aside the impugned order dated 24.09.2019 and direct the second respondent-State Bank of India to reconsider the OTS Proposal of the petitioner properly and in accordance with law, after giving due and reasonable opportunity of hearing to the petitioner.

9. The petitioner is directed to appear before the authority concerned in the first instance on 02nd December, 2019, and we grant a period of six weeks to the second respondent-State Bank of India thereafter to pass appropriate fresh but well reasoned order in the matter, after giving an opportunity of hearing to the petitioner.

10. No costs. Consequently, the connected W.M.P.Nos.28934 and 28939 of 2019 are closed.

Sd/-
Assistant Registrar(Insp.cell)

//True copy//

Sub Assistant Registrar

dixit

To

1.The Registrar,
Debt Recovery Tribunal-I,
Spencer Tower,
770-A, 6th Floor,
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Chennai-600 002.

2.The Authorised Officer/Deputy General Manager,
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Stressed Assets Management Branch,
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Chennai-600 008.

3.The Branch Manager,
Indian Bank,
100 Feet Road Branch,
No.66/4A - East Coast Road,
Pakkammudaiyanpet,
Puducherry.

+1cc to Mr.M.L.Ganesh, Advocate SR.No.94221

+1cc to Mrs.S.R.Sumathy, Advocate SR.No.93855

+1cc to Mr.B.Raviraja, Advocate SR.No.93632

W.P.No.29146 OF 2019

VP(CO)
GMY(21/11/2019)