GAHC010181442020

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/5470/2020

NATIONAL MINING COMAPNY LIMITED
A COMPANY REGISTERED UNDER THE COMPANIES ACT, 1956 HAVING ITS REGISTERED OFFICE AND PRINCIPAL PLACE OF BUSINESS AT 6TH FLOOR, ANIL PLAZA, GS ROAD GUWAHATI 781005, ASSAM AND IS REPRESENTED BY ITS DIRECTOR,

VERSUS

THE UNION OF INDIA AND 3 ORS
REPRESENTED BY THE MINISTRY OF CORPORATE AFFAIRS, NEW DELHI 110001

2:PUNJAB NATIONAL BANK
A BODY CORPORATE AND CONSTITUTED UNDER THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKING) ACT 1970 AND HAVING THE REGISTERED OFFICE AT 7
BHIKAJ CAMA PLACE
NEW DELHI AND HAVING AMONGST OTHER
ONE OF ITS BRANCH OFFICE AT TINSUKIA
NAMELY TINSUKIA BRANCH
TINSUKIA
786125
ASSAM
AND REPRESENTED BY ITS BRANCH MANAGER

3:THE BRANCH MANAGER

PUNJAB NATIONAL BANK
TINSUKIA BRANCH
MAKUM ROAD
TINSUKIA

786125
ASSAM

4:THE AUTHORISED OFFICER
CIRCLE OFFICE
PUNJAB NATIONAL BANK
FIRST FLOOR
NILIGIRI MANSION
GS ROAD
BHANGAGARH
GUWAHATI 5
KAMRUP M ASSA

Advocate for the Petitioner : Mukesh Sharma

Advocate for the Respondent : ASSTT.S.G.I.

BEFORE

HON'BLE THE CHIEF JUSTICE (ACTING) MR. N. KOTISWAR SINGH
HON'BLE MR. JUSTICE MANISH CHOUDHURY

ORDER

21-12-2020

[N. Kotiswar Singh, CJ(Acting)]

Heard Mr. K.N. Choudhury, learned Senior Counsel assisted by Mr. M. Sharma, learned counsel for the petitioner. Also heard Mr. A. Ganguly, learned Standing Counsel, Punjab National Bank.

2. The matter pertains to settlement of a Non Performing Asset (NPA) Loan account of the petitioner. Without adverting to the detail facts of the case it will suffice to mention that the petitioner along with 3 (three) others had submitted a onetime settlement proposal to the Bank in respect of the aforesaid NPA loan on 29.02.2020 stating that they have already deposited Rs.2.00 Crores in the current account maintained with Mahabir Market Branch of the Bank and proposed to make a down payment of Rs.5.00 Crores immediately after sanction of the OTS amount by the Bank and the balance amount of Rs.47.00 Crores would be paid in 6 (six) quarters as mentioned in the said proposal. It appears that the Bank authorities declined the said proposal, however, opened a window of opportunity to the

petitioner for settlement by suggesting that the petitioner Company increases the upfront amount as well as reduces the period of repayment from 16 to 12 months as communicated to the petitioner by the Bank authorities on 24.06.2020.

3. Pursuant to the said opportunity given to the petitioner, the petitioner submitted a revised OTS on 17.11.2020 by which the petitioner agreed to increase the down payment to Rs.5.10 Cores immediately on sanction of the OTS or by the end of December, 2020 and also pledged to repay the balance amount of Rs.46.90 crores in 4 quarters as mentioned in the revised proposal submitted to the Bank on 17.11.2020. While the petitioner was awaiting a favourable response from the Bank, the petitioner was surprised to find that the revised proposal was rejected by the Bank vide communication dated 02.12.2020 stating that the application does not contain specific term of repayment of the Bank dues and that, it is only a superficial representation without any specific source of repayment as the representation, *inter alia,* mentions efforts of including investors without any specific modalities of agreement and its execution. Other reasons have also been assigned in rejecting the OTS proposal.

4. This Court does not propose to examine the said views of the Bank. But, it appears that since the petitioner had shown *bonafide* by making an initial deposit of Rs. 2 Crores and also submitted a revised repayment schedule as per suggestion of the Bank, perhaps another opportunity may be granted to the petitioner Company to convince the Bank authorities by explaining its financial position and also do such necessary actions to allay the apprehension of the Bank that the petitioner may not ultimately default in making the repayment. Learned Standing Counsel, PNB submits that if the petitioner submits a reasonable revised and convincing OTS settlement proposal before the Bank authority, certainly the Bank can look into it. We are also of the view that possibility of settlement can be explored.

5 In view of above, the present petition is closed with a direction to the petitioner Company to submit a fresh OTS before the PNB authorities within a period of 2 (two) weeks' from the date of receipt of a certified copy of this order and thereafter, the Bank authority will consider the same and the Bank shall respond to the said fresh proposal and communicate its decision to the petitioner within a period of 2 (two) weeks' thereafter.

6. It is, however, made clear that till such response is made by the Bank authorities, any

coercive action may not be taken against the petitioner Company in terms of the Possession Notice dated 05.11.2020 issued by the Punjab National Bank, Dibrugarh Circle.

JUDGE CHIEF JUSTICE (ACTING)

Comparing Assistant