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

\+ W.P.(C) 12978/2019

M/S SHREE NATHJI AGRO PRODUCTS PRIVATE LIMITED ..... Petitioner

Through: Mr. Sidharth Chopra, Adv.

versus

PUNJAB NATIONAL BANK ..... Respondent

Through: Ms. Nishi Chaudhary, Adv. Mr. Vivek Shrivastav, Chief Manager and Mr. Mr. Yasharth Gupta, PNB.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER

<u>O R D E R</u>

% **17.02.2020**

1. This writ petition came up for hearing on 9.12.2019. While issuing notice, the broad contours of the case were etched out by me. On that date, the respondent bank (hereafter referred to as "PNB)" was represented by the counsel along with Mr. Vivek Shrivastav, Chief Manager, PNB.

1.1 Despite opportunity, no counter affidavit has been filed.

2. Ms. Nishi Chaudhary, who appears for PNB says that PNB has not been able to lift the subject commodity (i.e. rice paddy) on account of the orders passed by the concerned courts, *vis.-a-vis.*, in third party action. It is her submission that the orders injunct one and all for accessing the land where the warehouse is located in which the subject commodity (i.e. rice paddy) is stored.

3. Unfortunately, as noted hereinabove, neither a counter affidavit has been filed nor any order of the concerned court is placed before me. Only a verbal submission is advanced of which I can take no cognizance.

4. As correctly pointed out by the counsel for the petitioner, it is the view of the officers of PNB as articulated in the document dated 19.8.2019 that the entire amount which was deposited by the petitioner towards its bid needs to be refunded. The relevant extract of the aforementioned documents is set forth hereafter:

> *"TO,* *Dated: 19.08.2019*
> *The Dy. Circle Head*
> *Circle Office, North Delhi*
> *Rajendra Place, New Delhi*
>
> <u>*Reg: Auction done by us for M/s AG Enterprises – Npa A/c at ours*</u>
>
> *As per above mentioned subject, M/s AG Enterprises has turned NPA on 31.05.2019 and pledged stock was auctioned many times and finally the stock was-auctioned on 06.07.2019 to M/s Shree Nath Agro Products Pvt Ltd, Naya Bazar- New Delhi.*
>
> *The details of auction made was as under:*

Dated	*Amt. Received*
06.07.2019	*67,67,338.00*
08.07.2019	*1,01,51,006.00*
11.07.2019	*5,07,55,031.00*
	6,76,73,375.00

> *Party approached the godown on 13.07.2019 to uplift the stock but due to one reason or other, the borrower and collateral manager didn't cooperate and they were unable to lift the same.*
> *We lodged the FIR and did several meetings with officers at administration level but till date the issue is unresolved and party is pressing hard for refund of amount paid for stock.*

Keeping in view the time period elapsed after the deposition of whole amount as per our auction and uncertain conditions uplifting of stock, we request to kindly guide us in the matter and permit us to refund the amount deposited by the party M/s Shree Nath Agro Products Pvt. Ltd. New Delhi as per their request.
Sd/-
Chief Manager
BO: Rohini Sec-7"

(emphasis is mine)

5. The record shows that on 5.11.2019, the petitioner had written to the PNB that, for the moment, 90% of the bid amount deposited by it could be released and that the balance 10% of the bid amount could be retained by PNB.

6. Ms. Chaudhary says that the petitioner itself offered that 10% of the bid amount could be retained and therefore, the instant writ petition has been filed without any cause.

7. To my mind, such submission cannot be countenanced for the reason that the petitioner perhaps had no choice but to agree to an interim-solution that enabled at that juncture return 90% of the bid amount with a hope that the balance 10% would be returned within reasonable time.

8. Since then, more than three months have passed and thus, even if I were to assume that the petitioner voluntarily accepted that the balance 10% of the bid amount could be retained, the situation has changed by sheer passage of time.

9. The subject commodity is undoubtedly perishable in nature, it is not known as to whether the same will be of any use to the petitioner as the auction was held on 28.6.2019. In all probability, it would have perished to a large extent.

10. Thus, for the foregoing reasons, I am inclined to direct the PNB to refund the balance 10% of the bid amount i.e. Rs.67,67,338.00 to the petitioner along with accrued interest, for the period commencing from 9.12.2019 and ending on the date of payment. The accrued interest, on Rs.67,67,338.00, will be paid to the petitioner in terms of the order dated 9.12.2019.

12. In addition to the same, interest will also be paid on the bid amount i.e. Rs.6,76,73,315/- at the rate applicable qua fixed deposit which was prevalent on 11.7.2019. This interest will run from 11.7.2019 till the date 90% of the bid amount was released.

13. The captioned writ petition is disposed of in the aforementioned terms.

14. *Dasti*.

RAJIV SHAKDHER, J

FEBRUARY 17, 2020/pmc