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

Date of decision: 16th December, 2020

\+ **W.P.(C) 5728/2020, CM APPLs. 20690-91/2020 & 23066/2020**

GUNN AGRI FOODS PVT LTD ..... Petitioner

Through: Ms. Pratiti Rungta & Mr. Sumit Pargal, Advocates. (M:9711120071)

versus

PUNJAB NATIONAL BANK ..... Respondent

Through: Mr. Mahesh K. Chaudhary, Advocate.

CORAM:
JUSTICE PRATHIBA M. SINGH

<u>Prathiba M. Singh, J.</u> (Oral)

1. This hearing has been done by video conferencing.

2. The present petition was filed by the Petitioner, against Punjab National Bank *(hereinafter, "Bank")*, seeking reliefs in respect of the impugned letter dated 25th August, 2020, by which the credit facility extended to them was recalled as well as for considering revalidation of security receipts. A further application was also filed by the Petitioner being CM APPL. 23066/2020, as the Petitioner's account was being treated as a Non-Performing Asset ('NPA') by the Bank, despite interim protection given by this Court on the first date.

3. On the last date, it was submitted by the ld. counsel for the Respondent that the Petitioner's account is no longer being treated as a NPA but has in fact been converted into a standard account. In that background, vide order dated 22nd October, 2020, the parties were directed to hold a meeting on 28th October, 2020, as there was a possibility of settlement. It is submitted by ld. counsels that the meeting took place, in terms of the last

order. The minutes of the meeting have also been placed on record. A perusal of the minutes shows that the following terms have been agreed to by the parties:

> *"1. As per Star Labs test report 16.10.2020 out of 51 SRs pledges to the Bank. Rajma stock under 20 SR more than 5% damages. The company asked for second test for 20 SRs from NABL accredited laboratory at their own cost.*
>
> *2. The company offered to pay up-to-date interest for any particular SR to be released. The Company agreed to release SR with more than 5% damages reported by Star Labs along with other 31 SRs alternatively.*
>
> *3. The Company sought for waiver of penal interest for which the Bank will take up with Head office. Till such approval is received, the company will pay penal interest for SR to be released. In case of non-approval, the company will be liable to pay penal interest.*
>
> *4. The Company has assured to try their best to close the account in full by March 2021.*
>
> *5. It also decided to hold further meting as and when required to resolve the issue as per mutual convenience.*
>
> *6. Both the parties agreed to submit the signed copy of the minutes to Hon'ble High Court, Delhi on next Court hearing. The Company's request for FITL will be taken up with H.O. on their application though last date was 30.09.2020 as per GOI."*

4. Ms. Pratiti Rungta, ld. counsel for the Petitioner submits that in terms of the above minutes, the Bank has to consider waiver of penal interest and also the request for considering the Petitioner's account as a FITL i.e., Funded Interest Term Loan account. She submits that insofar as the waiver

is concerned, the question of waiver of interest during the pandemic is pending before the Supreme Court and the Bank ought to follow the orders which may be passed, as the Petitioner is entitled to waiver during the pandemic as per the RBI guidelines.

5. Insofar as the application for conversion to FITL account is concerned, she submits that the last date for the same is 30th September, 2020**.** However, a proposal has been submitted by the Petitioner on 7th October, 2020 and the Bank has agreed to consider the same. She submits, therefore, that if the account is converted to FITL, the Company would be paying the entire amount and closing the account as agreed in the minutes by March, 2021.

6. Ms. Rungta further submits that in terms of the proposal in the minutes at item no.1 above, the Petitioner would be getting the rajma stock inspected and examined by representatives of NABL at their own cost.

7. Mr. Mahesh K. Chaudhary, ld. counsel appearing for the Bank submits that the matter has been sorted out, as is recorded in the minutes and no further reliefs ought to be passed in the writ petition as the Bank is also considering the Petitioner's request as per the applicable regulations, RBI circulars and the Bank's policies.

8. The main relief which has been prayed for in this petition was that the credit facility ought not to be recalled and the Petitioner's account should not be treated as NPA. To that extent, the Bank had already reversed the so-called communication which was sent by it treating the Petitioner's account as NPA. The Petitioner is also being permitted to make payments to clear the outstanding amounts. It is made clear that the Petitioner's account shall no longer be treated as NPA.

9. Insofar as the consideration of the Petitioner's account as a FITL account is concerned, the RBI circular dated 23rd May, 2020 has given considerable freedom and discretion to banks. Accordingly, since the Petitioner appears to be a genuine company which is also intending to clear the outstanding amounts, the Bank would consider the same and allow the Petitioner to make payments and close the account by 31st March, 2021, in accordance with its policies. Insofar as penal interest is concerned, the Bank would be bound to implement any applicable circulars of the RBI as also any applicable orders which may be passed by the Supreme Court in respect of waiver of interest, for the period of the pandemic. It is further directed that the Bank shall also cooperate in the inspection by the NABL, at the Petitioner's cost, if requested by the Petitioner.

10. With these observations the present petition, along with all pending applications, is disposed of. If the Petitioner has any grievance, it is permitted to approach this Court at a later stage.

PRATHIBA M. SINGH
JUDGE

DECEMBER 16, 2020
dj/A