IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8586 of 2020

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M/s Family Mega Mart a proprietorship concern through Smt. Tara Devi, Proprietor, W/o Late Jagdish Prasad, aged about 60 years, female, R/o Pul Par, Nawada, Gaya Road, Nawada, Bihar.

... ... Petitioner/s

Versus

1. The Ministry of Micro, Small and Medium Enterprises a branch of Government of India, through its Apex Executive Body, Udyog Bhawan, Rafi Marg, New Delhi.
2. General Manager, Punjab National Bank, MSME, Head Office, Wing 'B', 4th Floor, Sector 10, Dwarka, Delhi.
3. Chief Manager, Punjab National Bank, Circle Office, Biharsharif, Nalanda.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Arbind Kumar Jha
For the Respondent/s	:	Mr.Kumar Priya Ranjan
	:	Mr.Pallav

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

9 26-03-2021 The petitioner has put to challenge an order dated 28.08.2020 passed by the Chief Manager, Circle Office, Credit Division, Bihar Sharif of Punjab National Bank (hereinafter referred to as 'the Bank') whereby the petitioner's application for grant of facility under Guaranteed Emergency Credit Line (GECL) scheme has been rejected on the ground that one of the facilities made available to him was found to be categorized as Special Mention Account-2 (SMA-2).

This is not in dispute that the petitioner is availing two facilities from the Bank viz. cash credit vide CC Account No. 7707008700000110 having limit of Rs. 1.50 crore and Over Draft against mortgage of immovable property [OD (IP)] having limit of 45 lakhs under Retail Financing Scheme.

The Government of India came out with a facility in the name of Guaranteed Emergency Credit Line (hereinafter referred to as 'GECL') to help Micro, Small and Medium Enterprises (MSMEs) to augment their net worth capital to meet operations and restart their businesses during COVID-19 crisis. The said scheme clearly stipulates, *inter alia,* that only such borrowers shall be eligible to avail the facility of GECL whose accounts have not been classified as SMA-2 or NPA by any of the Banks/Financial Institutions as on 29.02.2020. It transpires that in terms of RBI circular no. DBS.CO.OSMOS/B.C./4/ 33.04.006/2002-2003 dated 12.09.2002, the Banks have been required to identify incipient stress in the accounts by creating a sub-asset category viz. Special Mention Account (SMA). The SMAs of the borrowers are further required to be classified in three sub-classes namely (i) SMA-0 (ii) SMA-1 and (iii) SMA-2. Such accounts, against which principal or interest payment is overdue between 61 to 90 days are to be sub-classified as SMA-2.

During the course of hearing of the present case, certain dispute had arisen in respect of the petitioner's OD (IP) facility of 45 lakhs as to whether the payment over due was less than 60 days or above 60 days, for the purpose of availing facility of GECL scheme. The Bank has filed supplementary counter affidavit explaining the said calculation to demonstrate how the petitioner's overdue was found beyond 60 days as on 29.02.2020, paragraph 10 and 11 of which read thus:-

> *"10. That in the counter affidavit it was rightly stated that after the due dated of Dec. 31 installments were not paid for the period 01.01.2020 to 31.01.2020 and i.e. 31 days and from 01.02.2020 to 29.02.2020 i.e. 29 days totaling 60 days i.e. on 29.02.2020 the term loan account of borrower us SMA-1 and hence was entitled to the benefit granted by the GECL scheme.*
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> *11. That in order the justify the claim that on 29.02.2020 it was 62 days bank in their supplementary counter affidavit has taken due dated on 28.12.2019 which is contrary to sanction letter dt. 18.11.2017 which has fixed due date of installment on last date of month."*

I do not find any infirmity or irregularity in calculation of the number of days for which the petitioner's payment of his OD (IP) had remained overdue for more than 60 days and classification of the said account as SMA-2.

In such view of the matter, I do not find any illegality in the impugned action of the Bank denying the petitioner the facility under GECL scheme.

I do not find any merit in this application. This application is accordingly rejected.

(Chakradhari Sharan Singh, J)

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