IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

**WRIT PETITION NO.2583 OF 2021**

M/s Tirupati Ginning Factory, Thr. Its Proprietor Anand Ramrao Chavan, Sivaji Nagar, Banosa, Daryapur, Dist. Amravati and ar.
-vs-
The Branch Manager, State Bank of India (Krushi Vanijya Shakha) Shyam Chowk, Amravati and Anr.

| Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders. | Court's or Judge's Orders. |
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Shri S. V. Sohoni, Advocate for petitioners.
Shri S. N. Kumar, Advocate for respondents/Bank.

**CORAM : A. S. CHANDURKAR AND G. A. SANAP, JJ.**
**DATE : July 29, 2021**

By this writ petition the petitioners seek issuance of writ of mandamus to the respondents to consider the petitioners' request of extending time for making payment of the balance amount under SBI OTS 2020 Scheme by six months.

The petitioner No.1 is a ginning factory and petitioner No.2 is its proprietor. The petitioner No.1 availed financial aid from the respondent No.1-Bank by way of term loan and Cash Credit Facility. This facility was extended from time to time under the term loan that was granted in the year 2015. Insofar as the Cash Credit Limit is concerned, the amount outstanding was Rs.1,59,21,219.36 paise. The Bank floated SBI OTS 2020 Scheme for NPA's and AUCA's. The petitioner No.1 applied under the said Scheme and while accepting the application of petitioner No.1, the Bank informed it that under the OTS Scheme the amount payable was Rs.1,19,40,914.52 paise. Since the petitioner No.1 had paid the amount of Rs.50,00,000/- by 09/07/2021, the balance amount payable by it was Rs.69,40,914.52 paise by 16/07/2021. On 15/07/2021 the petitioner No.1 moved an application with the Bank seeking extension of the period to pay the balance amount under the Scheme by six months.

On 16/07/2021 the Bank informed the petitioner No.1 that as the scheme was non-discretionary and non-discriminatory, the balance amount was liable to be paid by 31/07/2021. In this backdrop the petitioners have approached this Court with a prayer to issue a writ in the nature of mandamus and direct the Bank to extend the time to make the balance payment under the Scheme by six months.

2. Shri S. V. Sohoni, learned counsel for the petitioners submits that considering the difficulties faced by the petitioner No.1 on account of the pandamic situation prevailing, it was not in a position to pay the balance amount under the OTS Scheme. The difficulties experienced by the petitioner No.1 were stated

in the communication dated 15/07/2021 and a genuine request was made by the petitioners to extend that time by six months. It was submitted that since the petitioner No.1 was to receive amounts from other sources but the same was withheld, it was not in a position to pay the balance amount under the OTS Scheme. Considering the fact that the petitioner No.1 had a long standing account with the Bank the request as made in the letter dated 15/07/2021 ought to have been accepted. In support of the contention that the time to pay the balance amount under the Scheme ought to be extended, the learned counsel placed reliance on the following decisions :

*(i) Anu Bhalla and anr. vs. District Magistrate, Pathankot and anr. (2021) AIR (Punjab) 1.*

*(ii) M/s Behlf Roller Flour Mills and Ors. vs. Punjab and Sind Bank and Anr. in CM-1375-2021 in RA-CW-22-2021 in CWP-20250-2019*

*(iii) State Bank of India vs. Vijay Kumar (2007) 11 SCC 369*

*(iv) P. Viyakumari and anr. vs. Indian Bank (2018) 14 SCC 735*

*(v) Sri Yadadri Lifesciences P. Ltd. vs. State Bank of India 2020 SCC Online TS 1815*

*(vi) Maharashtra Chess Association vs. Union of India and ors. (2020) 13 SCC 285*

He therefore submitted that the time for making balance payment be accordingly extended.

3. Shri S. N. Kumar learned counsel for the respondents-Bank on the other hand opposed the aforesaid submissions. He submitted that considering the nature of the SBI OTS 2020 Scheme it was clear that the same was non-discretionary and non-discriminatory. The Scheme was to operate till 31/07/2021 and hence the borrower had been directed to repay the outstanding amount by that date. He further submitted that the Bank had already filed an Original Application under Section 19 of the Recovery of Debts and Bankruptcy Act, 1993 for recovery of the dues from the petitioner No.1 and the petitioners ought to have approached the Debts Recovery Tribunal for seeking any relief in that regard. The learned counsel placed reliance on the decision in ***United Bank of India vs Satyawati Tondon and Ors. AIR 2010 SC 3413*** to submit that the Bank could not be directed to accept the balance payment disregarding the Scheme and hence no relief was liable to be granted to the petitioners.

4. We have heard the learned counsel for the parties and we have perused the documents placed on record. At the outset it would be necessary to consider the nature of the SBI OTS 2020 Scheme under which the petitioner No.1 had sought to take benefit. The Scheme is made applicable to NPA and AUCA

accounts. The manner in which on acceptance of a proposal made the agreed OTS amount had to be paid has been stipulated. Clause 4(vi) states that the validity period of sanction would be eight months after which the OTS sanction would be rendered infructuous and treated as failed. The nature of the Scheme is stated to be non-discretionary and non-discriminatory. There does not appear to be any provision under the Scheme to extend the period after eight months for paying the OTS amount as agreed between the parties. It is not in dispute that the application made by the petitioner No.1 seeking benefit under this Scheme was accepted by the Bank in view of its sanction dated 23/11/2020. The balance amount was required to be paid by the petitioner No.1 within eight months from the date of sanction which period was to expire on 22/07/2021. By communication dated 16/07/2021 the petitioner No.1 was informed that the last date of the SBI OTS 2020 Scheme was 31/07/2021 and the balance amount was to be paid by that date. It thus becomes clear that the Bank had under the Scheme permitted the petitioner No.1 to clear the balance amount by 31/07/2021 which was eight months after the grant of sanction.

5. It was submitted on behalf of the petitioners by relying upon the decision in ***Anu Bhalla and Anr.*** and ***M/s Behl Roller Four Mills and Ors***. (supra) that the Punjab and Haryana High Court had extended time to permit payment of balance OTS amounts. Perusal of the decision in ***Anu Bhalla and Anr.*** (supra) indicates that the proceedings arose from the SBI OTS 2019 Scheme wherein the Bank itself from time to time had extended the last date of deposit of the settlement amount. After referring to these extensions the Court proceeded to observe that the Bank itself having exercised discretion to extend the period under the Scheme, there was no reason to hold that the Court in exercise of its exclusive jurisdiction under Article 226 of the Constitution of India could not extend such time to make the payment. Similar is the position in ***M/s Behl Roller Flour Mills*** (supra) in view of Clause 16B of the settlement policy therein. The aforesaid decisions are distinguishable in view of the fact that under the prevailing Scheme the Bank itself had extended the period of operation of said Scheme and such benefit was available to all the stakeholders. The facts in the case of ***Sri Yadadri Lifesciences Pvt. Ltd.*** (supra) also relate to the Scheme of 2019. The other decisions relied do not pertain to any OTS Scheme.

6. In the present case there is no such extension clause in the Scheme and on the contrary it is stated that the Scheme was non-discretionary and non-discriminatory. In absence of any clause under the Scheme permitting extension of time already agreed between the borrower and the Bank, we do not find that there would be any legal basis for the Court to exercise of jurisdiction under Article 226 of the Constitution of India to direct the Bank to extend the time as prayed for. It is well settled that a writ of mandamus can be issued to compel a party to do what it is legally bound to do. There has to be a right shown followed by a legal duty to perform as observed in ***Municipal Corporation of Greater Mumbai and ors. vs. Rafiqunnisa (2019) 5 SCC 119***. If under the SBI OTS 2020 Scheme itself there is no provision of extension of time to make the balance payment, we would not be in a position to issue a writ and direct the Bank to disregard its own Scheme and accept the balance amount. In that view of the matter we do not find that the petitioners would be entitled for the reliefs sought in the present writ petition. The writ petition therefore stands dismissed leaving the parties to bear their own costs.

**JUDGE** **JUDGE**

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