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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.No.11342 of 2020

L.Charles .. Petitioner

Vs.

1. Central Bank of India,
   48/49, 3rd Floor,
   Red Cross Road,
   Egmore, Chennai – 600 008.

2. Reserve Bank of India,
   Fort Glacis,
   No.16, Rajaji Salai,
   Chennai – 600 001. .. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the first respondent Bank to refund the excessive interest charged to the petitioner's bank accounts to the tune of Rs.3,36,296/- and consequentially direct the first respondent to remove the name of the petitioner from the second respondent's defaulter list and from the list of any other credit rating agencies.

For the Petitioner : Ms.Lulu Mariam
for M/s.S.V.Pravin Rathinam

For the Respondents : Mr.M.L.Ganesh
for the first respondent

: No Appearance
for the second respondent

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The grievance in this petition is that the first respondent

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bank had apparently overcharged on account of interest that led to the accounts being found to be non-performing assets and a much larger sum was claimed to be due from the petitioner than what was actually due and owning.

2. A counter-affidavit has been used by the first respondent Central Bank. At paragraph 21 of such affidavit, the bank has admitted that its system had erroneously charged the rate of interest in respect of four accounts subsequent to the transfer of the loan accounts from the Triplicane Branch to the Egmore Branch "due to some error in the input data". The bank further claims that the mistake has been rectified and "a sum of Rs.52.32 Lakhs refunded to the petitioner's accounts on 11.05.2020".

3. However, it is the bank's assertion that in respect of the two other accounts pertaining to Carlos Hospitality Private Limited, there was no overcharging on any account whatsoever and the petitioner or the borrowers remain indebted to the extent of Rs.54,19,732/- and Rs.2,13,911/-, respectively.

4. In view of the admission in the bank's affidavit and the clarification that the mistake has already been rectified, there is no doubt that the amounts previously shown to be outstanding in the relevant four accounts will come down substantially. At the same time, merely because the bank made a mistake, it will not entitle the petitioner to take advantage thereof or discharge the petitioner of his obligation to repay the amounts actually due in respect of the six accounts.

5. The other part of the matter pertains to the petitioner being threatened to be named as a wilful defaulter. The petitioner says that the petitioner has enjoyed an interim order since or about August 21, 2020. It is evident that by an order of August 21, 2020 an interim stay was granted.

6. Notwithstanding the fact that the bank has admitted overcharging on account of interest in respect of the four accounts that stood transferred from its Triplicane Branch to the Egmore Branch, the exact amounts due from the petitioner and the other borrowers to the bank cannot be conveniently assessed in the present proceedings under Article 226 of the Constitution. The remedies of the parties have to be worked out elsewhere, as evidence is generally not received in this jurisdiction and, in any event, a banker-constituent dispute as to what may be the exact amount due from the constituent to the banker ought not be taken up for consideration in this extraordinary jurisdiction.

7. At the same time, it is evident that the petitioner has

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enjoyed an interim order for a period of more than a year and, in course of the proceedings, the first respondent bank has admitted having once overcharged the petitioner or the borrowers in respect of four accounts.

8. Accordingly, despite the disposal of this petition by this order and the stay granted on August 21, 2020 being removed, the bank will not be entitled to immediately place the petitioner in the wilful defaulter's list without first following the procedure in accordance with the Master Circular of the Reserve Bank of India now in force and calling for an explanation from the petitioner in such regard.

9. W.P.No.11342 of 2020 is disposed of by leaving the petitioner and the first respondent bank free to work out their remedies as to what may be due and owing from the petitioner or the borrowers to the bank in an appropriate forum in accordance with law. As to the petitioner's name being included as a wilful defaulter or the petitioner's photograph being published in any newspaper in such regard, the first respondent bank is directed to follow the Master Circular of the Reserve Bank of India which is in vogue at the moment and issue a notice to the petitioner in accordance with such Master Circular and take further steps strictly in accordance with such circular.

There will be no order as to costs. W.M.P.Nos.13831, 13835 and 13837 of 2020 are closed.

-s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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To:

1. Central Bank of India,
   48/49, 3rd Floor,
   Red Cross Road,
   Egmore, Chennai – 600 008.

2. Reserve Bank of India,
   Fort Glacis,
   No.16, Rajaji Salai,
   Chennai – 600 001.

W.P.No.11342 of 2020

RLD(CO)
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