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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No. 19552 of 2021 (O&M)
Date of Decision: 28.09.2021

M/s. Kirtiman Cements & Packaging Industries Limited, Yamuna Nagar and others

.... Petitioners

Versus

State Bank of India, Sector-8-C, Chandigarh

.... Respondent

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH

Present: Mr. Aalok Jagga, Advocate and
Mr. Ajay Bhagwati, Advocate
for the petitioners.

Mr. Rakesh Gupta, Advocate
for the respondent – State Bank of India.

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JASWANT SINGH, J.

Petitioner No. 1 - Company is a borrower and is stated to be a Small Scale Unit **(Annexure P-1)**. The remaining petitioners are the guarantors. Petitioner No. 1 had availed Cash Credit (CC) Limit of ₹ 25.30 Crore alongwith Letter of Credit and two Term Loans. The loan account was declared Non Performing Asset (NPA) on 27.09.2019, consequent upon which notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short **"the Act, 2002"**) was issued on 31.12.2019 **(Annexure P-5)**. The petitioner requested for rehabilitation / restructuring of the unit on the basis of Reserve Bank of India circular dated 17.03.2016 titled as "Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises" **(Annexure P-8)** vide its proposal / objection dated 28.02.2020 **(Annexure P-6)** and request letter dated 18.04.2020 **(Annexure P-12)** which was declined vide letter dated 18.07.2020 **(Annexure P-13)** primarily on the ground that the petitioner is not eligible, as the provisions of the Framework applies to Micro, Small and Medium Enterprises (MSME) having exposure up to ₹ 25 Crores, whereas the exposure of the petitioner is more than ₹ 25 Crore.

Learned counsel for the petitioners submits that even though the petitioner may not be eligible under the aforesaid Framework dated 17.03.2016 **(P-8)**, but would be eligible for consideration of its case for rehabilitation in terms of "Master Circular – Prudential Norms on Income Recognition, Asset Classification and Provisioning Pertaining to Advances" dated 01.07.2015 **(Annexure P-9)**.

Learned counsel for the respondent – Bank states that the petitioner was also held to be ineligible on the ground that the petitioner did not route the funds from the loan account. Learned counsel for the petitioners rebuts by contending that since the loan account itself was declared NPA, the petitioner could not route the funds from the cash credit limit. He submits that the proposal could still be considered under the aforesaid guidelines dated 01.07.2015 **(P-9)**.

Having heard the learned counsel for the parties, we find that it is undisputed that the respondent – Bank has not considered the proposals of the petitioner under the Reserve Bank of India guidelines dated 01.07.2015 **(P-9)**. If the petitioner was not eligible under the framework dated 17.03.2016 **(P-8)**, we find that the respondent could have considered the proposal under the alternative RBI guidelines dated 01.07.2015 **(P-9)**.

In this view of the matter, the present petition is **disposed off** by granting liberty to the petitioner to submit fresh proposal to the respondent – Bank under the RBI guidelines dated 01.07.2015 **(P-9)** within two (02) weeks from today. In case such proposal is submitted, the respondent – Bank would consider the same on merits and take an appropriate decision after granting an opportunity to the petitioner to appear before the competent authority to demonstrate the sustainability of its proposal. Till such time, the parties shall maintain *status quo*.

(JASWANT SINGH)
JUDGE

September 28, 2021
'dk kamra'

(SANT PARKASH)
JUDGE

Whether Speaking/reasoned	*Yes/No*
Whether Reportable	*Yes/No*