IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.601 of 2022

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M/s B.K. Polytech Private Limited, registered office C/o B.K. Card Board Industries, Danapur- Khagaul Road, Danapur Cantonment, Police Station - Danapur, District - Patna, represented by Director, Rohit Gupta (male) aged 41 Son of Late Binod Kumar Gupta House No. 29, Ashok Puri Colony, P.S. Danapur, District - Patna.

... ... Petitioner/s

Versus

1. The Canara Bank (erstwhile Syndicate Bank) Head Office, 112 J.C. Road, Town Hall Function Bangalore, Karnataka through Managing Director - Cum - Chief Executive Officer.
2. The Managing Director Cum Chief Executive Officer, Canara Bank Head Office 112, J.C. Road, Town Hall, Bangalore, Karnataka.
3. The General Manager, Luv Kush Tower Exhibition Road, Patna.
4. The Branch Manager, Canara Bank, Bailey Road Branch, Patna.
5. The Reserve Bank of India.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjeev Ranjan, Advocate

For the Respondent/s : Mr. Sanjay Singh Thakur, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 22-02-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

I. For a writ of mandamus directing the respondent bank to settle the Account of the petitioner Company under OTS/ Bank Recovery Policy in terms of RBI guidelines as the petitioner company is ready to settle its loan Account by making payment in installment within a reasonable time frame of 1 year to liquidate the settled amount.

II. For a writ of mandamus directing the respondent bank to take sympathetic view in considering the OTS proposal submitted by the petitioner Company in view of the extra ordinary situation caused by Covid-19 disrupting the entire economy resulting in loss of business.

III. For a writ of mandamus that the petitioner company being registered as Micro Small Medium Enterprises (MSME) unit was entitled for economic package announced on 12 may 2020 namely credit guarantee scheme for subordinate debt which are N.P.A or are stressed to restructure the debt and waiver of interest with moratorium of 7 years in repayment of principal & ECLGS which the respondent has arbitrarily denied without any probable cause.

IV. For any other relief/reliefs to which the petitioner may be entitled to.

We have entertained the present petition in view of the fact that Debt Recovery Tribunal and Debt Recovery Appellate Tribunal are not functional.

Learned counsel for the petitioner states that petitioner is ready and willing to settle the matter with the Bank.

As per notice dated 01.02.2019 (Annexure-3, Page 41), the petitioner was liable to pay a sum of Rs. 9,03,36,326. This was as on the date of issuance of said communication.

Learned counsel for the petitioner contends that the petitioner is ready and willing to have the dispute amicably resolved with the bank, for which purpose, to establish his *bona* *fide,* petitioner is ready and willing to deposit Rs. One crore within a period of three weeks from today in two equal installments, when the first installment of Rs. 50 lacs to be paid within first week and remaining Rs. 50 lacs to be paid within next two weeks thereafter. Also, the petitioner shall approach respondent bank for One Time Settlement, seeking waiver of the interest in terms of the guidelines of the Reserve Bank of India and also the action taken in the cases of similarly situated parties.

The respondent bank has no objection to the same.

As such, the petition is disposed of on the following mutually agreeable terms :-

(i) Petitioner shall deposit a sum Rs. One crore with the respondent Bank within a period of three weeks from today, in two equal installments, out of which, first installment of Rs. 50 lacs to be positively deposited within one week from today and the second installment of Rs. 50 lacs to be positively deposited within next two weeks thereafter;

(ii) Petitioner through its authorized representative, make available in the office of respondent bank on 02.03.2022 at 10.30 A.M.; when a proposal for amicable settlement shall be submitted for-(i) re-determining the amount due and payable by the petitioner to the Bank; (ii) seeking waiver of interest on the principal amount due and payable in terms of the policy of the Bank as also the guidelines issued by the Reserve Bank of India;

(iii) The bank shall take a decision on all aspects, including taking out the petitioner's account from the category of NPA and selling the property mortgaged/hypothecated or otherwise, in terms of the petitioner's request, which the petitioner shall be making in his representation.

(iv) The bank shall take a decision on such proposal in accordance with law, more so, the guidelines made by the Reserve Bank of India as also principle of parity;

(v) Needful be positively done within a period of two months thereafter;

(vi) Till the time proposal is pending with the authorities, no coercive action shall be taken against the petitioner.

(vii) In the event of petitioner failing to deposit the amount, it shall be open for the bank to take appropriate action in accordance with law.

The instant petition sands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	24.02.2022
Transmission Date	