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ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/1202/2022

ARIANCE INDUSTRIES PRIVATE LIMITED
VERSUS
UNION OF INDIA AND ORS.

BEFORE:

The Hon'ble JUSTICE RAJASEKHAR MANTHA

Date : 23rd March, 2022

Appearance:

*Mr. Mainak Bose, Sr. Adv.
Mr. Neeraj Kumar Pandey, Adv.
Mr. Shakeel Mohammed Akhter, Adv.
... for the petitioner.*

*Mr. Om Narayan Rai, Adv.
Mr. Saikat Roy Chowdhury, Adv.
... for the Indian bank.*

*Mr. Tapan Bhanja, Adv.
... for the UOI.*

The Court :- The petitioner claims that the respondent bank has wrongfully capitalized interest in its loan account. It is also submitted that the benefit of a scheme called Guaranteed Emergency Credit Line (GECLS) in view of Covid-19 has been misapplied to the petitioner. The petitioner seeks quashing of demands raised by the bank. The bank, in addition to denying the claims of the petitioner, submits that the petitioner has admitted his entire liability. It is also submitted that even for the sake of argument, if the capitalization is reversed, the account would still be overdue and have become a non-performing asset.

This Court is of the view that the petitioner's claim is at best a defense to any claim which the bank may lodge against him. Even assuming for the sake of argument that the petitioner may have claimed against the bank, the same

cannot be adjudicated under Article 226 of the Constitution of India given the large number of disputed questions of fact which are required to be gone into.

Since it is submitted by the Counsel for the petitioner that notice under Section 13(2) of the SARFAESI Act, 2002 has already been issued, the petitioner may avail, inter alia, appropriate remedies under the SARFAESI Act, 2002 against such proceedings.

With the aforesaid observations, WPO No. 1202 of 2022 is, accordingly, disposed of.

(RAJASEKHAR MANTHA, J.)

mg/S. Chandra