IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.21558 of 2021
(Through Hybrid mode)

M/s. KCS Private Ltd. .... ***Petitioner***

Mr. Bibekananda Bhuyan, Advocate

-versus-

Banking Ombudsman, Bhubaneswar and another .... ***Opposite Parties***

None

CORAM: JUSTICE ARINDAM SINHA

ORDER

Order No. **08.08.2022**

04. 1. Mr. Bhuyan, learned advocate appears on behalf of petitioner and submits, his client is aggrieved by the Banking Ombudsman having rejecting the complaint as not maintainable in view of previous proceedings on two complaints earlier lodged. He submits, the Reserve Bank of India (RBI) by circular dated 6th August, 2020 issued instructions on opening of current account by banks and need of discipline. Pursuant to the instructions ICICI bank issued mail dated 8th January, 2021 directing his client to indicate account details for transfer of fund to his current/over draft account maintained in other bank. He submits, by reason of recovery proceedings between the housing finance company and his client, the latter's other current/over draft account in UCO bank stands frozen. As such, his client could not provide information for transfer of the funds. His client has obtained

One Time Settlement (OTS) facility with the housing finance company. He seeks appropriate direction for operation of the closed account for purpose of availing the OTS facility.

2. In spite of service, none appears on behalf of opposite parties, who are the banking ombudsman and ICICI bank.

3. On perusal of materials on record, it is clear that opposite party no.2 required petitioner to give information for transfer of money in its account with said bank to the bank, where petitioner is enjoying credit facilities. On petitioner not being able to comply, the account was closed. Petitioner is aggrieved because, according to it, the RBI guideline was informed by circular dated 6th August, 2020 but the current account in ICICI bank had been opened prior to that. Petitioner's contention is that directions by the guideline are prospective and cannot have affected operation of existing current account.

4. Text of impugned order dated 16th July, 2001 is reproduced below.

> *"Please refer to your complaint on the above subject. It has been registered with us vide the complaint number as mentioned above. In this connection, we advise that since your complaint is in respect of the same cause of action which is being dealt with on merits by the Banking Ombudsman in your previous proceedings (Complaint numbers : 202122003002531 and 202122003002533), your complaint is treated as non-maintainable under clause 9(3)(c) read with 13(b) of the Banking Ombudsman Scheme, 2006.*

> *2. This is issued as per the orders of the Hon'ble Banking Ombudsman for Odisha after perusal of your complaint."*

5. Petitioner's contention is that guideline dated 6th August, 2020 issued by RBI is regarding opening of new current account. Petitioner had existing current account with opposite party no.2. Said opposite party, referring to aforesaid RBI circular dated 6th August, 2020 required particulars of petitioner's account in the other bank, from where it is enjoying credit facility, for closure of the current account and transfer therein. Relevant text of requisition dated 8th January, 2021 made by opposite party no.2 on petitioner is reproduced below.

> *"Dear Customer,*
>
> *We refer to the RBI circular dated Aug 06, 2020 on "Opening of Current Accounts by Banks – Need for Discipline", wherein it mentions, No bank shall open Current Accounts for customers who have availed of credit facilities in the form of Cash Credit (CC)/Overdraft (OD) from the banking system and all transactions shall be routed through the CC/OD Account.*
>
> *As per the Credit Information Company (CIC) report, you have availed of credit facilities in the form of CC/OD from Bank(s), therefore the Current Account(s) maintained with ICICI Bank will be closed with effect from 30 days from the date of this e-mail. We request you to share the following details for transferring the funds on closure of Current Accounts"*

6. As aforesaid opposite parties have chosen not to appear. Court, therefore, does not have assistance from either of them regarding what led opposite parties to make them conclude,

they could interpret the circular as direction for closure of accounts. In the circumstances, no purpose will be served by restoring petitioner's complaint to opposite party no.1.

7. Opposite party no.2 is directed to allow operation in petitioner's existing current account with it as not affected by RBI circular dated 6th August, 2020. This must be done within two weeks of communication.

8. The writ petition is disposed of.

(Arindam Sinha)
Judge

RKS