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WPO/1436/2023

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

MADHUMITA CONSTRUCTION PVT. LTD. AND ANR.

-Versus-

RESERVE BANK OF INDIA AND ORS.

BEFORE :
THE HON'BLE JUSTICE SABYASACHI BHATTACHARYYA
Date : 11th October, 2023

Appearance:
Mr. A. K. Pan, Adv.
Mr. Buddhadeb Ghosh, Adv.
...for the petitioner.

Mr. Sudip Pal Chowdhury, Adv.
Ms. Diya Nandi, Adv.
...for the respondent/bank.

The Court : The compass of the present challenge is short.

The respondent/State Bank of India gave an adverse report against the petitioner which led to a caution advice bearing Caution Advice No.339 dated December 8, 1998 being issued with regard to the petitioner no. 1. The petitioner no. 1, apprehending its prejudice, preferred a challenge before this Court, giving rise to a writ petition. However, the said writ petition was ultimately disposed of on August 18, 2005 by a coordinate bench observing that by the impugned notification, the learned Single Judge did not find that the petitioner had got any basis for apprehension and it would be open for the petitioner to carry on business in usual course, in accordance with law, if so advised.

Subsequently, when the petitioner sought to enter into a transaction with the Punjab National Bank (PNB), which is not a party here, it came to the notice of the petitioner, as communicated by the said bank, that while assessing the petitioner's proposal it was found that Fraud No.SBI9804-0001 is shown in the Central Fraud Registry (CFR) Portal against the petitioner no.1, reported by the State Bank of India. The type of fraud shown is 'Fake LCs'.

It was further indicated that the fraud is open as on the date as per the CFR report.

Being aggrieved by the said notification of the petitioner's account as fraud by the State Bank of India, as recorded in the CFR portal, the present writ petition has been preferred.

Learned counsel for the petitioner places reliance on the relevant provision of the Master Directions on Frauds – Classification and Reporting by commercial banks and select FIs dated July 1, 2016, updated as on July 3, 2017. In Clause 8.9.6 thereof, it is stipulated that the overall time allowed for the entire exercise contemplated therein to be completed in six months from the date when the first member bank reported the account as RFA or Fraud on the CRILC platform.

The trigger for the classification of the petitioner's account as fraud in the present case is evidently the intimation by the State Bank of India in 1998.

The respondent/State Bank of India files its affidavit-in-opposition. Learned counsel for the State Bank of India submits that the bank is no longer connected in any manner with the said classification.

It transpires upon hearing the parties that the bank itself had initiated a civil suit for recovery of the sum pertaining to which the caution advice was issued. The same is still pending, as submitted by counsel.

Since the matter is sub-judice before a civil Court and the caution advice was given as far back as in the year 1998, coupled with the fact that a co-ordinate bench of this Court had categorically held that the same shall not prevent any bank transaction or other transaction of the petitioner, the said caution advise could not be a trigger for the petitioners' account to be classified as Fraud Account under the Master Direction of the RBI dated July 1, 2017 (updated as on July 3, 2017). As such, the said classification cannot withstand the scrutiny of law.

Hence, WPO/1436/2023 is allowed, thereby setting aside the classification of the petitioner no.1's account as a fraud account under the Master Direction of 2016 (updated in 2017). Hence, the Fraud No. SBI9804-0001 as shown in the CFR Portal against the petitioner no.1 stands set aside and quashed. The respondent authorities shall take appropriate consequential steps to give effect to the above order.

There will be no order as to costs.

Urgent certified website copy of this order, if applied for, be made available to the parties subject to compliance with the requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)

A/s.