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W.P.No.13380 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2023

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

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Precision Controls,
A firm represented by its Managing Partner,
S.Shankar,
S/o.Late Srinivasan,
residence at No.5-A,
"D" Silva Road,
Mylapore,
Chennai – 600 004.

.. Petitioner

VS

1.The State Bank of India
Rep. By its General Manager,
Network – 1,
Local Head Office Circle Top House,
16, College Road, Chennai – 6.

2.The State Bank of India
Ekkaduthangal Branch,
Rep. By its Chief Manager,
Ekkaduthangal,
Chennai.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing respondent nos. 1 and 2 to refund an amount of Rs.11,59,696/- (Eleven lakhs fifty nine thousand six hundred and ninety six only) which was debited from the petitioner's account No : 00000030041035089 on 26.03.2013 as preclosure charges towards term loan accounts TL a/c : 31044346131,30250054070,31861316550, 31279888779 with interest at 18.1% p.a. from 26.03.2013 till date of repayment.



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For Petitioner : Mr.R.Srinivas
For Respondents : Mr.Ilayaraja
for M/s.Ramalingam & Assoc.
for R1,R2

Mr.C.Mohan
for M/s.King and Patridge
for RBI Ombudsman

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ORDER

The petitioner, a partnership firm, seeks a mandamus directing the State Bank of India, R1 and R2 to refund the amount of Rs.11.59 lakhs (approx) that was debited from his account bearing No. 00000030041035089 on 26.03.2013 as charges towards pre-closure of term loan accounts bearing numbers 31044346131, 30250054070, 31861316550 and 31279888779. There is a further prayer for interest at the rate of 18.1 percent per annum from 26.03.2011, which is the date of debit till date of repayment.

2. This Court was of the considered view that since the averments and allegations in the writ petition touch upon services rendered by the respondent / Bank, the appropriate authority to consider the same would be the Ombudsman constituted under the Banking Ombudsman Scheme. Thus, the petitioner was directed to



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take private notice on the learned panel counsel for the Reserve Bank of India / Ombudsman.

3. Today, Mr.Mohan, appears in response to notice taken by the petitioner. First of all, he circulates a copy of the Reserve Bank Integrated Ombudsman Scheme, 2021. That apart, he would submit that barring cases of individual borrowers, pre-closure charges are to be collected in all other cases.

4. Per contra, petitioner draws attention to the guidelines issued by the State Bank of India, specifically a clause reading as follows:-

"Pre-payment charges (other than 'P' Segment) – 2% of the pre-paid amount (loans prepaid from own resources will not attract prepayment / pre closure charges)."

According to him, the transaction qua the petitioner and the Bank is bound by the aforesaid specific clause and would attract no charges.

5. This Court continues to hold the view that the appropriate authority to consider prayer of the petitioner would be the Ombudsman and hence mandamus as sought for is not liable



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to be issued. However, liberty is granted to the petitioner to make a complaint before the Ombudsman of the Reserve Bank of India in terms of the Reserve Bank Integrated Ombudsman Scheme, 2021 within a period of four weeks from the date of receipt of this order. The petitioner is at liberty to rely upon the guidelines issued by the State Bank of India, therein. If the complaint is filed within the period as indicated aforesaid, the petitioner as well as the appropriate authority in the State Bank of India shall be called on by issue of notice, heard and an order be passed on the complaint within a period of four weeks from the date of such personal hearing.

6. Since the Reserve Bank of India / Ombudsman is not arrayed as respondent, this order shall be conveyed to them by Mr.Mohan.

7. This writ petition is dismissed with liberty as above. No costs.

07.02.2023

Index:Yes/No
Neutral Citation:Yes
ssm



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To

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DR. ANITA SUMANTH,J.

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