IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17309 of 2022

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Poddar Wires Industries Pvt. Ltd. a company incorporated under the Companies act, having its registered office at Jhauganj, Patna City, Patna 800008 through its director Mr. Umesh Kumar Poddar, aged about 60 years) male), son of Sri Purushottam Das Poddar, resident of Poddar House, Chimnighat, Jhauganj, P.S. Chowk, Patna City Patna. 8000008

... ... Petitioner/s

Versus

1. The State Bank of India through its The Chief Manager, Specialized Commercial Branch, Kataruka Niwas, Gandhi Maidan, Patna- 800001
2. The Chief Manager, State Bank of India, Specialized Commercial Branch, Kataruka Niwas, Gandhi Maidan, Patna- 800001
3. The Deputy General Manager, State Bank of India, Stressed Assets Management Branch- II, Nagaland House, Shakespeare Sarani, Kolkata- 700071
4. Shree Parashnath Re-Rolling Mills Limited, 3511 (Part), Dr. B C. Roy Avenue, Durgapur, West Burdhaman, West Bengal- 713201
5. Sri. Abhishek Jain Director, M/S Shree Parashnath Re-Rolling Mills Limited, 3511 (Part), Dr. B C. Roy Avenue Durgapur, West Burdhaman, West Bengal
6. Rare Asset Reconstruction Limited, 203, Gala Argos, Nr. Harikrupa Tower, Ellisbridge Gymkhana, Gujarat College Road, Ahmedabad, Gujarat 380006
7. The Banking Ombudsmen, Reserve Bank of India, Gandhi Maidan Patna- 800001.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Avinash Shekhar, Advocate
		Ms. Simran Kumari, Advocate
For the Respondent/s	:	Mr. Sanjiv Kumar, Advocate
For the SBI	:	Mr. Amit Prakash, Advocate

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY

ORAL ORDER

9 12-11-2024 The present writ petition has been filed for the following reliefs :

"i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing communication dated 17.08.2022 issued by the

Banking Ombudsmen, Reserve Bank of India, Centralised Receipt and Processing Centre (CRPC), by which the complaint of the petitioner has been rejected as being non-maintainable under clause 16(1)(a) read with Clause 10(2)(a)(ii) of the Reserve Bank Integrated Ombudsmen Scheme 2021.

ii) Consequent to grant of relief no (1), to issue an appropriate writ, order or direction in the nature of mandamus commanding the Respondent State Bank of India to forthwith refund/reverse the amount of Rs. 10,00,000.00 (Rupees Ten Lakhs only), erroneously transferred from Petitioner's Cash Credit Account bearing account no.10055201369 into the account of one M/s Shree Parasnath Re-Rolling Mills Limited bearing account no. 34756644353 maintained with State Bank of India, Stressed Assets Management Branch II, Kolkata vide e-cheque no. CTF 4256909 on 13.03.2019.

iii) This Hon'ble Court may adjudicate and hold that the complaint of the petitioner could not have been rejected as being time barred since the petitioner was pursuing his remedy before this Hon'ble Court.

iv) This Hon'ble Court may adjudicate and hold that the action of Respondent State Bank of India in not refunding the amount of Rs. Ten Lakhs into the account of the petitioner is completely arbitrary in nature and without any legal basis.

v) This Hon'ble Court may adjudicate and hold that the action of Respondent State Bank of India cannot refuse to refund/ reverse the amount of Rs. 10,00,000/- (Rupees Ten Lakhs Only) erroneously transferred into the account of M/s Shree Parasnath Re-Rolling Mills Limited, after the grant of no- objection by M/s Shree Parasnath Re-Rolling Mills Limited.

vi) This Hon'ble Court may further adjudicate and hold that the inaction of the Respondent State Bank of India in the matter is an act of mala fide and complete arbitrary exercise of authority/power.

vii) This Hon'ble Court may award the cost of litigation and suitable compensation to the Petitioner for the loss and damages caused on account of the illegal and arbitrary actions of the Respondents.

viii) To grant any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case."

2. Though notices were issued to the respondent Nos. 4 to 6 but till date there is no representation either in person or through their counsel.

3. Office has reported that notices have been validly served on the respondent Nos. 4 to 6 and till date no Vakalatnama has been filed on behalf of the respondent Nos. 4 to 6.

4. Having regard to the above respondent Nos. 4 to 6 are set exparty.

5. The present writ petition has been filed on 14.11.2022 challenging the order dated 17.08.2022 (Annexure 19 Page 79) whereby the complaint filed by the petitioner has been dismissed on the ground that the same is barred by limitation (beyond one year/one year 30 days).

6. Learned counsel for the petitioner has stated that the petitioner has approached the Bank by way of complaint initially on 14.03.2019 and thereafter the petitioner has received a reply and subsequently correspondence has been going on between the Bank and the petitioner and the petitioner was asked to submit an indemnity bond and he has also submitted the same and subsequently the Bank has asked the petitioner to submit NOC from the beneficiary and the same was also furnished by the petitioner vide Annexure 13 but when the Bank did not take any action with regard to reversal of the amount, the petitioner has approached this Hon'ble Court by way of CWJC No. 6676 of 2021 which was withdrawn with a view to approach the Ombudsman, the petitioner has approached the Ombudsman vide Anexure 17 dated 11.08.2022.

7. Learned counsel for the petitioner has drawn attention of the Court to the order passed by the Ombudsman and also the Rules and Regulations of the RBI with respect to the integrated Ombudsman Scheme 2021 more particularly Clause 16(1)(a) as also 10(2)a(ii). A perusal of the order passed by the Ombudsman does not revel on what basis the application has been rejected. Except saying the same is barred by limitation, the Ombudsman has not stated as to how the

complaint made by the petitioner is not maintainable, as no dates have been given for calculating the period, how the Ombudsman has calculated the period of one year 30 days or one year. Therefore, on the short ground alone the impugned order is set aside and the matter is remanded back to the Ombudsman for considering the application made by the petitioner afresh. It is needless to mention that before passing any order the petitioner shall be given an opportunity of hearing. In case the Ombudsman is of the opinion that the complaint made by the petitioner is not time barred, it shall issue notice to the respondent Bank and pass necessary orders thereafter.

8. With the above with the above directions, the present writ petition stands disposed of to the extent indicated.

(A. Abhishek Reddy , J)

Prakash/-

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