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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-15911-2022 (O&M)
Date of Decision: 27.05.2024

M/s Style Orna and another
..... Petitioners

Versus

Bank of Maharashtra and others
..... Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present: Mr. Vivek Goyal, Advocate
for the petitioners (through Video Conferencing).

Mr. J.S. Bagga, Advocate
for respondent-Bank.

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LISA GILL, J.(oral)

1. Prayer in this writ petition is for directing respondent-Bank to consider proposal for settlement submitted by petitioners on 15.07.2022 (Annexure P-9). It is further prayed that petitioner's account be regularized/made standard and restructuring thereof be carried out in terms of Reserve Bank of India (RBI) guidelines dated 17.03.2016 as petitioner No. 1 claims to be registered as Micro Small and Medium Enterprises (MSME). Petitioners seek setting aside of proceedings under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act') initiated against them with notice(s) dated 05.05.2022 and 12.07.2022 issued under Sections 13(2) and 13(4) of

SARFAESI Act respectively being claimed to be illegal and arbitrary.

2. Availing of financial facility by petitioner No. 1 through its proprietor in the year 2016 is a matter of record. Financial indiscipline on the part of petitioners is also admitted for reasons as may be, leading to declaration of account Non Performing Asset (NPA) and notice(s) under Section 13(2) and 13(4) of SARFAESI Act being issued on 05.05.2022 and 12.07.2022 respectively.

3. Learned counsel for petitioners submits that exorbitant rate of interest was being charged by respondent-Bank. Objections after issuance of notice under Section 13(2) of SARFAESI Act were filed but without deciding the same, notice under Section 13(4) of SARFAESI Act was issued illegally. Objections were rejected in an illogical manner without any reasoning on 12.07.2022. Petitioners submitted proposal for settlement and requested respondent-Bank to restructure their account in terms of guidelines dated 17.03.2016 issued by Reserve Bank of India. It is submitted that it was incumbent upon respondent-Bank to have first referred the matter before Designated Committee before declaration of petitioner's account NPA in terms of circular dated 17.03.2016. Necessary action was not taken by respondent-Bank leading to filing of present writ petition.

4. Learned counsel for respondent-Bank has opposed this writ petition while submitting that same is not entertainable in view of efficacious remedy under SARFAESI Act which is available to petitioners. Reference in this respect is made to judgments of Hon'ble

the Supreme Court in **Union Bank of India v. Satyawati Tandon and others,** ***2010(8) SCC 110*** and **M/s South Indian bank Ltd. and others v. Naveen Mathew Philip and another,** ***2023(2) RCR (Civil) 771***. It is further submitted that huge amount of Rs. 3,88,44,142/- was due towards respondent-Bank even as per notice under Section 13(2) on 05.05.2022. After the deposit of Rs. 50 lakhs in terms of order dated 26.07.2022, a sum of Rs. 30 lakhs in total was deposited on different dates i.e. 16.09.2023, 29.11.2023 and 03.02.2024. As of now sum of Rs. 3.70 crore in CC Limit and Rs.63,42,000/- in GECL account is outstanding. It is thus prayed that this writ petition be dismissed.

5. Heard learned counsel for the parties.

6. It is a settled position that present writ petition with prayers as addressed is not entertainable as has been held in a catena of cases by the Hon'ble Supreme Court of India as well as this High Court. In so far as question of compliance of guidelines dated 17.03.2016 is concerned, same is squarely covered against petitioners in view of decision dated 18.12.2023 in **CWP-21657-2022** (**M/s Technico Strips and Tubes Pvt. Ltd. and another vs. Deutsche Bank AG and another**) **and connected writ petitions**. Petitioners are at liberty to avail their remedy(ies) under SARFAESI Act in respect to proceedings undertaken under the said Act.

7. Notice of motion was issued in this writ petition on 26.07.2022 with a direction that subject to petitioners depositing a

sum of Rs. 50 lakhs to respondent No. 1 within two weeks, no coercive action shall be taken against them and in the meanwhile, respondent-Bank was directed to take a decision on the representation of petitioners dated 15.07.2022. It was stated before us on 07.02.2024 by learned counsel for petitioners that settlement regarding regularization of loan account had taken place. The matter was adjourned twice after 07.02.2024 in this respect. Today, affidavit dated 27.05.2024 of Mr. Manbhar Verma son of Mr. Surender Kumar (proprietor of petitioner No. 1 company) has been furnished in Court. Same is taken on record, subject to just exceptions.

Learned counsel for petitioners states that in order to settle the dispute amicably, petitioners would deposit an amount of Rs. 64 lakhs with respondent-Bank to close GECL account on or before 10.06.2024 and that petitioners would also deposit rest of the entire outstanding in the account of petitioner No. 1 within four months i.e. uptil 30.09.2024, subject to reconciliation of accounts as per sanction letter.

Learned counsel for respondent-Bank however submits that settlement has not been finalized and sanction letter has not been issued. However, in case petitioners come forward and in-fact sit across the table, matter can be finalized within next 15 days. Learned counsel for respondent-Bank further submits on instructions from Mr. Rohit Sharma, Manager Law that proceedings under SARFAESI Act can be kept in abeyance for next 15 days.

8. Keeping in view the emerging settlement between the parties, this writ petition is disposed of with liberty to parties to arrive at any mutually acceptable settlement and in case of any subsisting grievance which petitioners may have qua proceedings under SARFAESI Act, they are at liberty to avail statutory remedies as may be available in accordance with law.

9. Writ petition is accordingly disposed of.

10. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

(LISA GILL)
JUDGE

(AMARJOT BHATTI)
JUDGE

27.05.2024
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No