2024:PHHC:046134-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-21686-2021
Date of Decision: April 02, 2024

Amartex Industries Limited ..... Petitioner

Versus

State Bank of India and others ..... Respondents

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

Present: Mr. V.K. Sachdeva, Advocate for the petitioner.

Ms. Madhu Dayal, Advocate for respondent No. 1.

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LISA GILL, J.

1. Petitioner in this writ petition is aggrieved of excess interest being allegedly charged by respondent – Bank to the tune of Rs.99,93,556/- stated to be in violation of concluded terms and conditions of One Time Settlement (OTS) dated 07.11.2017, extended vide letter dated 18.02.2019.

2. Shorn of unnecessary details, it is submitted that petitioner, who had availed of financial facility from respondent No.1, had been afforded benefit of OTS of its account vide sanction letter dated 07.11.2017, extended vide letter dated 18.02.2019. Objection had been raised regarding interest which was being charged by the respondent purportedly beyond terms of sanction letter dated 07.11.2017 and 18.02.2019. It is submitted that petitioner under threat of OTS being declared to have failed, having no other option deposited additional

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amount as above with an assurance that respondent – Bank shall refund excess amount after re-conciliation of account and carrying out correct calculations. When needful was not done by respondent – Bank despite numerous reminders, petitioner filed complaint dated 19.07.2021 (Annexure P12) before Banking Ombudsman Reserve Bank of India, Sector 17, Chandigarh seeking redressal of its grievance. Complaint was filed in terms of The Banking Ombudsman Scheme 2006 (for short – '2006 Scheme'). Reminders were sent by petitioner but no response was received from Banking Ombudsman and petitioner came to know through oral information that Banking Ombudsman has not entertained petitioner's complaint and even notice was not issued to respondent – Bank on the ground that it is beyond pecuniary jurisdiction of Ombudsman in terms of Clause 12 of 2006 Scheme. In this factual matrix, present writ petition has been filed.

3. Learned counsel for petitioner refers to clause 12(5) and (6) of 2006 Scheme to submit that though no formal order has been passed by the Ombudsman, petitioner's complaint is incorrectly not being entertained. Clause 12 (5) and (6) of 2006 Scheme reads as under:-

> "(5) Notwithstanding anything contained in Sub-clause (4), the Banking Ombudsman shall not have the power to pass an Award directing payment of an amount towards compensation which is more than the actual loss suffered by the complainant as a direct consequence of the act of omission or commission of the bank, or two million rupees whichever is lower. The compensation that can be awarded by the Banking Ombudsman shall be exclusive of the amount involved in the dispute.
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> (6) The Banking Ombudsman may also award compensation in addition to the above but not exceeding Rupees 0.1 million to the

> complainant, taking into account the loss of the complainant's time, expenses incurred by the complainant, harassment and mental agony suffered by the complainant."

4. In the present case, petitioner, it is submitted, is seeking respondent – Bank to act according to terms and conditions of OTS and to refund the excess interest charged and compensation in terms of 2006 Scheme only. Petitioner is not seeking award for compensation for an amount of more than Rs.20 lakhs. Learned counsel further informs that The Reserve Bank - Integrated Ombudsman Scheme, 2021 (for short – '2021 Scheme') dated 12.11.2021 has been launched, integrating three existing Ombudsman Scheme of RBI, which are as under:-

(i) The Banking Ombudsman Scheme, 2006
(ii) The Ombudsman Scheme for Non Banking Financial Companies, 2018 and
(iii) The Ombudsman Scheme for Digital Transactions, 2019.

5. During the course of hearing, it is agreed between learned counsel for petitioner and respondent No. 1 that petitioner's complaint is required to be considered and adjudicated upon by Banking Ombudsman in accordance with the applicable Scheme, Rules and Regulations. It is further submitted that both the parties be permitted to raise all pleas before Banking Ombudsman as may be available to them.

6. Keeping in view the consensus arrived at between the parties, it is directed that complaint dated 19.07.2021 (Annexure P12) filed by petitioner be considered and adjudicated in accordance with provisions of applicable law/Scheme/Rules/Regulations after affording due opportunity of hearing to both

petitioner and respondent No. 1. Needful be done within a period of three months from the date of receipt of certified copy of this order.

7. Present writ petition is, accordingly, disposed of without expression of any opinion on the merits of controversy as sought to be raised.

(LISA GILL)
JUDGE

(AMARJOT BHATTI)
JUDGE

April 02, 2024
rts

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