**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP-8215-2016
Reserved on: 18.02.2025
Pronounced on: 28.02.2025**

PUNJAB NATIONAL BANK AND ANR. -PETITIONERS

V/S

M/S MAHESH INDUSTRIES AND ANR. -RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. H.S. Bhatia, Advocate
for the petitioners.

Mr. Nirbhay Garg, Advocate
for the respondent No. 1.

Mr. Parveen Gupta, Advocate for
Mr. Karan S. Gill, Standing Counsel
for the respondent No.2.

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KULDEEP TIWARI, J. (ORAL)

1. What has propelled the petitioner(s)-Bank to institute the present writ petition, is the drawing of the order dated 30.09.2014, whereby, the Permanent Lok Adalat, Kapurthala, has directed it to pay the amount of ₹ 4,52,000/-, as subsidy claim of the respondent No.1, within one month, failing which the award amount shall carry interest @ 9% and along with litigation cost of ₹ 2500/-.

FACTUAL MATRIX

2. Succinctly stated; the respondent No.1 filed a petition under Section 22-C of the Legal Services Authority Act, 1987, before the

Permanent Lok Adalat, thereby claiming subsidy amount of ₹ 4,52,000/- from the petitioner(s)-Bank, along with penal interest and compensation. The grounds averred in the petition for claiming the relief (supra) were that, the respondent No.1 is a Small-Scale Unit and is engaged in manufacturing of auto parts and auto bushes. The petitioner(s)-Bank was appointed as Nodal Office by the Government of India for claiming capital subsidy on term loan sanctioned and disbursed by the bank to the beneficiary under the Credit Limit Capital Subsidy Scheme (hereinafter referred to as the 'CLCSS'). Earlier, the respondent No.2 was acting as the Nodal Office. The Ministry of Small-Scale Industry was/is operating a scheme for technology upgradation by providing upfront capital subsidy to SSI units. As per the said scheme, the respondent No.1- firm was/is an "industry" within the approved list of industries entitled to get subsidy from the Government under the CLCSS. Accordingly, the respondent No.1 availed the first term loan of ₹ 8,50,000/- from petitioner(s)-Bank on 16.02.2006, and then, availed the second term loan of ₹ 12,96,000/- on 15.10.2009 for technology upgradation. The subsidy claim of ₹ 1,71,000/- and ₹ 2,81,000/- respectively was raised by the respondent No.1 by submitting the requisite documents and fulfilling all other formalities required by the petitioner(s)-Bank. However, the petitioner(s)- Bank miserably failed to perform its duty to get release of subsidy despite issuance of many notices. Moreover, the petitioner(s)- Bank deliberately did not inform the respondent No.1 about decline of subsidy. The HO AGM, through circle office Kapurthala, vide letter dated 03.10.2012, specifically intimated that there was no response/compliance and there was delay on the part of the petitioner(s)-Bank. Even the file in respect of subsidy amount of ₹ 1,71,000/- was also misplaced.

3. Upon notice, the petitioner(s)-Bank controverted all the pleadings canvassed in the petition by filing a specific reply. The main contention raised in the reply was that, the petition preferred by the respondent No.1 is bad for mis-joinder and non-joinder of necessary parties, i.e., Ministry of MSME of Government of India, which is to pay the capital subsidy. Another contention raised was that, the respondent No.1 is not eligible for capital subsidy under CLCSS, which is manufacturing of the products/subsector nonferrous metal bushes and does not fall in the approved list of Government of India. It was specifically denied that, the respondent No.1 is engaged in manufacturing of auto parts. Moreover, it was averred in the reply that, the Government of India appointed Small Industries Development Bank of India (hereinafter referred to as the 'SIDBI') for technology upgradation of SSI units, hence the petitioner(s)- Bank cannot be fastened with any liability in that regard.

4. After considering the contentions of the parties and perusing the available record, the Permanent Lok Adalat drew the impugned order by holding that, it was the petitioner(s)-Bank, which was at fault in channelizing the claim of the respondent No.1. It was observed that, as per the agreement dated 08.05.2010 (Ex.C1/R13), the petitioner(s)-Bank is an agent and has agreed to act as Nodal Agency for Government of

India for channelizing the disbursement of capital subsidy sanctioned to the beneficiary firm by the Bank. Moreover, it was, in fact, the petitioner(s)-Bank, which indulged in protracted correspondence to cause the delay in disbursal of the subsidy claim to the respondent No.1 to camouflage own lapses resulting in the claim becoming time barred.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONER(S)-BANK

5. The learned counsel for the petitioners, in his attempt to assail the validity of the impugned order, made twofold submissions before this Court. His first submission is that, the petition preferred by the respondent No.1 before the Permanent Lok Adalat was bad for non-joinder of necessary party, i.e. Union of India through Ministry of Micro, Small and Medium Enterprises, as it is for this Ministry to pay the subsidy. His second submission is that, the application preferred by the petitioner(s)-Bank for impleading the Union of India as a party in the petition (supra), and, for allowing cross-examination of the respondent No.1 and his witnesses, and, for production of additional evidence by summoning the record of SIBDI, was erroneously dismissed by the Permanent Lok Adalat on 30.09.2014.

6. Concluding his arguments, the learned counsel for the petitioners made submission that, until and unless the subsidy is released by the Government of India, the same cannot be paid by the petitioner(s)-Bank to the borrower.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE

RESPONDENT NO.1

7. The learned counsel for the respondent No.1, while defending the validity of the impugned order, submits that there is no illegality or perversity therein, hence the same does not warrant any interference by this Court. He submits that, the agreement dated 08.05.2010 (Ex.C1/R13) makes it abundantly clear that, it was the petitioner(s)-Bank, which had/has to act as Nodal Agency for Government of India for channelizing the disbursement of capital subsidy. However, the petitioner(s)-Bank indulged in unnecessary correspondence to cause delay and resultantly, the claim of the respondent No.1 was rejected on account of its becoming time barred.

8. Finally, the learned counsel for the respondent No.1 submits that, earlier also the respondent No.1 had availed the subsidy amount of ₹ 1,94,000/- during the financial year 2008-2009 under the petitioner(s)-Bank as the Nodal Bank, and at that time, no objection whatsoever was raised to the entitlement of the respondent No.1- firm. Therefore, now the petitioner(s)-Bank cannot turnaround and raise objection with regard to entitlement of the respondent No.1.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE RESPONDENT NO.2

9. The learned counsel for the respondent No.2 submits that, as per the record, at the time of first financial assistance of ₹ 8,50,000/-, the respondent No.2- SIBDI was the Nodal Agency under the CLCSS for processing the subsidy claim application(s), which were to be received by

it from the respective Prime Lending Institutions (PLI). However, the subsidy claim of the respondent No.1, which was to be forwarded by the petitioner(s)-Bank, was never forwarded as per the record, and as such, the same was never processed by it.

10. The learned counsel for the respondent No.2 further submits that, at the time of second financial assistance availed in October 2009, the petitioner(s)-Bank itself was the Nodal Agency to process the subsidy claim and then forward the same to the office of Development Commissioner, Ministry of MSME, Government of India. Therefore, there was no occasion for the respondent No.2 to process the subsidy claim of the respondent No.1. Consequently, the order dated 30.09.2014 has rightly been passed by the Permanent Lok Adalat in favour of the respondent No.1.

REASONS FOR DISMISSING THE PRESENT WRIT PETITION

11. This Court has considered the submissions made by the learned counsels for the parties and also made a studied survey of the record.

12. What surges forth from perusal of the record is that, as per the apposite scheme, the petitioner(s)-Bank along with other nationalized banks were/are referred in the guidelines and were/are inducted as Nodal Banks for implementation and release of capital subsidy under the CLCSS in the 5th meeting of the GTAB, apart from the SIDBI and the NABARD as Nodal Agency. The guidelines, which are a part of the record, mandate that, the eligible Prime Lending Institutions (Banks) would release the

subsidy amount with each installment of loan in a manner proportionate to the amount of term loan disbursed, subject to the ceiling of term loan of subsidy amount as per applicable guidelines of the CLCSS and the eligible Prime Lending Institutions furnish the details of release of subsidy to the beneficiary units together with the request for replenishing advance money with Prime Lending Institutions for release of subsidy. These guidelines clearly reflect that, there is no function to be performed by the Union of India through Ministry of Micro, Small and Medium Enterprises, which makes it a necessary party, rather the entire exercise is to be performed by the petitioner(s)-Bank.

13. Furthermore, once the petitioner(s)-Bank has already, as emerges from the record, disbursed the subsidy amount of ₹ 1,94,000/- to the respondent No.1, during the financial year 2008-2009, therefore, now it cannot raise any dispute with regard to entitlement of the respondent No.1 for subsidy.

14. Insofar as the issue appertaining to dismissal of the petitioner(s)-Bank's application is concerned, wherein, prayer was made for impleading the Union of India as a party, and, for allowing cross-examination of the respondent No.1 and his witnesses, and, for production of additional evidence by summoning the record of SIBDI, this Court does not find any merit in this issue. The cause for drawing this inference is that, the entire case was/is based upon documentary evidence and from the documents, it clearly reflects that, delay was caused solely on account of unnecessary and protracted correspondence made by the petitioner(s)-

Bank.

15. Apart from the above, no other point was argued by the learned counsel for the petitioners.

16. In summa, this Court does not find any merit in the present writ petition and the same is accordingly **dismissed**.

(KULDEEP TIWARI)
JUDGE

February 28, 2025
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Whether speaking/reasoned	**:**	**Yes/No**
Whether Reportable	**:**	**Yes/No**