

Court No. - 21

Case :- WRIT - C No. - 35965 of 2022

Petitioner :- Konarkagro Polytech Pvt. Ltd. And 4 Others

Respondent :- Bank Of Baroda And 2 Others

Counsel for Petitioner :- Ashok Kumar Pandey, Pallavi Mishra

Counsel for Respondent :- Anadi Krishna Narayana

Hon'ble Manoj Kumar Gupta, J.

Hon'ble Vikram D. Chauhan, J.

Heard Ms. Pallavi Mishra for the petitioners, Sri Avinash Jaiswal for respondent nos. 1, 2 and 3 and Sri Gaurav Gautam on behalf of respondent nos. 4 and 5. With their consent, the petition is being disposed of finally, without calling for any formal counter affidavit.

Petitioner no. 1 is a private limited company and petitioner nos. 2 to 5 are its Directors/Ex-Directors. They are aggrieved by order dated 29.7.2021, passed by Committee of Executives on Wilful Defaulters and order dated 18.10.2021 passed by the Review Committee of the Bank of Baroda, declaring petitioner nos. 1 to 4 as "wilful defaulters", in terms of the RBI Master Circular dated 1.7.2015.

Learned counsel for the petitioners submits that after the petitioners were declared as "wilful defaulters", they submitted a compromise proposal before the Bank. It was accepted by the Bank on 14.6.2022. It is in respect of the petitioner-Company and some of its sister concerns, including Orbitz Irrigation Pvt. Ltd. According to the terms of compromise, the Bank had agreed to accept a sum of Rs. 5.75 crores from the petitioner and its sister concerns in full and final settlement of Bank dues of Rs. 7.13 crores. It is specifically asserted in paragraph 38 of the writ petition that the petitioners had fully complied with the terms and conditions of the settlement by paying the requisite amount. It is submitted that in view of the settlement arrived at between the parties, the decision of the respondent Bank declaring the petitioners as "wilful defaulters" is liable to be reviewed. In support of the said contention, learned counsel for the petitioners places reliance on an order of the Supreme Court dated 19.9.2022 in Special Leave to Appeal (C) No. 15751 of 2022. It is submitted that in respect of the sister concerns, Orbitz Irrigation Pvt. Ltd. and Others, which was also

declared as "wilful defaulter", the Supreme Court had permitted the said Company to approach the Bank with request to review its decision declaring the said petitioner as a "wilful defaulter", in view of the subsequent development, namely, the settlement arrived at between the Company and the respondent Bank. The order of the Supreme Court on which reliance is being placed dated 19.9.2022, is extracted below: -

"The petitioners - borrowers have been declared as "wilful defaulters" by the Bank of Baroda, Branch - Prayagraj, U.P. They unsuccessfully challenged the Bank's decision before the High Court and feeling further aggrieved by impugned order dated 23.5.2022, the instant Petition for Special Leave to Appeal has been filed.

Learned counsel for the petitioners points out that after the High Court's decision, the Bank has entered into One Time Settlement with the petitioners vide letter dated 14.6.2022, and as per the agreed terms and conditions, they have started making payments for which a separate account "NO Lien RO SARB" has been opened by the Bank. The petitioners are stated to have deposited a sum of Rs. 17 Crores and 55 Thousands so far.

In the light of the above changed circumstances and subsequent events, it appears to us that the petitioners are well within their right to represent the Bank for reconsideration of its earlier decision whereby the petitioners have classified as "Wilful defaulters".

We thus deem it appropriate to dispose of the Special Leave Petition at this stage, without expressing any views on the merits, with liberty to the petitioners to make a representation to the Bank to review/reconsider its previous decision whereby they have been categorized as "Wilful defaulters" and if any such representation is made by the petitioners, the same shall be considered by the Bank/Regional Stressed Asset Recovery Recovery Branch within a period of two weeks from the date of its submission. The petitioners shall be at liberty to avail their legal remedy if the decision to be

taken by the Bank is not favourable to them."

Learned counsel appearing on behalf of the respondent Bank and also on behalf of RBI, have no objection in case the instant petition is also disposed of with liberty to the petitioner-Company to represent before the respondent Bank for review of its order declaring the petitioners as "wilful defaulters".

Learned counsel for the respondents have no objection to disposed of instant petition in same terms.

Accordingly, the petition is disposed of in above terms. The representation that may be filed by the petitioners will be decided by the respondent Bank/competent authority within a period of four weeks from the date of its submission. In case the decision of the Bank goes against the petitioners, they will be at liberty to avail legal remedies as may be available to them.

(Vikram D. Chauhan J.) (Manoj Kumar Gupta, J.)

Order Date :- 17.1.2023
Jaideep/-