(2005) 05 NCDRC CK 0039

In the National Consumer Disputes Redressal Commission

GITA MECHANICAL WORKS APPELLANT

Vs

State Bank of India RESPONDENT

Date of Decision : 27-05-2005

Acts Referred:

Citation : 2006 1 CPC 476 : 2006 1 CPJ 148

Hon'ble Judges : K.S.Gupta , P.D.Shenoy J.

Final Decision : Complaint dismissed

Judgement

1. COMPLAINT was filed, inter alia, alleging that complainant No. 1, a private limited, small scale industrial unit, was incorporated in the year 1992 to carry on the business of manufacturing steel products, bars, billets, railway components and tools of all kinds, etc. Bihar Industrial and Investment Corporation (BICICO) and Bihar State Financial Corporation (BSFC) are the two State-level financial institutions in Bihar which provide term loan facilities to small scale industrial units. It was further alleged that on 15.12.1990(?) complainants applied to Kankar Bagh branch of the opposite party Bank in Patna for working capital loan of Rs. 72 lakh. Apraisal Committee of the Bank found that the requirement of working capital of complainant No. 1 was Rs. 80.17 lakh less 25% margine money and it, thus, recommended loan of Rs. 60.12 lakh. However, the higher authorities of Bank in arbitrary manner sanctioned cash credit limit (stock) of Rs. 25 lakh and limit against bills of Rs. 9 lakh, totalling Rs. 34 lakh. It was also alleged that after great persuasion, the opposite party conducted a fresh appraisal and assessed the working capital requirement as Rs. 74,50,000. This time again the opposite party sanctioned cash credit limit (stock) of Rs. 45 lakh and cash credit bills limit of Rs. 9 lakh which was communicated to the complainants by the letter dated 21.1.1995. Said amount was ultimately paid by the opposite party to the complainants. It was stated that ultimate effect of the shortfall in loan by the opposite party was that complainant No. 1 went sick and total accumulated financial loss as per the audited financial loss was about Rs. 5,78,93,793. It was pleaded that under the industrial policy of 1995, the Government of Bihar has made provision for reviving sick small scale industries

and under Clause 21(1) of the policy, State Government has formed an apex body on the lines of BIFR with Director of Industries and its head to consider the question of reviving of sick units. The complainant No. 1 applied for declaring it as a sick unit by filing an application before the apex body on 10.6.1997 and it was declared a sick unit in the meeting of the apex body held on 17.8.1998. Certificate to that effect was also issued. Thereafter, complainants got a rehabilitation package proposal prepared and submitted to the apex body. In the meantime, opposite party filed O.A. before the Debt Recovery Tribunal, Patna, for recovery of the amount of loan advanced to the complainants. Instead of taking a positive step in the direction of rehabilitation of complainant No. 1 the opposite party tried to withdraw itself from the responsibility of rehabilitation of complainant No. 1. In the meeting held on 25.4.2001, a decision was taken to refer the matter back to Rs. 5,18,93,793 as compensation for the loss suffered by complainant No. 1, in addition to further paying amount of Rs. 20 lakh and Rs. 50 lakh by way of compensation.

2. ON being enquired how this complaint is maintainable and within limitation period, Mr. Shravan Kumar for complainants contended that complaint pertains to deficiency in service in not implementing the rehabilitation proposal by the opposite party Bank despite the order of High Court dated 2.12.2003 in Writ Petition No. 11501 of 2001. In para No. 53 of the complaint, it is alleged that against the order dated 2.12.2003, the LPA filed by opposite party Bank is pending before the High Court. In our view, if there was non-compliance of the directions made in said order dated 2.12.2003 and no stay was operating in LPA, the complainants can file Contempt of Court proceedings against the opposite party and present complaint to give effect to the said order is not at all maintainable under the Act. Dismissed as such. Complaint dismissed.