(1993) 03 NCDRC CK 0086

In the National Consumer Disputes Redressal Commission

GOVIND ELECTRODES PVT. LTD. APPELLANT

Vs

GENERAL MANAGER, UNITED COMMERCIAL BANK RESPONDENT

Date of Decision : 11-03-1993

Acts Referred:

Citation : 1993 0 CPC 464 : 1993 1 CLT 669 : 1995 2 CPJ 86

Hon'ble Judges : V.Balakrishna Eradi , A.S.Vijayakar , Y.Krishan , B.S.Yadav J.

Advocate : Bhim Singh , V.K.Shali

Final Decision : Dismissed

Judgement

1. THE Petitioner Complainant complained that for running his industry for maunfacture of electrrdes he had applied to the Opposite Party for working capital facility which was sanctioned to him by the Opposite Party, the bank, in November, 1988. Rs. 10 lakhs cash credit against security of hypothecation of goods and Rs. 13 lakhs as a limit on the security of bills to be discounted. In August, 1990 the Petitioner Complainant applied for enhancement of the limit for cash credit. But this was refused by the Opposite Party, the bank over and above the limit already granted and the bank ignored the need of the complainant for additional finance to meet the demand for the products of the petitioner complainant. Besides, the Complainant alleges that the Opposite Party - the bank, started harassing the petitioner complainant by refusing to honour the cheques of the complainant factory and by refusing to accept bills for the purpose of discounting since November, 1990. THE non-cooperation of the Opposite Party, bank, adversely affected the production of the complainants factory. In consequence it could not also pay interest on the loan it has received from the M.P. Financial Corporation, Bhopal, and which at the time of the undated complaint petition has amounted to Rs. 6 lakhs. In brief, according to the complainant the Opposite Party-Bank has failed to provide the necessary cash credit and the bill discounting facilities and refused unreasonably to enhance the cash credit limits. He has in consequence incurred a loss of Rs. 5 lakhs a part from suffering humiliation and mental agony. He has made a claim

of Rs. 25 lakhs against the Opposite Party and also prayed for relief in interest on the loan amount.

2. THE Opposite Party in his counter has averred that the complainant owes to the bank a sum of Rs. 16.20 lakhs which has become due for repayment, but he failed to repay. THErefore the bank had to file a suit for recovery of the amount of Rs. 16,19,593/- on 16th July, 1992 which is now pending in the Court of District Judge, Raisen , M.P. THE opposite party, bank also averred that the bank was entitled to stop purchasing bills (discounting bills) at any stage without any notice as per the terms and conditions agreed upon by the complainant. Further the complainant, in violation of terms and conditions of the credit agreement and banking norms, had opened account and obtained credit facilities from another bank by giving false declaration that he was not having any account or credit facilities from any other bank while he was receiving credit facilities from the opposite party, bank. THE opposite party, bank has also charged the complainant with having submitted false stock statements. The paper book does not show the date of the complaint petition nor the date of the affidavit in support thereof. But, the reply of the opposite party, bank was filed on 24th August, 1992. There was enough time with the complainant petitioner to file his rejoinder, if any. The case came up for hearing on the 6th November, 1992 when no one appeared on behalf of the complainant and orders were reserved. However, on 12th of November, 1992 the Counsel for the complainant mentioned the case and submitted that he was unavoidably unable to be present on the date when the case was heard on 6th November, 1992 The Commission agreed to his request for a hearing. In consequence the case was fixed for hearing on 7th December, 1992. After hearing his arguments the Counsel for the complainant was allowed to file written arguments in supplementation of his oral arguments within a period of two weeks viz. by 22nd December, 1992 The Registry of this Commission has received no written arguments from the complainant or his Counsel till the 2nd February, 1993. It is, therefore, not necessary to go into the matter further. On the face of it, the complainant has not established any deficiency in service on the part of the opposite party, bank. Besides, we have repeatedly held that the banks have the discretion to decide in good faith in the interests of safeguarding public funds whether a party should be given or continued to be given credit facilities or not. No doubt it has to have due regard to the guidelines of the Reserve Bank of India but they are merely guidelines and the final decision rests with the bank. The bank will have to decide ultimately in its best judgment whether credit facilities should be given to a party, whether a party should continue to enjoy them keeping in view its performance, and above all, whether or not the party concerned is justifiably eligible for additional credit facilities. In view of this, the complaint before this Commission is not maintainable and is dismissed on that ground. The petitioner is free to seek redressal in a Civil Court, if so chooses and if so advised. Original petition dismissed.