

(2007) 01 NCDRC CK 0047

In the National Consumer Disputes Redressal Commission

J.K. Cotton Spinning and Weaving Mills Company Ltd.

APPELLANT

Vs

AMIN UDDIN AHMAD

RESPONDENT

Date of Decision : 08-01-2007

Acts Referred:

Citation : 2007 1 CPJ 320 : 2007 1 CPR 290

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

Final Decision : Revision Petition partly allowed

Judgement

1. THIS revision is directed against the order dated 10.2.2005 of Consumer Disputes Redressal Commission, Uttar Pradesh, Lucknow partly allowing appeal against the order dated 20.3.2002 of a District Forum that respondent will be entitled to interest @ 18% p.a., w.e.f. 25.5.1990 the date of maturity instead of 19.5.1987, the date on which deposit was made and @ 14% p.a. for the term deposit period of three years. The District Forum had allowed the complaint with direction to the petitioner to pay interest on the deposited amount @ 18% p.a. with effect from 19.5.1987.

2. RESPONDENT/complainant deposited Rs. 3,000 for a period of three years on 19.5.1987 with the petitioner/opposite party. Deposit was to carry interest @ 14% p.a. On payment of maturity amount not being made despite submission of FDR on 25.5.1990, the respondent filed complaint claiming refund of the maturity amount with compensation which was contested by the petitioner. All grounds of contest need not be referred to for deciding this revision. Main thrust of argument advanced by Mr. Rishi Kapoor for petitioner was that a rehabilitation scheme for the company was sanctioned by BIFR on 12.11.2002 and pursuant to this scheme public deposit holders are to be paid the principal amount over a period of three years in six equal-half yearly instalments (interest-free) from the cut-off date of 30.9.2002 and this fact was not considered by the State Commission. It was pointed out that pursuant to the scheme the amounts of four instalments were remitted through cheques on due dates but the respondent declined to receive/encash the cheque(s). Attention was invited to the provision

contained in Sub-section (1) of Section 32 reproduced below of the Sick Industrial Companies (Special Provisions) Act, 1985 : "The provisions of this Act and of any rules or schemes made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law except the provisions of the Foreign Exchange Regulation Act, 1973 (46 of 1973) and the Urban Land (Ceiling and Regulation) Act, 1976 (22 of 1976) for the time being in force or in the Memorandum or Articles of Association of an industrial company or in any other instrument having effect by virtue of any law other than this Act."

Section 18 of this Act deals with the preparation and sanction of schemes and Sub-sections (4), (7) and (8) thereof which are material, run thus : "4. The scheme shall thereafter be sanctioned, as soon as may be, by the Board (hereinafter referred to as the "sanctioned scheme") and shall come into force on such date as the Board may specify in this behalf.

7. The sanction accorded by the Board under Sub-section (4) shall be conclusive evidence that all the requirements of this scheme relating to the reconstruction or amalgamation, or any other measure specified therein have been complied with and a copy of the sanctioned scheme certified in writing by an officer of the Board to be a true copy thereof, shall, in all legal proceedings, (whether in appeal or otherwise) be admitted as evidence.

8. On and from the date of the coming into operation of the sanctioned scheme or any provision thereof, the scheme or such provision shall be binding on the sick industrial company and the transferee company or, as the case may be, the other company and also on the shareholders, creditors and guarantors and employees of the said companies."

3. UNDER the sanctioned scheme placed on file, deposit holders are to be paid the principal amount in full settlement in six equal interest free half-yearly instalments commencing from six months after the cut-off date. This scheme has been made binding on deposit holders under said Sub-section (8) of Section 18. Obviously, under the sanctioned scheme the respondent is not entitled to any interest on deposited amount of Rs. 3,000. Scheme was sanctioned during the pendency of appeal. In our view, considering the aforesaid provisions the State Commission ought not to have ignored the scheme. State Commission had, thus, acted with material irregularity and the order passed by it, therefore, deserves to be modified to the extent that respondent is not entitled to any interest on the deposited amount. By now period of three years of making payment under the scheme has already elapsed. Respondent is entitled to the entire amount of Rs. 3,000 in lump sum. For the foregoing discussion, order of State Commission is modified to the extent that petitioner is not liable to pay any interest on Rs. 3,000 deposited by the respondent. Petitioner will remit the entire amount of Rs. 3,000 to the respondent within four weeks hereof. No order as to cost. Revision Petition partly allowed.