(2015) 05 NCDRC CK 0159

In the National Consumer Disputes Redressal Commission

Case No : 45 of 2009

KSHETRIYA SHREE GANDHI ASHRAM — APPELLANT

Vs

PUNJAB NATIONAL BANK & ORS — RESPONDENT

Date of Decision : 21-05-2015

Acts Referred:

Consumer Protection Act, 1986, Section 24-A

Citation : (2015) 05 NCDRC CK 0159

Hon'ble Judges : V.K. Jain, B.C. Gupta

Advocate : Jasbir Singh Malik, R.K. Dhawan, Richa Dhawan, Archana Chaudhary, Anwesha Singh

Judgement

1. The complainant before us is a society registered under the provisions of the Societies Registration Act and is stated to have been recognized by Khadi Gram Udyog, a Government of India Undertaking, for the purpose of spinning and knitting of cotton, cotton products and sale of khadi products, etc.. According to the complainant it implements the schemes of the Government for production and sale of cotton, woolen, silk, khadi clothes and other cottage industry products, with the main objective of giving employment to the backward, poor and rural persons. The complainant is maintaining a current account with the opposite party Punjab National Bank at it Urdu Bazar, Gorakhpur Branch and credit limits to the extent of Rs.1,15,09,000/- were sanctioned to the complainant by the aforesaid branch of the bank.

2. Vide circular No.RPCD No.PL.NFS.DC.90/C.464 (A)-Spl.KVIC-87/88 dated March 29, 1988 the Reserve Bank of India instructed all scheduled commercial banks, which would include Punjab National Bank, as under: "Please refer to our circular letter No.DBOD.No.BP.BC.75/C.464 (A)-81 dated 9 Jun 1981 regarding institutional credit support to organizations undertaking promotional activities for artisans, village and cottage industries. It has been brought to our notice that implementing agencies of KVIC/State KVI Boards are not treated eligible organization for concessional rate of interest of 12.5% per annum applicable to

working capital limits sanctioned to State Level Corporations for purchase and supply of inputs to artisans, village and cottage industries and/or marketing their output. In this connection, we clarify that advances sanctioned to implementing agencies of KVIC/State KVI Boards exclusively for the purpose of purchase and supply of inputs to and/or marketing of the outputs of artisans, village and cottage industries and so expressly certified by KVIC/ State KVI Boards will also be eligible for the concessional rate of interest of 12.5% per annum."

It would, thus, be seen that in terms of the aforesaid circular the implementing agencies of KVIC and State KVI Boards were also eligible for concessional rate of interest of 12.5% per annum as far as working capital limits sanctioned for purchase and supply of inputs to artisans, village and cottage industries and/or marketing their output was concerned. The grievance of the complainant is that despite aforesaid circular issued by Reserve Bank of India the opposite party has charged interest from them at a rate much higher than 12.5 %, which amounts to deficiency in rendering services to the complainant. A representation was made by the complainant to the bank in this regard in the year 2007 which came to be rejected by the bank on 04-12-2007. Being aggrieved the complainant is before this Commission seeking payment of Rs.2,16,82,093/- from the opposite party comprising excess interest charged during the period from 01-04-1992 to 31-03-2007. The complainant is also claiming interest at the rate of 18% per annum on the aforesaid excess interest charged by the opposite party, besides compensation amounting to Rs.10,00,000/-.

3. The complaint has been resisted by the bank primarily on the ground that it is barred by limitation and they had charged interest from the complainant in terms of circular dated 21-09-1990, 25-06-1991, 21-09-1991 and 08-10-1991 issued by the Reserve Bank of India.

4. The circular issued by Reserve Bank of India on 21-09-1990 to the extent it is relevant reads as under: "In exercise of the powers conferred by Sections 21 and 35A of the Banking Regulations Act, 1949 the Reserve Bank of India, being satisfied that it is necessary and expedient in the public interest so to do, hereby directs, in supersession of its directive DBOD. No.Dir.BC.32/C.96-88 dated 8 October 1988 as amended from time to time, that with effect from 22 September 1990 no scheduled commercial bank shall charge interest on loans/advances/ cash credit/overdrafts or any other financial accommodation granted or provided by it or renewed by it or discount usance bills except in accordance with the rates as specified in annexure hereto. The interest at the rates specified in the annexure shall be charged with quarterly or longer rests.

2. For the purpose of this Directive, term loan means a loan which is repayable within a period of note less than 3 years.

3. Nothing contained in this Directive shall apply to loans or advances or other financial accommodation made or provided or renewed by a scheduled bank-

(i) to its own employees,

(ii) to a cooperative bank or to any other banking institution,

(iii) against deposits with the bank, provided that the deposit(s) stands/stand either in the name(s) of the borrower himself/borrowers themselves or in the names of the borrower jointly with another person."

Vide circular dated 21-09-1991 the Reserve Bank of India directed as under:

"Please refer to our directive DBOD.No.Dir.BC.18/C.96-90 dated September 21, 1990, as amended from time to time, on the captioned subject. In this connection, your attention is invited to our directive DBOD.No. Dir.BC.136/ C.96-91 dated June 25,1991 advising the banks to add a new category "8. Housing finance to intermediary agencies for onlending to ultimate beneficiaries" in the annexure to our directive under reference. On an examination of the issue relating to the interest that should be applicable on finance extended by the banks to onlending agencies (including those for housing) and agencies providing input support, it has been decided that the rate of interest that may be charged by scheduled commercial banks on finance granted to intermediary agencies for onlending to ultimate beneficiaries shall be at a fixed rate of 15.5 percent per annum i.e.3 percentage points below the minimum interest rate applicable for credit limits in the category of over Rs.2 lakhs.

(PACS)/Farmers Service Societies (FSS)/Large-sized Adivasi Multi-Purpose Societies (LAMPS) will be governed by the instructions contained in our circular DBDO No.Dir.BC.25/C.96-91 dated September 12, 1991. It may further be noted that the rate of interest on advances granted to the onlending agencies in respect of the beneficiaries satisfying eligibility criteria under DRI Scheme shall continue to be 4 percent per annum." Vide DOBD No.Dir.BC.34/C.96-91 dated October 8, 1991, the rate of interest on advances was increased by 1.5% across the board thereby enhancing the interest on advances to a range from 11.5% to 20% as against the earlier range of 10% to 18.5%. Vide circular dated October 8, 1991 a revised annexure was issued by Reserve Bank of India specifying the rate of interest to be charged by scheduled commercial banks on the advances with effect from October 8, 1991. The range of interest stipulated in the said circular was from 11.5% to 20% per annum. The said revised annexure stipulated fixed rate of interest of 16% for the finances granted to intermediate agencies for onward landing to ultimate beneficiaries and agencies providing input support.

5. It would, thus, be seen that though the circular dated 29-03-1988 was not expressly superseded by way of subsequent circulars noted hereinbefore, the said subsequent circulars were applicable to all the advances granted by commercial banks. The aforesaid subsequent circulars did not contain an exemption or a lower rate of interest for the advances sanctioned to implementing agencies of KVIC/State KVI Boards for the purpose of purchase and supply of inputs and/or marketing of the output of the artisans and village and cottage industries. In the absence of any exemption or a special rate in

respect of the advances sanctioned to such implementing agencies of KVIC/State KVI Boards the commercial banks were entitled and rather required to charge interest on advances strictly in accordance with the aforesaid subsequent circulars issued by the Reserve Bank of India. The only exception contained in the circular dated 21-09-1990 were the loans given by the banks to its own employees, the loans given to cooperative banks or any other banking institutions and the loans given against deposits with the banks. The advances sanctioned to the complainant before us were obviously not covered under any of the aforesaid special categories of borrowers. In fact the circular dated 21-09-1991 made it quite clear that the interest rates notified by the Reserve Bank of India were applicable also to the finances extended by the bank to the agencies providing input support. The complainants before us being an agency providing input support, to artisans, villagers, etc. there is no escape from the conclusion that the revised interest rates on advances were also applicable to the implementing agencies of KVIC/State KVI Boards. Item No.8 of the revised annexure to the circular dated October 8, 1991 issued by Reserve Bank of India reiterated that fixed rate of 17% per annum would be applicable for credit limits in the category of advances over Rs.2,00,000/- in respect of finances granted to intermediate agencies and agencies providing input support. The complainant being an agency providing input support the bank was entitled to charge interest at the aforesaid rate from it, the advance taken by it being over Rs.2,00,000/-.

6. For the reasons stated hereinabove, we are of the considered view that no deficiency on the part of the opposite party is made out in rendering services to the complainant.

7. We also find that the complaint, to the extent it pertains to the interest charged for the period prior to two years before the filing of this complaint would be barred by limitation since, the complainant knew or at least had the means to know that it was being charged interest at a rate higher than 12.5% per annum. This is not the case of the complainant in the complaint that it was not aware of the circular dated 29-03-1988 issued by Reserve Bank of India. Despite that a representation to the bank for refund of the excess interest was made for the first time on 04-12-2007. It was stated in the representation made to the bank that from the bank statement the chartered accountant of the complainant had noticed that the bank was charging interest at a rate higher than 12.5 % per annum. This would show that the rate at which interest was being charged by the being could have been easily gathered from the statement of accounts supplied to the complainant from time to time. This is more so, considering that the accounts of the complainant are admittedly subjected to audit. Therefore, nothing prevented the complainant from making representation to the bank as regards seeking refund of the alleged excess interest, soon after it

had received the bank statement wherein interest was charged at a rate higher than 12.5% per annum. In any case, the complainant ought to have approached this Commission within two years of its having received the bank statement and coming to know the rate at which interest was charged from it by the bank. That having not been done the complaint is partly barred by limitation described in Section 24A of the Consumer Protection Act.

8. For the reasons stated hereinabove, no ground for award of any compensation or for refund of any amount to the complainant by the bank is made out. The complaint is accordingly dismissed with no order as to costs. We make it clear that the dismissal of this complaint will not come in the way of the complainant seeking further subsidy from KVIC on account of having paid interest higher than 12.5% per annum to the bank in case the subsidy already availed by it was based on the premise that the bank could charge interest only at 12.5% per annum.

