

such basis, the Bank moved the Adjudicating Authority and the proceeding was admitted.

3. The Application under Section 7 appears to have been filed in August, 2018.

4. The learned Counsel for Appellant states that during the pendency of the Section 7 Application, the Bank had issued letter (Annexure A-5) on 4th June, 2019 pointing out that the account had become NPA on 28th January, 2016 and whether the Appellant was interested in getting benefit of Special One-time Settlement Scheme which had been issued. By another letter (Annexure A-6) on 4th June, 2019, the Bank asked deposit of 10% of the OTS amount in case the Appellant wanted to indicate willingness for OTS proposal. Counsel states that the Appellant sent letter dated 03.07.2019 offering more than 10%, which amount was accepted by the Bank. The letter states that Corporate Debtor was in precarious position. It is stated that later, by letter dated 15.07.2019 (Page No.272), the Bank informed as under:-

“Ref: Your OTS proposal dt. 03.07.2019

Dear Sir,

Please refer to your letter dt. 03.07.2019 regarding your OTS offer of Rs.9.35 crore we like to inform that as per bank's OTS policy in your case minimum OTS offer of book outstanding can be considered. Therefore, you are requested to revise your offer and submit fresh request with 10% upfront.

Please note that no OTS proposal is pending with the bank.”

5. The learned Counsel for Appellant states that the Bank should have given respect to its earlier offer and the communication as at Annexure A-11 was not justified. Annexure A-12 shows Order of DRT dated 12.12.2019 that

the Bank had also initiated proceeding under the SARFAESI and the matter was before DRT, which gave direction how to go about with the consideration of OTS.

6. Having heard Counsel for the Appellant, although it appears that after filing of the Section 7 Application, there were some developments between the parties as mentioned above and the question of OTS was looked into by DRT also, we find that those proceedings cannot be an obstruction for the Adjudicating Authority to deal with Section 7 Application and the Adjudicating Authority finding debt due and default and the application to be complete, admitted the Application on 13th December, 2019. We do not find that there is anything illegal in the Impugned Order which has been passed. The Adjudicating Authority was required to examine the format and annexures submitted by the Bank and when it found that the Application was complete and there was debt and default, the Adjudicating was bound to admit the same.

There is no reason to admit the Appeal. There is no merit.

We decline to admit the Appeal.

[Justice A.I.S. Cheema]
Member (Judicial)

(Justice A.B. Singh)
Member (Judicial)

[Kanthi Narahari]
Member (Technical)

/rs/md