

STATE BANK OF PATIALA AND ANR.

A

v.

HARBANS SINGH

FEBRUARY 14, 1994

[K. RAMASWAMY AND B.L. HANSARIA, JJ.]

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Banking Services—'Term Loan' for construction of building with a condition to lease to the lending bank—Rate of interest—Also quarterly rest—Directions by Reserve Bank of India—Held: Loan not for commercial purpose—Hence no quarterly rest permissible—Interest only at the rate of 15%.

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Words & Phrases: 'Term Loan'—Meaning of—In the context of Banking services.

The respondent landlord obtained loan from the appellant bank and constructed a building for the business of the appellant. The interest charged was 16% per annum with quarterly rests thereon. The respondent filed a suit challenging the liability, and the trial court reduced the rate of interest to 15% per annum and also set aside the liability of quarterly rest. On appeal, the same was confirmed. The second appeal preferred by the bank having been dismissed *in limine* by the High Court, the bank preferred the present appeal.

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On behalf of the appellants, it was contended that the word 'term loan' would include not only the loan advanced for commercial purposes, but also the loans advanced to landlords for construction of building to lease back to the lending bank for their commercial purpose, which loan carried liability to pay interest at quarterly rest.

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Dismissing the appeal, this Court

HELD: 1. In view of the directions by the Reserve Bank of India issued to all banks on 18.4.1991 there is no liability of the landlord, who had taken loan for constructing the premises and leasing back to the bank for commercial purpose, to pay interest at more than 15% and he need not pay interest at quarterly rest. The letter of Reserve Bank dated March 13, 1976 also indicates that the obligation to pay quarterly rest was not with reference to the loans taken by the landlords for construction of the premises but

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- A for commercial purpose. The word 'term loan' was used for the commercial purpose and it did not include the loan advanced to the landlords for construction of the buildings. 'Term loan' would mean the loan advanced for commercial purposes and not the loans given to the landlords for construction of the buildings to lease back for the use by the bank itself. It was not so intended would be clear from para 1(ii) of the letter dated 18.4.1991 relied on by the bank. It would indicate that in respect to commercial loans, they appear to have intended to charge quarterly rest. The Reserve Bank at nowhere indicated that the term loans given to the landlords for construction of the buildings to lease back to the commercial banks should be intended to be charged with interest with quarterly rest. On the other hand, they have reduced sufficiently from time to time even the lending rate of interest in favour of landlords/lessors. [937-E-H; 938-A]

2. No doubt the Head Office while addressing the letter to the Manager of the appellant bank had referred to the rate of interest at 15% per annum plus interest tax with quarterly rest. But in the light of the direction given by the Reserve Bank which the commercial banks are bound to follow and the bank itself adopted that policy a reduced the rate of interest, the liability to pay quarterly rest is obviously illegal. [938-B, C]

- CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1690 of 1994.

From the Judgment and Order dated 28.5.93 of the Punjab & Haryana in R.S.A. No. 1165 of 1993.

S.P. Goyal and Mrs. Amita Gupta for the Appellants.

M.S. Gujral and S.K. Bandopadhyay for the Respondent.

The following Order of the Court was delivered:

1. Leave granted. This appeal arises against the order of the High Court of Punjab & Haryana in Second Appeal No. 1165/93 dated May 28, 1993 dismissing the appeal of the appellant *in limine*. The respondent is the landlord who obtained loan from the appellant and constructed a building for the business of the appellant in ground floor of the premises bearing No. 55 at Tripurari Sadan, Patiala. The appellant charged interest @ 16% per annum with quarterly rests thereon. Impugning the liability, the respondent laid the suit and the trial court reduced the rate of interest

to 15% p.a. and also set aside the liability of quarterly rest. On appeal it was confirmed. As said earlier, the second appeal was dismissed *in limine*. Thus the appeal by special leave.

2. The contention of the appellants is that the respondent had approached for a term loan for construction of the building with a condition to lease it out to the appellants. In the promissory note and the documents executed by the respondent, it was specifically agreed that the term loan granted by the appellants would carry not only the interest at the rate stipulated therein, but also quarterly rest. It is stated that the word 'term loan' would include not only the loan lent for commercial purposes but also the loan advanced to construct the houses to lease back to the bank for their business purpose and the Courts below have, therefore, committed illegality in reducing the liability of quarterly rest. Though we have given sufficient time and adjourned the case from time to time to produce all the records, the bank has not chosen to produce the records; in particular, circular letter of Reserve Bank of India bearing DBOD No. DCDC 106/c 168(61-80) dated September 15, 1980 on the subject of minimum lending rates of interest in respect of advances to the landlords. Therefore, we are constrained to proceed on the basis of the material placed by the appellants and the respondent.

3. Shri Goel, learned senior counsel for the appellants, has strenuously contended that the word 'term loan' would include not only the loan advanced for commercial purpose, but also the loans advanced to the landlords for construction of the building to lease back to the lending bank for their commercial purpose, which loan carries liability to pay interest at quarterly rest. In the promissory note and the agreement executed by the respondent it was also mentioned that the liability on interest is also with quarterly rest. He stated that in clause 1(ii) of the letter (exhibit P-7, filed by them on the paper book) addressed by the Reserve Bank of India, Department of Banking Operations to all the commercial banks on March 13, 1976 it was mentioned that:

"1(ii) no scheduled commercial bank incorporated in India and having aggregate demand and time liabilities of Rs. 25 crores or above but less than Rs. 50 crores as on the 12th March, 1976 or at any time thereafter, shall charge interest on loans/advances/cash credits/ overdrafts or any other financial accommodation made or

A provided by it or renewed by it, or discount usance bills at a rate, in either case, higher than 17.50 per cent annum: interest shall be charged with quarterly rests."

B 4. This clearly shows that landlord is liable to pay quarterly rest. But when we see the letter DBOD No. DC.DC.42/c. 168(61)-81 dated 18th April 1991 addressed by the Reserve Bank to all the commercial banks including the regional rural banks. We find it was decided by the Reserve Bank that the minimum lending rates of interest in respect of advances to landlords/ lessors or premises for banks use, should be refined and the same should be 15.0% in respect of such advances in urban/metropolitan centres. This letter does not mention about quarterly rest.

C 5. The appellant bank itself have stated that in the letter of the Reserve Bank of India dated March 7, 1986 it has been reiterated in paragraph 2 that the matter regarding rates of interest to be charged by the banks on advances granted to landlords for purpose of has been reviewed and it has been decided that such advances should be treated as term loans and charged interest accordingly which was at that time 15% per annum. Even in the letter subsequently addressed by the Regional Manager of the appellant bank on April 22, 1988 it was stated that:

E "Please refer to your letter mentioned above and advice us the reasons for charging higher rate of interest @ 16% and 17.5% whereas per loans and conditions settled with the landlord 15% P.A. interest plus interest tax is to be charged."

F When the respondent vide his letter dated April 16, 1988 had expressly protested not only charging the rate of interest at 16% P.A., but also quarterly rest, the appellants bank specifically referred to this request of the respondent and pointed out that the aforesaid mistake was committed by the authorities. The appellant bank in its latest circular No. Prem/Gen/8 of 1993-94 dated 29th October, 1993 have stated that the Reserve Bank of India have reduced the lending rates by one per cent point from 18% (Minimum) to 17% (minimum) from 17% (Minimum) to 16% (minimum) and from 16% (minimum) and from 16% (Minimum) to 15% (minimum) *w.e.f.* 1.3.93, 24.6.93 and 2.9.93 respectively. Consequent to the above revision, the appellant bank itself decided to charge interest on terms loans granted to landlords for purpose of acquisition of premises for Bank's use

H *w.e.f.* 1.3.93 to 23.6.93, 24.6.93 to 1.9.93 & 2.9.93 onwards as per the

schedule mentioned as under:

Size	Effective interest rate prevalent before 1.3.93	Effective interest rate from 1.3.93 to 23.6.93	Effective interest rate from 24.6.93 to 1.9.93	Effective interest rate w.e.f. 2.9.93 onwards
A. Upto & inclusive of Rs. 7500/-	12.00 (11.50)	12.00 (11.50)		
B. Over Rs. 7500 & upto Rs. 25,000/-	14.00 (13.50)	14.00 (13.50)	12.50 (12.00)	12.50 (12.00)
C. Over Rs. 25000/- & Upto Rs. 2.00 lacs	17.25 (16.50)	17.25 (16.50)	16.50 (16.00)	15.50 Fixed (15.00)
D. Over Rs. 2.00 lacs	18.75 min. (18.00) min.	17.75 min. (17.00) min.	16.50 min. (16.00) min.	15.50 min. (15.00) min.

(Figures given in brackets indicated interest rate without tax)

6. In the light of these intrinsic factual material, directions by the Reserve Bank and circumstances, it is clear that there is no liability of the landlord, who had taken loan for constructing the premises and leasing back to the bank for commercial purpose, to pay interest at more than 15% and he need not pay interest at quarterly rest. The letter of R.B.I. dated March 13, 1976 also indicate that the obligation to pay quarterly rest was not with reference to the loans taken by the landlords for construction of the premises but for commercial purpose. The word term loan was used for commercial purpose and it did not include the loan advanced to the landlords for construction of the buildings. Term loan would mean the loan advanced for commercial purposes and not the loans given to the landlords for construction of buildings to lease back for the use by the bank itself. It was not so intended would be clear from para 1(ii) of the letter relied on by the bank (ex.p-7) as extracted earlier. It would indicate that in respect of commercial loans, they appear to have intended to charge quarterly rest. The Reserve Bank at nowhere indicated that the term loans given to the landlords for construction of the buildings to lease back to the commercial

A banks should be intended to be charged with interest with quarterly rest. On the other hand, they have reduced sufficiently from time to time even the lending rate of interest in favour of landlords/lessors.

B 7. It is true, as contended by Shri Goel, learned senior counsel, that the State Bank of Patiala, Head Office while addressing the letter to the Manager of the State Bank of Patiala at Tripurari Saidan, Patiala (Ann. P-6) have referred to the rate of interest at 15% per annum plus interest tax with quarterly rest. But in the light of the directions given by the Reserve Bank which the commercial banks are bound to follow and the bank itself adopted that policy and reduced the rate of interest, the liability to pay quarterly rest is obviously illegal. The trial court and the District Court, therefore, are quite right in limiting the liability of the respondent only to pay simple interest on the loan advanced by the bank at 15% p.a. without quarterly rest. We do not find any illegality warranting interference.

The appeal is accordingly dismissed. No costs.

G.N.

Appeal dismissed.