

(1995) 01 NCDRC CK 0041

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

MIKES (P) LIMITED

APPELLANT

Vs

STATE BANK OF BIKANER AND
JAIPUR

RESPONDENT

Date of Decision: Jan. 16, 1995

Citation: 1995 0 NCDRC 114 : 1995 1 CPC 465 : 1995 3 CPR 1

Hon'ble Judges: V.BALAKRISHNA ERADI , Y.KRISHAN , B.S.YADAV J.

Advocate: H.B.Mallya , S.RAGHAVAN

Judgement

1. THE complainant (for short the factory) has filed this petition claiming Rs. 41,65821.80 as compensation from the opposite party, the State Bank of Bikaner & Jaipur (for short "the bank"). According to the averments made in the complaint, Damodar Nayak (hereinafter referred to as the complainant) had promoted the factory for manufacturing garments and other textile products for export. Before starting this factory he was in New York in the same industry. The factory was started in 1984 on most modern lines with the best of equipments from Japan. Based on the experience of the promoter, Canara Bank readily extended a packing credit limit of Rs. 14 lakhs and other limits of Rs. 10 lakhs. With these funds the factory started trial production during the 1986. Some time in the early 1987 Mr. Chakravarthy, Branch Manager of the Bank Bangalore Branch alongwith the Regional Manager approached the complainant and requested him to shift his account to their bank. The bank officers impressed upon the complainant that he would get better services from their Bank as it was part of the large State Banks Group and also because they dealt with foreign exchange. After some time the complainant accepted the offer of the Bank. During the month of November, 1987 the complainant submitted a credit proposal with the Bank of may be mentioned here that by that time Mr. Chakravarthy, Branch Manager had been transferred and Mr. A.K. Varma had taken over charge. Mr. Varma, who must have been briefed by Mr. Chakravarthy accepted the proposal of the complainant. In the proposal as well as in all the related papers and during discussions it has been clearly mentioned

that the complainant was enjoying credit facilities with the Canara Bank and had some outstanding liabilities. Mr. Varma advised that when the credit facility was extended by the Bank they will transfer adequate funds to Canara Bank to take over the liability. During this period the complainant has received one order worth Rs. 60 lakhs from one buyer of Switzerland, along with trial order which alone was worth Rs. 1,53,200/- which was shipped in time and it was promptly paid. The buyers were very much pleased by the timely shipment of the product. The order has to be taken up for production immediately as more orders were in the pipe line. The complainant informed the Bank that any credit facility sanctioned must be allowed to be utilised immediately on receipt of the order as there was need to keep up the delivery schedule. The Bank was also very much aware of the importance of keeping up the delivery schedule in export commitments. If the complainant failed to keep up the delivery schedule of one consignment, it will have a consequential effect on all the pending orders. The buyers will not accept the particular shipment and may cancel the pending orders. Mr. Verma himself had advised the complainant to apply for a higher limit of Rs. 60 lakhs as against complainant's then existing credit limit of Rs. 24 lakhs in Canara Bank. The Branch Manager removed any doubts/hesitation lingering in the Complainant's mind by sanctioning a total credit limit of Rs. 60 lakhs within four weeks. By the end of August 1988 the complainant had about Rs. 12 lakhs worth of goods in the pipe line and was in a position to ship the goods worth Rs. 3 lakhs in the first month, Rs. 6 lakhs in the second month and Rs. 10 lakhs in the third month i.e. in all worth Rs. 19 lakhs. Accordingly the buyers were informed to open the letters of credit. The buyers opened the first letter of credit worth Rs. 6 lakhs and in August 1988 subsequently another letter of credit worth Rs. 2.9 lakhs. During the month of September, 1988 Mr. Verma visited the factory to see the activities. He was immensely pleased with the progress the factory was making and the shipments which were being made ready for export. Shri Verma was explained by the complainant that he would need more funds during the next month to keep up the delivery schedule. Being a very intelligent man, Mr. Verma knew very well how important it was to keep up the supply of money and that any delay in releasing the funds would not only jeopardise the untouched orders, it would also cause a loss of about Rs. 12 lakhs, the value of production in the pipe line. At the end of that visit Mr. Verma quietly suggested that the complainant should pay him Rs. 50,000/- for sanctioning the credit limit of Rs. 60 lakhs. The complainant was reluctant to indulge in any kind of corrupt practice. Mr. Verma started harassing the complainant by delaying the release the funds. Mr. Nayak went to Bombay and informed the Regional Manager about the demand of Mr. Verma. He promised to look into the matter but nothing came out of it. On 30th September, 1988 a cheque was drawn by the complainant for Rs. 45,000/- payable to one of the fabric suppliers but was dishonoured by the Bank. The Finance Manager of the complainant met Mr. Verma for an explanation for dishonouring the cheque. Mr. Verma asked the Finance Manager to send the complainant, Mr. Damodar Nayak "with the papers asked for". When the Finance Manager enquired about the nature of papers, Mr.

Verma told him that he had told everything to Mr. Damodar Nayak. Next morning Mr. Damodar Nayak went to the house of Mr. Verma to know his intentions clearly. Mr. Verma told him that he would take care of all the finance matters provided he was paid his commission of Rs. 50,000/-. Mr. Damodar Nayak came back to his office and contacted the C.B.I. Mr. Srikumar the then SP C.B.I, received a complaint from Mr. Damodar Nayak and advised him to talk with Mr. Verma over the phone which conversation was recorded in the C.B.I.'s office. In the telephone discussions Mr. Verma reiterated his demand of Rs. 50,000/- and also his assurance of all cooperation in future to the complainant. When Mr. Damodar Nayak mentioned that he had no cash of Rs. 50,000/- Mr. Verma suggested that he could draw whatever cash he needed. Accordingly the Complainant drew Rs. 1.24 lakhs on 5th October, 1988 and out of that he paid Rs. 50,000/- as bribe to Mr. Verma in his cabin. The C.B.I, had laid the trap and arrested Mr. Verma who had in his possession the cash of Rs. 50,000/-.

2. AN F.I.R. was filed in the Court of Principal City Civil and Sessions Judge (Special Judge), Bangalore. During this period the complainant's operations with the Bank had come to a standstill. The Managing Director of the Bank was very close to Mr. Verma and he was very much upset with the Complainant's action and directed the concerned officers to ruin the complainant by stoppage of all funds. The complainant met the Regional Manager and requested him to continue the release of funds as he was getting late in shipment. However, no funds were released. Finally the complainant received the letter from the Bank giving the following two reasons for not releasing the funds:

(1) Stock were not adequate. (2) The complainant had not closed the accounts with Canara Bank.

The Complainant explained vide letter as well as personally meeting the Bank officers that export packing credit is released to acquire the stock and that it was an arrangement between the complainant and the bank to transfer adequate funds to Canara Bank to take over the liability of the Complainant at an appropriate time. The Complainant had never hidden the fact that he had borrowings from Canara Bank nor he was told either verbally or by letter that he should close the accounts in Canara Bank to get the release of funds. In fact till the CBI arrested Mr. Verma, the Bank never talked about the liability with the Canara Bank or the stocks.

3. THE Bank was harping on the terms of sanction which were never informed to the Complainant. No sanction letter was issued to him. According to the Complainant for 9 months credit facility was given without terms of sanction coming in the way of the Bank. The last hope of bringing the Bank to senses was dashed when they dishonoured the complainant's cheque for Rs. 57,000/- issued in favour of Karnataka Silk Industries Corporation (K.S.I.C.) for the purchase of silk fabric to complete an order. This cheque was issued on 26th October, 1988 and a letter was also addressed to the bank explaining the urgency. In spite of that the bank dishonoured the cheque without explaining the reason. The Complainant had not only returned the goods to KSIC but was barred from any more supply from them. The KSIC were the sole manufacturers of certain qualities of silk for which the complainant had orders. The complainant had to forgo those orders after doing more than half of the investment. Non-release of funds by the bank was the reaction of the complainant's complaint to C.B.I. It was a highly motivated action taken by the Bank for not releasing the funds. The Bank knew that non-release of funds would result in heavy damage to the complainant. The complainant had goods worth Rs. 19 lakhs in the pipeline. However, he could not ship the orders till the letters of credit expired. The failure to ship the first two consignments led to the cancellation of rest of the orders. The complainant found one customer who tentatively offered to buy one lot worth about Rs. 3 lakhs but had refused to open letter of credit. The complainant had no option but to ship the goods. However, the bill was dishonoured. The goods were auctioned by the Shipping Company to recover their dues. The Complainant received Rs. 35,000/- from the Shipping Company as auction proceeds of the goods after adjusting their charges. The Complainant also received Rs. 2,25,000/- in various sales conducted by the complainant to recover whatever they could out of unshipped consignments. More damaging was the loss of the customers from Switzerland who had offered to buy whatever the complainant could produce. The complainant had no orders to carry on because of the bank's mischief. Though with the good offices of S.P., C.B.I, the credit limits in Canara Bank were revived but the factory of the Complainant had to be kept closed for a long time for want of orders. The Complainant's monthly overheads (including interest) exceeded Rs. 1.20 lakhs. The factory had to remain idle for almost 10 months. Finally when the complainant could not get adequate orders it had to run up .huge debts to meet the overheads. The Complainant's cash flow had completely dried up. After struggling for two years in a vicious circle, accumulating losses of more than Rs. 25 lakhs the complainant decided to sell off the land and building to meet the debts and run the factory out of a rented building. As a last resort the complainant wrote to the Managing Director of the Bank on 27th July, 1991 explaining the entire episode and sought help to settle the issue. However, that letter was not acknowledged.

4. FINALLY the Complainant sold the real estate for Rs. 30 lakhs and shifted to a rental building and cut down their capacity to less than 40% of its original plans. 45 employees had also to be retrenched as the size of office had to be reduced. Compensation is still to be paid to the retrenched employees and it was estimated at Rs. 1.5 lakhs. The Complainant has claimed Rs. 41,65,821.80 as compensation for the loss which consists of :

(1) Cost of material wasted in the pipe line Rs. 6,40,000.00 (2) Interest from October 1988 calculated at the rate of 21% compounded quarterly. Rs. 8,11,220.80 (3) Cumulative losses upto 31.3.1990 Rs. 14,51,220.00 (4) Compensation to be paid to retrenched employees Rs. 1,50,000.00 Total Rs. 41,65,821.80

The Bank contested the complaint. It took the preliminary objection to the effect that the Bank filed Civil Suit No. 1091 of 1990 in the Court of City Judge, Bangalore against the complainant for recovery of Rs. 7,17,827.10 ps being the amount due to the bank from the Complainant, along with the future interest at the rate of 17.5% per annum and as regular suit was pending in the Civil Court this Commission should not entertain this complaint in view of its earlier decisions. (in the additional submissions it was pleaded that the complaint was time-barred.) It was averred by the Bank on merits that the Bank has to see the credit worthiness and financial viability of the borrower. The proposal was submitted by the Complainant on 28.10.1987 with the Branch office who submitted it to the Regional Office on 21.1.1988. One of the stipulations in the proposal submitted to the Regional Office was that the Complainant will deal exclusively with the Bank and will route its foreign exchange transaction and entire import and export transaction through the Bank. The Complainant will create first charge on the entire current assets of the company including book debts and second charge on fixed assets. The proposal of the complainant was sanctioned by the Regional Officer on the above lines. The Complainant was under obligation to secure the interest of the bank by creating charge stated above but he failed to do so and did not file form 8 with the Registrar of Companies and thus violated the terms of sanction of the credit facility and kept the bank unsecured. The Complainant did not deal exclusively with the bank as per the terms of sanction. Even in February, 1988 the Complainant got certain concession and relief packages from the Karnataka State Financial Corporation in consultation with the Canara Bank as appeared from the minutes of the meeting of the Financial Institutions held on 23rd February, 1989. On the request of the Complainant to release funds to meet their export commitments, three officials of the Bangalore Branch of the Bank inspected the stock of the complainant at its factory and noticed various irregularities including non-creation of charge on the current assets in favour of the Bank. The stocks did not tally item-wise with the stock

register etc. Mr. Damodar Nayak of the complainant factory objected to the measuring of the length of the cloth and on making few sample tests, the stock was found much less than the stock mentioned in the stock register. The Complainant was allowed a packing credit facility of Rs. 4 lakhs from December, 1987 and upto 5th February, 1988 but the Complainant failed to produce the shipping documents within the prescribed time slot and failed to export goods under the said Packing Credit. As appears from the additional submissions of the Bank, Complainant had submitted an Export bill for Rs. 1,53,000/- on 20th September 1988 for which Rs. 1,52,815/- were adjusted on 4th October, 1988 against his outstanding. The Complainant did not operate his account with the Opposite Party between February, 1988 to September, 1988 which shows that either the Complainant was availing facility of operating accounts with other financial institutions or its performance was very poor. Under these circumstances the bank was fully within its rights to recall the loan advanced to the complainant and also file the suit for recovery of the amount. There was no proposal from the complainant or by the Branch Manager to the Bombay Regional Office of the Bank that on sanctioning of the credit facility the Bank will take over the liability of the Canara Bank. On the contrary the proposal put up by the Branch Manager and as sanctioned by its Regional Manager stipulated exclusive dealing by the Complainant with the Bank. The Branch Manager had not the delegated powers to grant credit facility of Rs. 60 lakhs and he did not sanction any such facility. The proposed limits were sanctioned by the Complainant Authority of the Bank on 11th May, 1988. The Complainant has not mentioned that further packing credit was allowed to him in early October against the Letters of Credit in spite of earlier packing credit facility being irregular. (As mentioned earlier that amount was released when the Complainant had agreed to pay to Mr. Verma and paid Rs. 50,000/- which amount is now lying with C.B.I.) The cheque for Rs. 45,000/- was not paid by the Bank as there were no funds in the Complainant's account. For the same reason the cheque for Rs. 57,000/- was dishonoured. Out of the way accommodation was allowed by Mr. Verma to the Complainant.

5. IN view of the above irregularities already stated above and non-compliance of terms of sanction the Bank has rightly exercised its discretion not to allow any further accommodation particularly in view of the refusal of Damodar Nayak in the meeting of the Financial Institutions held on 23rd February, 1989 to pay the amount due to the Bank or to have a settlement. Keeping in view the past track record and the violations and contraventions of the sanctions the Bank in its sound discretion rightly decided not to afford further credit facilities to the Complainant and the bank is the best judge to decide about the credit worthiness of the

borrower.

6. BEFORE we discuss the merits of the case, we take up the preliminary objections raised by the Opposite Party. According to the Bank the last credit was released to the Complainant on 5.10.1988 and on 19.11.1988 notice was issued to the Complainant by the Bank that unless and until he liquidated the old dues outstanding, the question of allowing fresh credit facility did not arise and therefore the period of 3 years limitation commenced from 19.11.1988 while the present complaint was filed on 26.2.1992, and therefore it is time-barred as it has been filed beyond 3 years from the date of cause of action. Before the amendment of the Consumer Protection Act in 1993 no period of Limitation was prescribed for filing a complaint under the said Act though the principles of Limitation Act were applied for filing such complaints as this Commission was of the opinion that stale complaints should not be entertained. However, this Commission remarked in *Agnes D'Mello v. Canara Bank and Another* (First Appeal No. 202 of 1991 decided on 26.3.1992), 1 (1992) CPJ 335 (NC) as follows:"

"It is certainly not in furtherance of public policy nor in the interests of public goods that the Government Agencies like the Public Sector Banks should obstruct the investigation of claims made against them by a party under circumstances such as in the present case by putting forward plea of limitation."

After considering the facts of the present case as will be discussed below we have come to the opinion that the opposite party has acted with malice and retaliation towards the Complainant and therefore we are entertaining this complaint.

The next preliminary objection taken is that the Bank has already filed a suit and it is the consistent view of this Commission that when one party has gone to Court earlier than the filing of the complaint, the other party's complain should not be entertained. However, the suit filed by the bank prior to the complaint is about recovery of its dues said to be outstanding against the complainant. The Complainant in the present complaint is claiming damages and loss on account of the negligence and deficiency in the rendering of Banking service which occurred to him. In the peculiar circumstances of the case we have decided to adjudicate this complaint. A harassed consumer should not be allowed to suffer merely because the Bank has chosen to go to Court.

7. DAMODAR Nayak had earlier credit facilities with Canara Bank to the extent of Rs. 24 lakhs. As mentioned earlier the Bank's Officers visited the Complainant in 1987 on different occasions and offered better facilities. During discussions as well as in the application it has been clearly mentioned by the Complainant that he had credit facilities with Canara Bank Branch Manager, Mr. Verma told Mr. Nayak that when the credit facilities were sanctioned by the Bank, they will transfer adequate funds to Canara Bank to take over the liabilities. The proposal for credit facilities for Rs. 60 lakhs was as follows:"

(a) Export Credit Rs. 20 lakhs (b) Foreign bills purchased Rs. 20 lakhs (c) Foreign letter of Credit Rs. 20 lakhs (d) Bank Guarantee Rs. 10 lakhs The limits were sanctioned vide Annexure OP-3 (page 180) which is the letter addressed by the Regional Manager to the Branch Manager. The Branch Manager- under his discretionary powers allowed the complainant to draw from 15.12.1987 to 5.2.1988 and the complainant drew Rs. 4 lakhs on different dates. An order worth Rs. 1,53,200/- was shipped in time and it was promptly paid. By end of August, 1988 the complainant had Rs. 12 lakhs worth of goods in the pipe line and was in a position to ship goods worth 19 lakhs in 3 months. The buyers had opened letters of credit as mentioned earlier.

8. THE complainant's case is further that during his visit to" the factory in September, 1988 Mr. A.K. Verma demanded Rs. 50,000/-for sanctioning the credit limit of Rs. 60 lakhs. The Complainant did not like to pay the said bribe. On 30.9.88 a cheque was drawn by the complainant and payable to one of the Fabric suppliers but it was dishonoured by the Bank on the ground that there were not sufficient funds in the account of the Complainant. It is further the case of the Bank that the complainant had violated the conditions of sanction as much as it was not exclusively dealing with the Bank and charges on the assets of the factory were also not created in favour of the Bank.

As far as the question of terms and conditions of sanction are concerned no letter of sanction issued to the complainant has been produced on the file. O.P. No. 3 has been produced to prove the sanction but it is a letter written by the Regional Manager to the Branch Manager sanctioning the credit facilities granted to the Complainant. It is an inter-department document and the Complainant is not expected to know about it. Moreover the Bank had not advanced sufficient funds to the Complainant to meet his liabilities due to Canara Bank which at that time were only to the extent of Rs. 7 lakhs. It is also not the case of the Bank that the Complainant at any time had any transaction with Canara Bank after he started

dealing with the Bank. As far as the charges are concerned the complainant has produced (Annexure-23 at page 288) the certificate of registration of Mortgage which was created before the Registrar of Companies on 15.12.1987, though the certificate of registration was issued late by that office.

9. IT is also the case of the opposite party that the Bank has to see if the party is creditworthy or not for granting credit facilities and has to see past performance also. However, in the present case the main question to be decided in the present case is:

"Whether the decision to freeze the credit facilities extended to the complainant was based on the normal banking norms or was it done in retaliation to the complainant's having filed a complaint with the C.B.I about the demand of bribe by the Branch Manager, Shri Verma which subsequently led to his arrest." The argument of the Opposite Party that the Complainant did not operate his account between February, 1988 till September, 1988 and this shows that the past track of the complainant was not good losses all force because on 5th October, 1988 the Complainant was granted further advance. For the same reason the argument of the bank that during the relevant period, the complainant could ship only one order has to be discarded. It may however be mentioned that the Complainant had earlier received some orders but those could not be shipped as he could not get advance licence (vide dated 13th July, 1988 Annexure OP 13 page 244). Vide that letter the Complainant had intimated the Bank that licences were then received and he was trying to get new shipping dates. As noticed earlier a cheque issued by the complainant on 30.9.1988 was dishonoured by the bank. By that time Branch Manager had received the sanction of the credit limits of Rs. 60 lakhs to the complainant and those had not been revoked by the Bank. When complainant met Mr. Verma Branch Manager and agreed to pay the bribe of Rs. 50, 000/-, Mr. Verma allowed the complainant to draw Rs. 1.24 lakhs on 5.10.1988. No past performance of the complainant or violations of the norms, terms and condition of the sanction came in the way of Mr. Verma in allowing the complainant to withdraw that amount. Out of the cash amount withdrawn Rs. 50,000/- was paid to Mr. Verma and subsequently he was caught red-handed by the C.B.I. Thereafter all the troubles of the complainant were started."

10. ON 15.10.1988 a team of Bank officials is said to have visited the factory and is said to have noticed may violations by the complainant. The above violations were conveyed by the Branch Manager to the Regional Manager vide letter dated 29.10.1988 (O.P. No. 5 page 186). One of the facts which was noticed by that inspecting team was that the stocks with the Complainant were not sufficient to secure the loan. Export Packing credit is released to acquire stocks. If the complainant had sufficient stocks they would not have needed the Bank's help for funds. Further, the complainant was not informed about anything by that time and for the first time he was informed on 19.11.1988, vide letter at page 189. Even upto that time the credit limits were not revoked. It is pertinent to mention here that the letter was written by the Branch Manager in reply to a letter dated 18.11.1988 written by the complainant.

However, before the above correspondence took place, the complainant had written a letter dated 18.10.1988 (Annexure 10.1 at page 77) requesting the bank to release packing credit to the tune of Rs. 5 lakhs for completing certain foreign buyer order worth 9 lakhs on 25.10.1988 (vide Annexure 10.3 at page 80), the complainant again wrote a letter to the Bank Manager stating that shipping of goods of an order of Rs. 6 lakhs for which letter of credit had already been submitted to the Bank and shipped a consignment for which Rs. 1.52 lakhs had been paid and the balance of the order to be taken for immediate production and there was need of packing credit of Rs. 3 lakhs to ship the balance order worth Rs. 4.48 lakhs. A request was made to release the packing credit without any more delay. Another request was also made in that letter to the effect that a cheque already issued for Rs. 57,000/- in favour of K.S.I.C for the goods required for that order and that was only part of raw materials and KSIC was the only source of raw material for that order and if that cheque was not honoured the complainant would not get any raw materials and loose the order. He therefore, requested to release the funds immediately in view of the urgency. However, the Branch of the Bank dishonoured that cheque also. It is to be noted that even upto that time, no communication was made to the complainant about the alleged violations of terms of the credit limits or about revoking the sanctioned limits. Therefore, the Branch was not justified in dishonouring that cheque on the ground that there were not sufficient funds in the account of the complainant.

11. THE learned Counsel for the Bank argued that if the Bank did not honour the cheque the complainant could have taken the advances from the Canara Bank as that account had not been closed. This argument has been rightly replied by the complainant in his rejoinder as follows:

"As we have explained elsewhere, export Packing Credit is highly subsidised and refinanced by the Reserve Bank of India. Hence Reserve Bank of India keeps a direct watch and control on the utilisation of these funds. Funds are released for execution of specific orders and these orders have to be lodged with the bank financing the same. Bank has to take in its possession the original letter of credit and/or the original orders to be executed by the funds released by them under Export Packing Credit. All the orders and the Letters of Credit had been lodged with the opposite party and there was no way for us to approach the Canara Bank unless the opposite party release them. Further when part finance is already done by one bank another bank cannot finance the same order". In the additional counter filed by the bank to the complainant's rejoinder no satisfactory reply has been given by the bank."

12. IN view of the action of the bank, the complainant could not fulfill those orders received from the foreign buyers and the letters of credit and the orders lapsed. It is common knowledge that if the shipment is not made in time the order lapses and the exporter loses all his credit worthiness in the market. It is the case of the complainant that thereafter their factory had to remain idle for a long time and later on the factory as well as the land had to be sold to satisfy the amount due to Karnataka State Financial Corporation and the business was carried on in some rented building only to a capacity of 40%. Retrenched workers have to be paid for which notice (at page 217) has been received. At the time of arguments, the complainant stated that he had to close his manufacturing enterprise and has entered into service. It may be mentioned here that vide Annexure 21 dated 6th January, 1988 (at page 236) the complainant had informed the Bank that he had been selected by Centre for Promotion of Imports from Developing Countries, Rotterdam for a complete free package of marketing his products in Europe vide letter dated 5th June, 1988 (Annexure 22 at page 287) the complainant had informed the Bank that M/s. Man and Silk of Switzerland have officially approved his factory as an accredited vendor for manufacturing silk garments and they have invited, after visiting the factory, two of his skilled personnel to visit their facilities in Europe for weeks and have also given an indication that they would buy the entire production. The two letters of credit referred to earlier, were got issued by M/s. Man Silk in August and October, 1988 vide annexures.1. to 73 and 8.1 to 8.2 respectively by freezing the Export Packing Credit and other limits in October, 1988, the Opposite Party Bank brought a young entrepreneur on the streets.

It may also be mentioned here that the Bank has also filed some more documents with additional submission but most of them came to the knowledge of the Bank after 1988. We have to see the conditions under which the credit facilities were

frozen in the first week of October, 1988. It has already been discussed above that on 5th October, 1988 nothing stood in way of the Bank while granting advances. After the arrest of Mr. Verma on that date the Bank started finding faults with the complainant and froze the credit facilities without giving any notice. In the circumstances discussed above we have no option but to hold that the action of the Bank in freezing the credit facilities was mala-fide. The Bank must be held guilty of negligence and deficient in rendering banking service.

13. THE next question that arises is about " grant of compensation for damage/loss suffered by the complainant. He has claimed Rs. 41,65,821.80 as compensation. We are of the opinion that that the amount claimed is on the higher side. Vide letter dated 18th November, 1988 (Annexure 13 at page 88) written by the complainant to the C.B.I. Rs. 6 lakhs were said to have been lost in the consignment though it was further stated that he was losing more than Rs. 30,000/- a month due to the retrenched employees. Considering all the circumstances we think end of justice would meet if we allow Rs. 10 lakhs as compensation for loss to the complainant for the deficient service rendered by the -bank. In the light of above discussion we direct the Opposite Party-Bank to pay Rs. 10 lakhs as compensation for the loss suffered by the complainant. The amount should be paid within two months of the receipt of the order failing which it will carry interest at the rate 15% from the date of order till payment. The complainant is also awarded costs of Rupees Five Thousand recoverable from the Opposite Party. Mr. Y. Krishan, Member

The Opposite Party Bank had dishonoured two cheques of the complainant for Rs. 45,000/- issued on 30.9.1988 and Rs. 57,000/- issued on 26.10.1988 without reason or justification when the sanctioned credit limits had not been revoked or exhausted and he could withdraw Rs. 1.24 lakhs from the Bank in between. The Bank was therefore guilty of deficiency in service.

This deficiency in service was grave as the dishonouring of the cheques led to the operation of the factory of the complainant coming to a stand still and his business being ruined. Hence the compensation as allowed in the order above with which I agree.