

**IN THE HIGH COURT OF BOMBAY AT GOA****LD-VC-CW-214-2020**

Shaun Filaments

.... Petitioner.

*Versus*

The Branch Manager Indian Overseas

Bank and ors.

.... Respondents.

Mr. Amey Salatry, Advocate for the petitioner.

Mr. Ajay Kumar, Advocate for the respondent nos.1 &amp; 2.

**Coram : M. S. SONAK, &****SMT. M. S. JAWALKAR, JJ.****Date : : 12<sup>th</sup> October, 2020**

P.C.:

Heard Mr. Amey Salatry, learned Advocate for the petitioner and Mr. Ajay Kumar, learned Advocate for the respondent nos.1 and 2.

2. Mr. Salatry points out that the remaining respondents have been served but today, they did not appear before us.

3. We have heard the learned Advocates for the parties. According to us, in exercise of the extra ordinary jurisdiction, it will not be appropriate for us to go into the issue whether the petitioner deserves to be classified as Special Mentioned Account no. 1(SMA) or SMA 2 or DBA.

4. The issue of such classification will involve adjudication on the disputed question of facts but further require us to venture into the areas which are basically left to the discretion of the Banking Authorities.

5. Mr. Salatry, however, points out that the petitioner has already made a representation to the Banking Ombudsman which is to be found at page 80 of the paper book, of this petition. According to us, the Ombudsman would be in a best position to consider the rival contentions and, if possible, to resolve this issue.

6. Accordingly, we direct the Banking Ombudsman to consider and dispose of the petitioner's representation dated 10.09.2020 at page 80 of the paper book, of this petition, as expeditiously as

possible, and by keeping in mind that the Emergency Credit Line Guarantee Scheme is due to expire by the end of this month.

7. The Ombudsman to also consider the issue as to whether the petitioners can be extended the benefit of the scheme, notwithstanding the expiry period, if, the petitioner makes out a case that for no fault attributable to the petitioner benefit of such scheme was denied to the petitioner.

8. We make it clear that we have not adjudicated the rival contentions of the parties and therefore, it would be for the Ombudsman to decide the matter, in accordance with law, and on its own merits.

9. On the above terms we dispose of this petition.

10. All concerned to act on the basis of the authenticated copy of this order.,

**SMT.M.S.JAWALKAR, J.**

**M. S. SONAK, J.**

MF/-