Vol. 39 No. 10 Total 12 Pages BANGALORE Single Copy Rs. 3/- JANUARY - 2021

Editorial

WELCOME 2021

The headline story of pandemic has been replaced in national media by stories of peasants' movement at Delhi-Haryana border and fraternal action programme of the working people in support of the farmers. The farmers are marching towards Delhi when they are blocked at the outskirts. The entire state machinery is failing to control the wrath of the farmer against the three controversial Farm Bills passed in the Parliament. The gradual onset of biting cold has failed to deter the peasants from their resolve. The fraternal strike action apart from extending solidarity with the peasants' struggle also expressed its fury against sweeping reforms of labour laws and other anti-people policies pursued by the government. Reports from different corners suggest that there was spontaneous response and sustenance to the cause of protest action. But is it sufficient? Can we reach the goal by observing a one day strike? Possibly, the movement has not yet attained the desired level of confidence of the citizenry.

There are pockets of huge resentment and resistance against different policies and programme of the central government despite massive popular mandate it enjoys. People are voicing their concern about growing unemployment, recession, intolerance and other primary issues that are affecting the populace. But they are sporadic, scattered and do not have a cohesive character for which it has failed to create the desired volume of thunder that will strike the earth with lightning and torrential outburst to cleanse the society from all negativity. The failure to build a common thread between all the affected persons in agriculture, industry, bank, insurance, port trust and education, etc., a real militant alternative with a defined alternative roadmap cannot be built. Absence of such unified movement of the working class is a major source of comfort for the ruling institution.

The above lines are not directed towards any particular political party but towards the evolving political structure of the country. Centralisation of power, at any point of time, leads to unfettered autocracy. So for sake of India, voice of dissent is so necessary at this hour. Such dissent is not for dissent itself. It is for building a complete structure that encompasses all the rational burning issues affecting the people at large. Such a structure with a defined policy alternative can only be an accepted alternative.

The issue is how the contour of such resistance will be drawn. Who are the forces to join such structure of active resistance? Unfortunately, the opposition political parties are conceding spaces on a regular interval. People are not reacting unless there individual self are affected. This is a red herring signal for democracy. This is where the youth of the country has a role to play.

Fortunately, a large number of forward looking youth are with the Confederation. But we have our own doubt about fulfillment of our dreams in the prevailing socio-political super structure. Ever since the onset of liberalization, there are certain negative features that have engulfed the society despite some positive gains elsewhere. A major negative fallout is the alienation of the youth from the society itself. A fetish consumerism and self centred outlook has taken them out of the orbit for a desire to change the society. The word 'REVOLUTION' is possibly a cliché now. The students and youth have their early lesson in social belongingness by a group of dedicated persons in colleges and universities. Such persons unfortunately are no longer there. Student politics itself are losing its acceptability in the campuses.

The year 2020 is possibly the worst year in the history of modern civilization. We in the present generation have not seen a pandemic of this size and magnitude. As we are going to press, more than a crore people have been affected. We have lost hundreds from our own banking fraternity. The emerging crisis in the economy has been compounded by the impact of the COVID-19. As the poet had written that if 'winter comes can spring be far behind', similarly can banking sector remain insulated from the crisis if it engulfs the entire economy. The growing non-performing assets, tepid growth in business are all indicative of the malignancy of the system.

Unfortunately, like in other sectors, the government proposes to respond by adopting policies which are more apt in killing the patient itself rather than the curing it. The policies of consolidation and merger, so steadfastly opposed by the Confederation, have created an anarchical situation amongst the merged banks. Published financials suggest that rather than being a global player as dreamt by the government, the public sector banks post-merger are getting dwarfed in its home turf. The recent merger of Lakshmi Vilas Bank with DCB opens up the Indian banking to the foreign players with disastrous consequences for the national sovereignty.

The government has cleared the wage revision. The arrears and new salaries will be paid to the members in the first month of the New Year itself. But an agreement achieved in a difficult time has its own flip and flop side. The demand for 5 days a week, demand for a transparent staff accounting policy, issues affecting the retirees are yet to be achieved. There is no letup in pursuing the anti-banker policy by the government. Union Finance Minister is on record to observe that the Cabinet had already taken the decision to privatize some of the public sector banks along with proposed privatization across the sectors.

The challenge of earlier years is to halt consolidation. The challenge of the ensuing year will be to halt privatization. But Confederation cannot alone resist. We have to align with the broader movement of the masses. Unity has to be built based on clear policy understanding. The gains of the wage settlement can only be enjoyed if we can effectively roll back the move towards privatization. We have to clearly understand that the bipartite is effective in the current environment only and private owners have no responsibility or commitment in honouring the agreed service condition.

Fire has reached our doorstep. The night which appears to have the potency to give birth of a new morning, may prolong itself, unless, the tempest of resistance can be built up by all so that a fresh ray of hope welcome the first morning of 2021. Sometime in the middle of the month the Confederation will meet in its 12th Triennial General Council at S. R. Sengupta Nagar, Anil Jana Manch in Kolkata. Let a clarion call of a defining movement emerge from this general council meet. Common Bond welcomes the new leadership and assures its readers that it will be their weapon in a decisive battle for reclaiming a India which really belongs to the people.

A very happy 2021 to all our readers, well-wishers, patrons and their families. We shall continue to meet and exchange carrying the legacy.

STAY SAFE. BEST WISHES FROM THE EDITORIAL BOARD FOR A HAPPY NEW YEAR

IN THE SKY THERE IS NO DISTINCTION OF EAST AND WEST

Article

PROLOGUE TO AN UNFOLDING DRAMA

By Editorial Team

In a joint operation, Reserve Bank of India on November 18, 2020 announced its plan to merge Lakshmi Vilas Bank Ltd. with DBS Bank India, immediately after the Government imposed a moratorium on the LVB limiting cash withdrawals to ₹ 25,000/- for a month. The amalgamation with the Indian subsidiary of Singapore DBS Bank marks a shift in the RBI and Government stand with a foreign bank being tasked with reviving an ailing old generation private lender instead of relying on public sector players to take over a problematic rival.

Chennai Headquartered LVB started its journey in Karur, the textile hub of the then Madras Presidency in the year 1926. It has spread its wings in 19 states and 1 union territory with 566 branches. The bank is under a severe financial strain ever since its management changed its gear and started lending to the large corporates without bothering for adhering to prudential norms at the cost of its customary strength in lending to small business. It all intensified after its disbursement of around ₹ 720 crore to the investment arms of Shri Malvinder Singh and Shri Shivinder Singh, former promoters of Ranbaxy, Fortis Health Care and Religare.

Unlike developed countries, ever since the Banking Regulation Act was formulated, RBI avoid letting a bank to collapse and step in to steer clear any systematic problem. In September, 2019, with the LVB's situation deteriorating, RBI had put it under Prompt Corrective Action (PCA) limiting expansion and mandating it to raise additional capital which LVB failed to mobilise. It tried to get it merged with M/s. India Bulls which didn't find the support from RBI while subsequent discussion with M/s. Clix Capital was stuck over valuation.

The crisis lingered on. The Government and RBI decided to step in what appeared to be preplanned exercise. As part of the revival strategy, DBS will invest ₹ 2,500 crore in LVB. The terms of amalgamation envisage complete write off of Share Capital, Reserves and Surplus including Share Premium Account. Besides on the appointed date LVB shall cease to exist by operation of the scheme and its Shares and Debentures listed in any Stock Exchange shall stand delisted without any further action. Simply put, the Shares will have zero value when the scheme gets operationalized. The scheme did get operationalized since. The story of amalgamation ensures 566 branches and 918 standalone ATM in a platter to DBS at the cost of ₹ 2,500 crore. A win-win situation for DBS Bank no doubt.

It is interesting by way of recapitulation to look at the RBI decision to merge a weak bank in the 21st century.

YEAR	WEAKER BANK	MERGED INTO
2020	Lakshmi Vilas Bank	DBS Bank
2010	Bank of Rajasthan	ICICI Bank
2004	Global Trust Bank	OBC
2003	Nedungadi Bank	PNB
2002	Benares State Bank	BOB

It is evident that this is for the first time; RBI with the blessings of the Government deviated from the traverse terrain and embarked on a novel journey. What really prompted it? AIBOC along with other officers' organization always emphasized on the need to increase the transparency of decision making and frame appropriate regulatory guideline regarding amalgamation of failed private sector banks and NBFCs at a time when the frequency of such failures are up. In recent times the Government also forced IL&FS, a NBFC, in which it had a majority stake to go for a Board and Management overhaul due to massive mismanagement by the previous top brass. It is imperative in the post COVID situation, a clear road map for overhauling the beleaguered weak

THERE HAS TO BE EVIL SO THAT GOOD CAN PROVE ITS PURITY ABOVE IT

old generation private banks should be formulated instead of adopting a case specific response. The best way out is the nationalization of the entire sector was rightly demanded by AIBOC. But we wish to digress a little further.

The decision to merge LVB with DBS was followed by a recommendation by an internal committee of the RBI which proposed an overhaul of licensing policy of private banks and suggested allowing large corporates and industrial houses to float banks in India after suitable amendments to The Banking Regulations Act we should aim at preventing concentration of risk and unabated lending by group companies. Further large and well managed non-banking financial companies with assets of over ₹ 50,000 crore may be allowed to convert into banks with a track record of at least 10 years. The recommendations may be summarized as under:

i) Large corporates and industrial houses may float banks after the Banking Regulation Act is amended

ii) Stake held by banks' promoters may also be hiked from 15% to 26%

iii) Well-run NBFCs with over ₹ 50k crore assets and 10 year track record may convert to banks

iv) Payments banks can convert to small finance banks after three years of operations

The developments pertaining to merger of LVB with DBS Bank followed by the publication of the Report of the Internal Committee of RBI clearly indicate a well-planned road map of privatization and entry of foreign banks in the Indian banking space. Governor of RBI while addressing a press conference to share the decision of Monetary Policy Committee though denied the parenthood of the Internal Committee Report, it is abundantly clear that the said Report will not get the discernable publicity unless it has the blessings of the power that be.

It is an accepted doctrine that there should be a divorce between the ownership of industrial capital and banking capital for the simple reason that however efficient the oversight system be, there will be a natural tendency to use the finance for the group companies without adhering to the prudential lending norms. This is based on the simple understanding that provider of finance and user of finance should be two distinct entities with no common interest. RBI which always preaches prudential management and governance of the banks would appoint a committee which came out with a recommendation which run parallel to its own declared objective.

If we dissect the Balance Sheet of LVB, we will find that the total business of the bank stood at ₹ 37,595 crore at the end of September 2020, as against ₹ 47,115 crore at the end of September 2019. The net loss after tax amounted to ₹ 396.99 crore for the quarter ended September 30, 2020 as against a net loss of ₹ 357.18 crore in the year ago quarter. Going further, LVBs Gross Non Performing Assets stood at 24.45% while net NPA stood at 7.01%. The bank's Tier-I Capital Ratio has turned negative; the overall Capital Adequacy Ratio (CAR) as per Basel-III guideline was at a negative 2.85% as of September 30. So there is no doubt that the LVB is in crisis. But it is interesting to recollect that in 2018 DBS Bank wanted to acquire 50% stake in LVB for ₹ 100 per share along with a right to have management control. DBS went to RBI for a discussion. But RBI reportedly told that DBS will have to comply with stake dilution norms applicable to private bank co-owners. The deal did not materialize.

So the DBS wanted to acquire LVB for at least ₹ 100 per share at one point. And now the entire bank has been handed over to DBS at free of cost. DBS has a capital base of ₹ 7,500 crore and a deposit book of ₹ 25,000 crore in India. They are getting an equal amount of deposit from LVB for zero Capital. The RBI's hurried bail out was not warranted since there was no run on the bank at any stage and chances of recovery were present. It is expected that RBI should do a proper valuation of the bank before taking a call on merger. It is

OVERCOME ANGER BY LOVE, EVIL BY GOOD

viewed by many that the RBI move hinders the principle of natural justice and may quell the efforts of other old generation private banks to mobilise capital because no one will bet on them learning from the experience of LVB where the depositor lose their entire investment.

Similarly, allowing Indian Corporate Houses into banking will lead to the concentration of economic and political power in those business houses and the Government could be faced with significantly higher bail out cost if these banks were to fail. The history of such connected lending is invariably disastrous – how can the bank make good the loans when it is owned by the borrower himself? Even an independent committed regulator, with all the information in the world, finds it difficult to be in every nook and corner of the financial system to stop poor lending. Information on loan performance is rarely timely or accurate. Yes Bank is an example. It managed to conceal its weak exposure for a considerable period and RBI failed to detect it.

Allowing the entry of corporates into banking will mean that highly indebted and politically connected business houses will have the greatest incentive and ability to push for licenses. This will increase the importance of money power in political system and may lead to succumbing to authoritarian cronyism. Can the regulator discriminate between proper business and shady ones? It can, but it has to be thoroughly independent and thoroughly apolitical. Whether these necessary and sufficient conditions are prevailing in India, will remain a subject matter of debate.

In 2016, the RBI had recognized the risk of excessive exposure to specific houses and announced group exposure norms that limit the exposure the banking system can have to specific industrial houses. The Internal Working Group Report itself points out that all but one expert it consulted were of the opinion that large corporate/industrial houses should not be allowed to promote a bank. The licensee's temptation will be to misuse it because of self-lending opportunity. The timing of the recommendation is also questionable. One possibility is that Government wants to expand the set of bidders when it turns to privatize some of the public sector banks as being speculated for the last few months.

So if we stitch the thread, it is clear that the RBI and Government wish to open the Indian banking space for both private sector players as well as foreign financial entities. We all know the reasons. India is a vast market not only for commodities but also for finance which is required both for production and marketing of such commodities. When the system is flush with liquidity particularly after the injection of huge dose by the central banks to boost the demand for combating the pandemic impact on the economy, India could provide a ready market for such excess liquidity lying idle in the international market as well as the domestic industrial houses.

So the merger of LVB should not be viewed in isolation. It is just unfolding of a great game plan of privatization and dismantling of the public sector banking and handing the same to the close cronies of the power that be in both domestic and international arena.

It is far better to professionalize the public sector bank governance. It will be pennywise pound foolish to replace the poor governance under the present structure of this bank with a highly conflicted structure of ownership by corporate houses or by a foreign entity. We are apprehensive that this would subvert both the political and economic sovereignty of the country and the move has to be viewed from that wide angle instead from taking a close angle snap treating the issue as banks or banking sector specific, it is up to AIBOC to think over this narrative, develop the same and build a unassailable movement of bankers in the wider national interest. Else, may be a few years down the line, there will be none even to write an obituary of a great movement. ■

THREE THINGS CANNOT BE LONG HIDDEN: THE SUN, THE MOON AND THE TRUTH

RBI'S 3RD QUARTER MONETARY POLICY

The Monetary Policy Committee (MPC) left the policy repo rate unchanged at 4 per cent, for the third time on the trot. This was widely expected given the sticky retail inflation which, in the RBI's view, is likely to remain elevated.

However, to support the nascent recovery in the economy, the six-member MPC persisted with its accommodative stance and decided to continue with it for as long as necessary to revive growth on a durable basis.

The MPC forecast the retail inflation to hold above its midpoint target of 4 per cent in the second half of 2020-21. Its members unanimously voted to keep the policy rate unchanged.

With the outlook for inflation turning adverse relative to expectations in the last two months, the MPC projected CPI (consumer price index) inflation at 6.8 per cent for Q3 FY 21 and 5.8 per cent for Q4 FY21.

The CPI inflation for the first half of FY22 has been forecast at 4.6-5.2 per cent, with risks broadly balanced.

Going by these projections and the MPC's objective to achieve CPI inflation of 4 per cent within a band of +/- 2 per cent, room to cut rates may be available only in the first quarter of FY22. The MPC projected real GDP contraction in FY21 to be lower at 7.5 per cent against the earlier projection of a decline of 9.5 per cent.

The RBI has been facing a tough task of juggling between various objectives — inflation, rupee, bond yields and liquidity. A large government borrowing this fiscal year has prompted it to step up outright OMOs (purchase of government bonds) to keep bond yields under check. But this has led to an increase in liquidity.

Importantly, strong foreign flows have led to the RBI buying dollars to keep the rupee from appreciating. But this has only exacerbated the liquidity glut, stoking inflation concerns.

The central bank has leaned more towards its objective of supporting growth rather than addressing high inflation. Managing long-term yields (to keep borrowing costs low), in view of the large government borrowing, also appears to top the RBI's agenda for now.

Disinvestment will now gain a lot of momentum

Finance Minister Nirmala Sitharaman said, the pace of disinvestment will now gain a lot of momentum, and those which have already found cabinet approval will be taken up with all earnestness. Speaking on Day 1 of ASSOCHAM Foundation Week, via video conferencing, Sitharaman said "Disinvestment will be happening, corporatisation of not just the defence, DRDO related labs but also banks - where I want them to run a lot more professional, they should also be able to raise money from the market," she said. Sitharaman said that the Union Budget for 2021-

22 would emphasise on sustaining high public expenditure on infrastructure to revive the economy.

Regulatory Sandbox

RBI relaxes norms for applicants Regulatory Sandbox: RBI relaxes norms for applicants : The Reserve Bank of India (RBI) has reduced the net worth requirement for applicants for entry to the Regulatory Sandbox (RS) to foster innovation in financial services. Further, the central bank has allowed partnership firms and Limited Liability Partnership (LLPs) to participate in RS. RS refers to the live testing of new products or services in a controlled/ test regulatory environment for which regulators may (or may not) permit certain regulatory relaxations for the limited purpose of the testing. As per the modified enabling framework, an entity seeking entry to RS shall have a minimum net worth of ₹ 10 lakh as per its latest audited balance sheet against the existing ₹ 25 lakh .

Cyber Security

Cyber security, data protection is a must to promote financial inclusion, says RBI Governor Shaktikanta Das. Issues concerning cyber security and data protection must be addressed to gain confidence of the excluded section in use of technology, which is necessary for promoting financial inclusion. "Technology, though being a great enabler, can also lead to exclusion of certain segments of society," said the RBI, Governor in his keynote address at a webinar on 'Investing in Investor Education in India: Priorities for Action'. The RBI Governor added that it was imperative to build trust in formal financial services among the hitherto excluded population.

Credit Bureaus

Access to credit and cost of credit need to be addressed by lesser reliance on collateral security and greater cash-flow-based lending to improve the credit-to-GDP ratio, according to Reserve Bank of India Governor Shaktikanta Das. In this regard, Das observed that credit bureaus and the proposed Public Credit Registry (PCR) framework are expected to improve the flow of credit as well as credit culture. As per RBI data, scheduled commercial banks' credit as a per cent of GDP came down to 50.99 per cent in FY20 from 51.51 per cent in FY19. "India, with a large section of population in the working age group, is already the third-largest economy in the world in terms of purchasing power parity and is aiming to become a $5-trillion economy. "...Among all the prerequisites for achieving demographic dividend and accelerated growth, quality of human resources, greater formalisation of economy, a higher credit-to-GDP ratio and greater financial inclusion are the differentiating factors that would elevate our economy to the desired level," Das said at a webinar organised by the National Council of Applied Economic Research.

Monetary Policy Transmission

Monetary policy transmission of PSU banks stronger than private lenders: RBI paper: The monetary policy transmission of state-owned banks in the short-run is stronger than their counterparts in the private sector, and can be improved further with capital infusion, said a RBI working paper. The credit channel of monetary policy transmission is robust in India and its efficacy can be reinforced by better capital position of banks, said the working paper on 'Asset Quality and Credit Channel of Monetary Policy Transmission in India: Some Evidence from Bank-level Data'. "Controlling for asset quality, in the short-run, the credit channel of monetary transmission of public sector banks is stronger relative to that of private sector banks," it said. The Reserve Bank of India said the views expressed in the paper are those of the authors and not of the central bank.■

YOU WILL NOT BE PUNISHED FOR YOUR ANGER, YOU WILL BE PUNISHED BY YOUR ANGER

CIRCULARS

72 dated 08th December, 2020: Text of Joint letter issued by 4 Officer's Organisations, i.e., AIBOC, AIBOA, INBOC and NOBO dated 08.12.2020 requesting the Hon'ble Minister of Finance & Corporate Affairs, Government of India, to include Banking workforce along with those working in healthcare, Police, Sanitary workers, etc. to inoculate them . ●

JUDICIAL VERDICT

2020 LLR 964
KARNATAKA HIGH COURT
Hon'ble Mr. G. Narendar, J.
W.P. No. 50166 of 2019 Dt/- 06.03.2020
Adarsh Flims and T.V. Institute
vs.
B.N. Kodandaramaiah and Another

PAYMENT OF GRATUITY ACT, 1972 – Section 7(7) – Condonation of delay – LIMITATION ACT, 1963 – Section 29 – Applicability of – Whether appellate authority have power to condone delay in filing of appeal beyond 60 days as provided under Section 7(7) of the Act ? No – Held, Appellate Authority is not vested with power to condone delay in filing of appeal beyond 60 days as per first proviso to Section 7(7) of the Act – The Act is self-contained Act – Limitation Act does not apply – Appellate Authority has rightly dismissed the appeal filed beyond prescribed limitation of 60 days – Writ petition is dismissed.

For Petitioner: Mr. S.V. Shastri, Advocate
For Respondent: Mr. V.S. Nail, Advocate C/R.

IMPORTANT POINTS

Appellate Authority is not vested with power to condone delay in filing of appeal beyond 60 days as per first proviso to section 7(7) of the Act.

The Payment of Gratuity Act, 1972 is a self-contained Act i.e., why the Limitation Act does not apply.

ORDER

G Narendar, J. 1. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

2. The point that falls for consideration for the disposal of the instant writ petition is, whether the appellate authority was right in dismissing the appeal on the ground of appeal being belated by holding that the appellate authority is not vested with the power to condone the delay beyond 60 days as provided under the proviso to subsection (7) of Section 7 of the Payment of Gratuity Act, 1972 (for

THE FOOL WHO KNOWS HE IS A FOOL IS MUCH WISER THAN THE FOOL WHO THINKS HE IS WISE

short, 'the Act').

3. The Appellate Authority after considering the issue, has found that the appeal has been filed on the 178th day, rather there is delay of 178 days in preferring the appeal and it has held that in terms of sub-section (7) of Section 7 of the Act, the appellate authority could have condoned the delay if the same was within 60 days. After the lapse of 60 days, the appellate authority may condone the delay for a further period of 60 days as provided under the proviso to sub-section (7) of Section 7 of the Act. The proviso to subsection (7) of Section 7 of the Act reads as under:

> "7. Determination of the amount of gratuity.-
>
> (1).......
>
> (2)......
>
> (7) Any person aggrieved by an order under sub-section (4) may, within sixty days from the date of the receipt of the order, prefer an appeal to the appropriate Government or such other authority as may be prescribed by the appropriate Government in this behalf:
>
> Provided that the appropriate Government or the appellate authority, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days."

4. From a reading of the above, it is crystal clear that the Appellate Authority is vested with the power to condone the delay of additional 60 days over and above the 60 days period as provided under sub-section (7) of Section 7 of the Act, and hence, in the opinion of this Court, the reasoning of the appellate authority cannot be found fault with.

5. Learned Counsel for the petitioner would place reliance on the ruling of the Apex Court in the case of Superintending Engineer/Dehar Power House Circle Bhakra Beas Management Board (Pw) Slapper & Others Vs Excise And Taxation Officer, Sunder Nagar/Assession Authority,2019 SCC ONLINE SC 1400, wherein the Apex Court was considering the scope of Section 48 of the Himachal Pradesh Value Added Tax Act, 2005, and was pleased to hold that the Limitation Act would get attracted, and hence, it was pleased to hold that the High Court erred in holding that while exercising the revisional power under Section 48 of the said Act. The Division Bench of Himachal Pradesh High Court considering the provision of Section 48(1) of the Act, held that it could not condone the delay beyond the period of 90 days as provided under sub-section (1) of Section 48 of the said Act, and that the language contained in the provision excludes the applicability of Section 5 of the Limitation Act.

6. From a reading of the provision, it is apparent that it is not in pari materia with sub-section (7) of Section 7 of the Act, wherein the first proviso to sub-section (7) of Section 7 of the Act clearly mandates that the appropriate Government or the Appellate Authority as the case may be can extend the said period by a further period of 60 days i.e., the Appellate Authority could have extended the said period by an additional 60 days over and above the 60 days provided under sub-section (7) of Section 7 of the Act.

7. From a reading of the first proviso, it is apparent that no discretion is vested in the Appellate Authority to invoke or enlarge the limitation period. If that be so, the Act being a self-contained Act, question of applicability of Limitation Act would not arise. In the considered

EVERY HUMAN BEING IS THE AUTHOR OF HIS OWN HEALTH OR DISEASE

opinion of this Court, reliance on the ruling cited supra by the learned Counsel for the petitioner is inapplicable in the light of the language employed in the statutory provisions.

8. Per contra, learned Counsel for the respondent has placed reliance on the ruling of the co-ordinate bench of this Court rendered in W.P.No.35266/2011 disposed off on 28.01.2013, whereby the learned Single Judge by placing reliance on the ruling of the Apex Court in the case of Commissioner of Customs & Central Vs M/s. Hongo India (P) Ltd. & Anr. (arising of SLP(C) No.18999/2007), held that the High Court has no power to condone the delay beyond the prescribed period of 60 + 60 days, contrary to the prescription of the statute. The learned Single Judge was also pleased to hold that Article 226 of the Constitution of India could not be invoked to negate the statutory provision providing for limitation. This Court is in agreement with the view expressed by the co-ordinate bench.

9. The said ruling came to be taken in appeal in W.A.No.5487/2013, wherein the Division Bench was also pleased to affirm the same by holding that in view of the language employed in the proviso, there is no power to condone the delay beyond 120 days and was pleased to affirm the order of the learned Single Judge.

10. Learned Counsel for the respondent has also placed reliance on the ruling of the Apex Court rendered in the case of WARANGAL DISTRICT CO-OPERATIVE SOCIETY LTD. VS APPELLATE AUTHORITY UNDER PAYMENT OF GRATUITY ACT, 1972 & OTHERS, (2002) 3 LLJ 616, wherein at paragraphs 8 & 9, the Apex Court has examined the applicability of Limitation Act in the light of the provision contained under Section 29 of the Limitation Act itself. The Apex Court has observed in paragraph 9 & 11 as under:

"9. Looking at the scheme of the Limitation Act, Section 3 of the Act declares that every suit instituted, appeal preferred and application made after the period prescribed for such institution, preference, etc., shall be dismissed. However, Section 5 stipulates that any appeal or application, except the application under Order 21 of the Code of Civil Procedure, if filed beyond the period of limitation prescribed under the Limitation Act could still be admitted by the Court, if the Court is satisfied that such an appellant or applicant had sufficient cause for not preferring the appeal or not making the application within the prescribed period of limitation. From the above two Sections, it appears that a suit filed beyond the prescribed period of limitation is absolutely barred, but an appeal preferred beyond the period of limitation prescribed could still be considered if the appellate Court is satisfied that such delay is by virtue of a cause which was not within the control of the appellant. Section 29(2) of the Limitation Act reads as follows:

Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of Section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in Sections 4 to 24 (inclusive) shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law.

An analysis of the above sub-section shows that where a special period of limitation

HE WHO SEEKS HAPPINESS BY HURTING WILL NEVER FIND IT

> different from the one prescribed in the Schedule to the Limitation Act, 1963, is prescribed by any special or local law for the purpose of filing the suit, appeal, or application, the bar contained under Section 3 shall apply and such a suit or application is required to be dismissed as if that such a special limitation is prescribed under the Schedule to the Limitation Act. It is further provided in the sub-section that provisions contained in Sections 4 to 24 of the Limitation Act shall apply to the cases where a special limitation is prescribed as mentioned above, to the extent to which they have not expressly excluded by such special local law. Interpreting the scope of Section 29(2), the Supreme Court in Shantilal M. Bhayani v. Shanti Bai, (supra), held that as there was no specific exclusion of application of the Limitation Act in the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, the appellate authority under the Act was entitled to invoke the powers under Section 5 of the Limitation Act and condone the delay in preferring the appeal was preferred beyond the period of special limitation prescribed under the Tamil Nadu Buildings (Lease and Rent Control) Act. Obviously, their Lordships while deciding the case had in mind the last clause of Section 29 of sub-section (2) "they are not expressly excluded "

10. xxx xxx

11. However, the difficulty in this case is that the limitation prescribed under the Payment of Gratuity Act, once again an enactment made by Parliament is only 60 days for the purpose of preferring an appeal. Under the proviso to Section 7, sub-section (7), the appellate authority is empowered to "extend the period" of limitation by another sixty days. In other words, the appellate authority is empowered to condone the delay to upper limit of another sixty days beyond the prescribed period of limitation. No doubt, the Payment of Gratuity Act does not expressly exclude the operation of the Limitation Act, but the fact remains that the Payment of Gratuity Act is of the year 1972 where the Limitation Act is of the year 1963. The settled principle of interpretation of statutes is that if there are two mandates by the Sovereign Legislature, the later of the two shall prevail. Therefore, the fact that there was no express exclusion of Section 5 of the limitation under the Payment of Gratuity Act makes no difference while construing the scope of the power of the appellate authority constituted under the Payment of Gratuity Act, to condone the delay in preferring the appeals. The legal position enunciated by the Supreme Court in Shantilal M. Bhayani v. Shanti Bai (supra), in my view, must be understood in the context of the Limitation Act, 1963, and the special period of limitation, prescribed in any other special or local law prior to the date of the enactment of the Limitation Act. It is worthwhile mentioning that the Tamil Nadu Buildings (Lease and Rent Control) Act, which is the subject matter of the issue before the Supreme Court in the above case was of the year 1960."

11. This Court after having examined the language employed in the proviso to sub-section (7) of Section 7 of the Act, is of the considered opinion that the application of Section 29 of the Limitation Act stands excluded. Hence, in the opinion of this Court, the order of the appellate authority cannot be found fault with, and accordingly, petition stands dismissed. No opinion is expressed on the merits of the matter and the petition is disposed off on the short ground of limitation alone.■

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COMMON BOND ENGLISH MONTHLY-R.N.I.NO:36648/82-TOTAL NO.OF PAGES 12 JANUARY - 2021
REGN. NO. KRNA/BGE -1122/2020-2022 PUBLISHED ON 25-12-2020
POSTED AT BANGALORE PSO, MYSORE ROAD, BANGALORE - 560 026 / ON 2ND OF EVERY MONTH
LICENCED TO POST WITHOUT PRE-PAYMENT-LICENCE NO. PMG BG/WPP 330/2020-2022

ALL INDIA BANK OFFICERS' CONFEDERATION

(Registered under the Trade Unions Act 1926, Registration No.3427/Delhi)

NOTICE

Ref No. NOTICE/2020/03 Date: 17.12.2020

12th TRIENNIAL GENERAL COUNCIL AT KOLKATA

Notice is hereby given that the 12th Triennial General Council of All India Bank Officers' Confederation will be held on 23rd, 24th & 25th January 2021 at Eastern Zonal Cultural Complex, Broadway Rd, IB Block, Sector III, Salt Lake, Bidhannagar, Kolkata, West Bengal: 700106.

AGENDA

1. To consider and adoption of General Secretary's Report
2. To consider and adoption of the audited Statement of Accounts for the year 2017, 2018 and 2019.
3. To also consider adoption of audited statement of accounts upto December 2020
4. To consider amendments to By-Laws as approved in the Executive Committee
5. To consider adoption of resolutions(if any), duly approved in the Executive Committee meeting
6. To elect office bearers for the next term
7. To appoint auditors
8. To consider any other matter with the permission of the Chair.

(Soumya Datta)
General Secretary

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An Official Publication Of AIBOC
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RATES OF SUBSCRIPTION: ANNUAL: ₹ 30/-
Drafts Should be Drawn
IN FAVOUR OF AIBOC AND MAILED TO
ALL INDIA BANK OFFICERS' CONFEDERATION
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(Bengal Circle)
6th Floor, E-Block, Samriddhi Bhavan, 1, Strand Road,
"Kolkata – 700001" ☎ 2210-1234, Fax (033)2210-2210
E-mail: aiboc.sectt@gmail.com
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REGISTERED NEWS PAPER

LICENSED TO POST WITHOUT PREPAYMENT

TO

If Undelivered Please Return To
SBI Buildings, St.Mark's Road, Bangalore - 560 001.
The All India Bank Officers' Confederation

Printed & Published/Edited by Shri Soumya Datta on behalf of AIBOC. at State Bank Building, St.Mark's Road Bangalore- 560 001. Printed by Shri. Ranga Reddy, at L. V. Graphics 3968, 7th Cross, 2nd Main, Gayathri Nagar, Bangalore - 560 021.