

HON. CHAIRPERSON: Thank you very much,

Now, Mr. Agarwal. No more than 10 minutes, please.

SHRI AMEET K. AGARWAL: Sir, it will be less than 10 minutes.

Namaskar and good afternoon. I am the President and CEO of Supreme Transport Organisation. Today, I am here to escalate, we would term it as a

scam or a fraudulent activity of one of the banks of India, which is Kotak Mahindra, which has actually killed an MSME, which has killed our company. In the routine course of last two and half, three years of this scam, which is taking place, we have learnt that this is a standard practice of this bank, which the Ministry and the Committee should be aware of.

I will just give you a quick overview. Supreme Transport is a 38-year-old company. We were one of the largest road transport service providers all over India. We had 70 offices spread across the country, more than 200 large trucks & trailers, and more than 500 employees who were working for us.

Between 2002 and 2018, we transacted more than Rs. 1,100 crore worth of business with GE, which is an American corporation for their medical system movements all over India. After GE, General Motors was our second largest client. Mercedes-Benz and all the metro coaches, which are manufactured by Bombardier, Supreme Transport was transporting all these metro coaches all over India.

(1425/RP/PC)

We had all these multinationals corporations who are working with us. In the year 2010-11, we moved our banking to Kotak Mahindra and we started the relationship which was from 2010-11 till 2018 with Rs. 14 crore worth of loans. In that eight years of relationship, Sir, our peak exposure with Kotak was Rs. 40 crores. Against this Rs. 40 crores, Kotak had a collateral of Rs. 60 crores. In the same period of these eight years, our company has paid more than Rs. 100 crore to HDFC, ICICI, Sriram, IndusInd, IIFL and, of course, Kotak as well with

interest and with all the principals. When the exposure came down from Rs. 40 crore to Rs. 30 crore with Kotak, Kotak released our collateral properties worth Rs. 20 crore all over India. When the exposure came down from Rs. 30 crore to Rs. 20 crore, Kotak further assured that they will be releasing the collateral of another Rs. 20 crore. We were waiting for it for more than a year. They did not release it. So, of course, we escalated the matter to their seniors. Their seniors apprised that they would like to end the relationship and, of course, we also wanted to end the relationship because it was not going in the right direction. We told Kotak: "There are three flats in one building on the 14th, 15th and 23rd floors and they are the three buyers, buyer 'A', buyer 'B' and buyer 'C'. These buyers will make direct payments to you of Rs. 6.5 crore each because these flats costed Rs. 6.5 each. Our exposure with you is Rs. 19.18 crore. You please take the payment and close our account." Kotak Mahindra gave us drafts of two letters: "That these are the letters you have submit on your letterhead with the Board's signature and we will do the needful." We took the Board's signature. One of the letters basically confirmed the outstanding being Rs. 19.18 crore. The second letter basically said that we handover the symbolic possession of these three flats to Kotak Mahindra Bank. These two letters seemed fine so we went ahead, signed and gave them to Kotak. This was on the 6th of March 2018. I, specifically, asked these senior officials of Kotak that by when can we expect this transaction to take place so that we can close and move on. They had showed that before 31st March 2018, this can be done because this is not complicated. On 12th of April, 2018, we received a very contradictory letter from

Kotak. The letter, basically, said: "You have to give us physical possession of the flats." We failed to understand that when you have the original documents, mortgage, keys and the flats are charged, how can we give physical possession to you? You already have it. Then, I spoke to the same senior officials of Kotak: "What is going on?" It is because this seems to be fishy. At that point, Sir, the senior officials apprised us that Kotak Bank has appointed a person in the Bank itself who is going to create nuisance and who is going to destroy your company. When we specifically asked: "What is the reason for that because we have been an excellent customer. Our CIBIL is excellent. Our company is growing. We do not understand why would you do that." He said: "We will definitely take the flats worth Rs. 19 crore from you. We will also take the other properties of Rs. 21 crore from you and we will collect your clients Rs. 14 crore outstanding." So, basically, he warned us that they will recover Rs. 54 crore against Rs. 19 crore outstanding. At that point, it did not make any sense to us because it is not legal. How can you recover Rs. 54 crore against an outstanding of Rs. 19 crore. But, this has been going on for almost three years now. What he warned us was true because today that is exactly what Kotak has done. They moved to DRT in the month of June or July, 2018. They obtained an *ex parte* garnishee order against all 60 clients of mine. The order specifically says that all the outstanding has to be given to Kotak Bank. With that order, they collected Rs. 14 crore from my clients. When we went to DRT and said: "This was an *ex parte* order. This was not fair. You should have, at least, heard us. Why did you issue even such order because they had properties worth Rs. 19 crore?" Then, the DRT was

very furious. The DRT was not happy with the actions of the Kotak because DRT was manipulated. Kotak gave in writing to DRT that there is some stay or there are some orders against these three flats in the Courts of Bombay and Delhi, which was not true. DRT immediately appointed a receiver, took the three flats and gave it to Kotak in less than one hour. So, DRT was absolutely not happy with the Kotak's manipulation. DRT further ordered: "You are supposed to, now, release 65 per cent of the monies which you have collected from their clients so that the company is not killed."

(1430/NKL/IND)

There are 500 employees; there are 70 offices; there is electricity utility bill; everybody has to be paid. Kotak has royally contempt the DRT's Order. Forget about 65 per cent, they have not paid even a single rupee from our own money. Next, they went ahead and sold one of those three flats to my same buyer. When I called up the buyer to ask what was going on, he said that I was offering the flat to him for Rs. 6.5 crore, and he has paid Rs. 5.15 crore to the bank and Rs. 1 crore cash to the person who was involved. So, that was definitely a better deal. We apprised the DRT about it and said that that was fraud and illegitimate. They immediately sold the second flat to the second buyer which I introduced to them. When I spoke to the second buyer, he said that he has actually paid Rs. 5 crore and Rs. 1 crore in cash. So, a property which was worth Rs. 6.5 crore is being liquidated for Rs. 6 crore with Rs. 1 crore cash component, which will be difficult to prove to anybody. So, we had no choice but to escalate it to DRT that these two flats are illegitimately sold. There is cash

component involved in it, and we are worried that they will gradually sell the other properties worth Rs. 21 crore in the same fashion. Now, we know that they are behind Rs. 54 crore to recover Rs. 19 crore. Kotak has been taking dates in DRT in the last two to three years. They just do not show up. They make excuses every time there is a hearing, and this seems to be a fashion. So, if they stretch a case worth Rs. 19 crores for five years with a penal interest, the outstanding would be Rs. 54 crore, and then, they would recover Rs. 54 crore. So, we had no choice but to escalate this matter to the Ministry.

HON. CHAIRPERSON: You have two minutes to wrap up.

SHRI AMEET K AGARWAL: Okay, Sir. The Ministry wrote to Kotak that you have to reply because this seems to be fishy but Kotak has royally ignored the Ministry's communication. We escalated this to the Enforcement Directorate. Upon understanding the case, the ED has actually written to the Mumbai Police that an FIR should be registered against Kotak under so and so sections. Kotak has been summoned multiple times by the EOW but they do not show up. They are not replying to the Ministry; they are not showing up to the EOW; they are not replying to ED. So, this is where we need your help. This is injustice. They have killed the company; they have destroyed the company. From Rs. 150 crore per year, we have come down to zero. There are no employees. We were contributing more than Rs. 100 crore in taxes every year. It would be appreciated if the Ministry could look into such kinds of frauds.

SHRI BIKASH RANJAN: This is the common experience faced by everybody with the bank transactions. The bank is really after those small fishes and the big fishes are allowed to go freely. I find this experience which you have shared, probably, is the experience of all small businessmen throughout the country. So far as the banks are concerned, they are very much strict and they are very much cunning with these small fishes and they are allowing the big the fishes to go.

SHRI AMAR PATNAIK: My simple question is, whether the incidents that you described are just anecdotal or episodic in the sense they are one-off cases. Or, do you think, since you have been in the industry -- it is actually taking from what Bikash Ji was saying -- this is also symptomatic of the problem in the entire MSME sector in the way the banks treat them?

SHRI PARVESH SAHIB SINGH: In the Supreme Transport Organisation Private Ltd., case, when Kotak Mahindra sold the flat to those buyers, they must have advertised it or they sold it one to one directly without advertisement. How have they sold it?

श्री गोपाल शेड्डी : उसी एंगल से हमें इनको भी देखना पड़ेगा, तो ये स्टैंडअप हो पाएंगे। धन्यवाद।

श्रीमती सुनीता दुग्गल : महोदय, धन्यवाद। मैं सिर्फ यह चाहती हूँ कि आप एक ब्रीफ में छोटा सा बता दीजिए कि आपको क्या लगता है, क्या सॉल्यूशन हो सकता है और क्या सॉल्यूशन होना चाहिए? अगर आप ब्रीफ में इस संबंध में बताएंगे तो उससे हम भी एन्लाइटन होंगे।

Then, the second question, which is directed to all of you, as you have dealt with the banks, is, to what extent have they used either SARFAESI or DRT or NCLT as something to really attack you and say, if you do not pay then they will take you into insolvency, etc.? So, how has that been used in your actual experience? Those are my two questions.

SHRI AMEET K AGARWAL: To answer all the questions, I would begin with hon. MP who asked whether the sale of flats was legal or illegal. They did not follow the procedure of law. So, we immediately moved to the same DRT that the procedure of law has not been followed and the sale of the flat shall be set aside, but what they did was more detrimental. To blackmail us, they bounced a cheque in some account of Chennai. Then, they are actually giving us an ultimatum that we should withdraw our application, otherwise they will take action under Section 138. We told them that they may move it, but we will not withdraw our application. These are the kinds of tactics they have done after the illegitimate sale of these two flats.

(1450/SNT/MM)

To answer your question specifically, the procedure of law was not followed. The hon. Member asked about the modus operandi of these banks.

What they do is this. When I was sitting in the Economic Offence Wing recording my statement, when I was before the ED recording my complaint and my grievance, they were, of course, called and asked as well and what we understand is that this is their standard practice. They actually recover Rs. 10 crore worth of properties or monies for somebody who has defaulted Rs. 3 crore. They would recover Rs. 20 crore from somebody who has defaulted Rs. 6 crore or Rs. 7 crore.

When I was made to speak to one of the senior officials of the bank because our story looks like a personal vendetta of somebody in the bank, which should not be the case because we did not even know these people. So, how can there be a personal vendetta of any bank employee? The answer to that was very shocking. They said no, Agarwal Ji, we do this on a standard basis, on a regular basis because there are very big defaults which take place. In those kinds of big defaults, we are not able to recover the default money. So, basically one default is equal to killing hundred corporations and recovering money from hundred corporations. So, they are exactly the opposite of Robinhood. They take from the poor, they take from the small MSMEs, which is not my concern.

My concern is to answer the hon. Member's question about the solution which should be done. There should be some online portal, if not an organization or a body for such crimes, frauds, acts of these banks with individuals as well as corporations. What happens is when a default takes place and if the person leaves the country, that is known to everybody. But if a bank fraud/scam is done

by the bank itself on hundreds and thousands of MSMEs, it is unnoticed. It is not reported anywhere. We have no place to go.

The last question, Sir, which you asked was about how these banks are using the DRT, the SARFAESI, and all these acts. Well, unfortunately, they are misusing the DRT and SARFAESI by stretching the cases for three years, four years, five years in the same DRT. How is it justice? My outstanding of Rs. 19 crore with the penal interest can go up to Rs. 50 crore in the period of five years. And all the bank has to do is send somebody to take a date which they have been doing for last three years.

At the same time, Sir, how can DRT issue an ex parte order, a detrimental ex parte order without even hearing us. They are misusing the DRT, they are misusing the SARFAESI. So, that answers all the questions which the Members have asked.

HON. CHAIRPERSON: Every bank is supposed to have an ombudsperson mechanism. The RBI also has an ombudsperson mechanism because if the banks are not treating you fairly, then you can go to this ombudsperson? Did you avail of that? Did that come to your attention?

SHRI SAURAV GULATI: No.

SHRI AMEET K. AGARWAL: We did move the RBI ombudsman. The way it works is that, you have to register a complaint with them with whatever grievance

you have either online or in writing, which we did. Then, they seek a reply from the bank and they have to reply to us within 30 days. The reply which we received from the ombudsman was that they have received a reply from Kotak. It is a simple one-line reply saying, 'that this matter is prejudiced before the DRT'.
HON. CHAIRPERSON: Thank you very much. Thank you for coming and sharing with us your experiences.