BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.01.2015
CORAM:
THE HONOURABLE DR. JUSTICE S.TAMILVANAN
and
THE HONOURABLE MR. JUSTICE V.S.RAVI

W.P.(MD)No.16896 of 2014
and
M.P.(MD)No.1 of 2014

M/S.Asian Health and Nutri Foods Ltd.,
Rep.by its Chairman / Managing Director K.Saravanan,
Omalur By pass Road,
Omalur,
Salem 636 455.
... Petitioner

Vs.

1.The Union of India,
Rep.by its Joint Secretary,
Ministry of Finance,
Department of Economic Affairs,
Room No.34 C,
New Delhi 110 001.

2.The Reserve Bank of India,
Rep.by its Chairman and Managing Director,
6, Parliament Street,
New Delhi 110 001.

3.The Authorized Officer,
State Bank of Mysore,
Salem Branch,
No.19 / 35 B, Car Street,
Salem 636 001.

4.The Debts Recovery Tribunal,
III and IV Floor, Kalyanai Towers,
4/162, Melur Road, Madurai. ... Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of declaration declaring that Section 2(1)(o) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and Clause 2.1 of the prudential norms on income recognition, Asset classification and provisioning pertaining to advances issued by the second respondent as ultra virus of the Constitution of India, void ab initio, illegal and unconstitutional and consequently, forbear the third respondent from continuing the proceedings initiated under the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 as against the petitioner.

For Petitioner : Mr.Jayesh B.Dolia for
Mr.S.Suresh
For Respondents : Mr.G.R.Swaminathan for R1, R2 and R4
Mr.Ananth C.Rajesh for R3

ORDER

(Order of this Court was made by S.TAMILVANAN,J.)

Heard the learned counsel appearing for the petitioner, learned standing counsel appearing for respondents 1, 2 and 4 and the learned counsel appearing for the third respondent.

2.The Writ petition has been filed invoking Article 226 of the Constitution of India, seeking an order in the nature of Writ of declaration or any other appropriate Writ declaring that Section 2(1)(o) of Securitization and Reconstruction of Finance Assets and Enforcement of Security Interest Act, 2002 Clause 2.1 of prudential norms on income recognized asset certification and provisioning pertaining to advances issued by the second respondent as ultra virus of the Constitution of India, void ab initio, illegal and unconstitutional and consequently, forbear the third respondent from continuing the proceedings initiated under the provisions of Securitisation and Reconstruction of Finance Assets and Enforcement of Security Interest Act, 2002 (herein after called the "Act") as against the petitioner.

3.When the matter was taken up, Mr.G.R.Swaminathan, learned Assistant Solicitor General of India appearing for R1, R2 and R4 submitted that a similar issue was decided by a Division Bench of this Court on 14.11.2014 in W.P.(MD)Nos.17673, 16875 and 16876 of 2014, whereby the Writ petitions were dismissed and hence, the said decision is binding on this Court.

4.On a perusal of the said decision, it is seen that the same counsel M/s.Aiyar and Dolia appeared for the petitioners therein and Mr.G.R.Swaminathan, Assistant Solicitor General of India appeared for Union of India and Reserve Bank of India.

5.The Division Bench headed by the Hon'ble Chief Justice and another Judge held that challenge to Section 2(1)(o) of the Act and the guidelines issued by the Reserve Bank of India, pertaining to classifications on assets as Non-performing Assets, which is the subject matter in this Writ petition is an issue res integra.

6.In view of the decision of the Hon'ble Division Bench of this Court in A.Pareekshith Vs. Union of India, Rep.by Joint Secretary, Department of Economic Affairs, New Delhi though the High Court of Gujarat has taken a different view and Special Leave Petitions have been filed where against the judgment of Gujarat High Court, passed an order of status quo and the view expressed by the Co-ordinate Bench of this Court in Deccan Chronicles case, as argued for the first respondent that neither leave nor the stay of the operation of the order was granted.

7.It is not in dispute that the present Writ petition is similar to that of the earlier Writ petition in W.P.(MD)Nos.17673, 16875 and 16876 of 2014 and that was dismissed by an order dated 14.11.2014. Hence, we find it just and reasonable to dismiss the Writ petition in view of the earlier decision of the Division Bench.

8.In the result, the Writ petition is dismissed.

No costs. Consequently, connected M.P. is closed.

Sd/-
Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar

To
1.The Joint Secretary to
the Union of India,
Ministry of Finance,
Department of Economic Affairs,
Room No.34 C,
New Delhi 110 001.

2.TheChairman and Managing Director,
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6, Parliament Street,
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3.The Authorized Officer,
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4.The Debts Recovery Tribunal,
III and IV Floor, Kalyanai Towers,
4/162, Melur Road, Madurai.

+1cc to Mr.Ananth C.Rajesh, Advocate in SR.No.2745

+1cc to M/s.Aiyar & Dolia, Advocate in SR.No.3096

sm:13.03.2015:3P/7C

W.P.(MD)No.16896 of 2014
21.01.2015