IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2016

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M. VENUGOPAL

W.P.Nos.31525 & 31526 of 2014
and
M.P.Nos. 1 & 1 of 2014

M/s. Modern Cast,
rep. By its Proprietor
Mr. Madanlal Jain,
No. 9 Hosur Main Road,
Neal Silk Board Circle Madiwala Post,
Bangalore 560 058. ... Petitioner
(In WP No.31525/2014)

Madanlal Jain,
Proprietor of M/s. Modern Cast,
No. 9 Hosur Main Road,
Neal Silk Board Circle Madiwala Post,
Bangalore 560 058. ... Petitioner
(In WP No.31526/2014)

Vs

1. Presiding Officer,
Debts Recovery Appellate Tribunal,
Chennai.2.

2. State Bank of India,
a Corporate body constituted under the
State Bank of India Act, 1955 and having
its Corporate Office at Madam Cama Road,
Mumbai and a Branch among other places
at State Bank of India, Stressed Asset
Recovery Branch (SARB), 1st floor,
Bangalore City Branch, J.C. Road,
Bangalore 560 002 rep. By Chief Manager ... Respondents
(In both W.Ps.)

Writ petitions filed under Article 226 of the Constitution seeking for the issuance of a writ of certiorarified mandamus to call for the impugned proceedings on the file of the first respondent herein in I.A.No. 879 of 2014 in AIR 829 of 2013, dated 11.09.2014 and quash the same and direct the first respondent to waive the entire pre-deposit of 50%.

For Petitioner/s : Mr.P.Ramesh Kumar for
Mr. A.R. Jayaprathap

For Respondents : Mr. S. Sethuraman - R2

COMMON ORDER

(Order of the Court was delivered by SATISH K. AGNIHOTRI,J.,)

Heard the learned counsel for the petitioner and the learned counsel for the second respondent. With the consent of the learned counsel for the petitioner and the second respondent, the writ petitions are taken up for final disposal.

2. The writ petitions are filed questioning the legality and validity of the order dated 11.09.2014 passed in I.A.No. 879 of 2014 in AIR No. 829 of 2013, whereunder, the petitioners herein were directed to deposit 50% of the total outstanding amount of Rs.51,21,972/- as on the date of filing of the appeal i.e. Rs.25,60,986/-.

3. Under Section 21 of Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (for short " the Act"), the learned Chairperson, recording the fact the the petitioners have not paid any amount after the borrowal and also not denied their liability, came to the conclusion that the case does not deserve reduction of pre-deposit from 75% to 25%. Section 21 of the Act contemplates pre-deposit to the tune of 75% of the amount due, as determined by the Tribunal under Section 19 of the Act. However, the Appellate Tribunal is competent to waive/reduce the amount. Thus, the Appellate Tribunal has examined the entire facts of the case and came to the conclusion that 75% of the pre-deposit may be reduced to 50%, which comes to Rs.25,60,986/-.

4. We are informed that the said amount has not been deposited till date, despite no stay by this Court.

5. Learned counsel for the petitioners submits that some more time be granted inasmuch the amount could not be arranged to make the deposit, since the petitioners are ready and willing

to settle the liability, however, with some comfort level. In fact, the petitioners are also willing to make a request for One Time Settlement to the Bank, to which, the learned counsel appearing for the Bank is not agreeing, as according to him, proceedings have already been initiated.

6. Be that as it may, regard being had to the facts situation, we are inclined to grant only four weeks time from today to the petitioners to deposit the aforestated amount to enable the Appellate Tribunal to consider the matter on merits, failing which, the order dated 11.09.2014 rendered by the Appellate Tribunal shall stand automatically revived.

Both the writ petitions are disposed of accordingly. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ra.

To

1. The Presiding Officer,
Debts Recovery Appellate Tribunal,
Chennai.2.

2. The Chief Manager
State Bank of India,
a Corporate body constituted under the
State Bank of India Act, 1955 and having
its Corporate Office at Madam Cama Road,
Mumbai and a Branch among other places
at State Bank of India, Stressed Asset
Recovery Branch (SARB), 1st floor,
Bangalore City Branch, J.C. Road,
Bangalore 560 002

+1cc to Mr.A.R. Jayaprathap, Advocate, S.R.No.17045

W.P. Nos. 31525 & 31526 of 2014

BUR(CO)
CA(18/03/2016)