

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P.No.28801 of 2014

and

M.P.No.1 of 2014

M/s.Insul India,
rep by its Partner,
M.Venkateswaran
Insul Towers,
No.216, Ambattur Main Road,
Sivaprakasam Nagar,
Surapet, Chennai-600 066. ... Petitioner

Vs.

State Bank of India,
Stressed Assets Recovery Management Branch,
Red Cross Buildings,
II Floor, No.32, Montieth Road,
Egmore, Chennai-600 008. ... Respondent

The writ petition has been filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondent to refund the Resolution Agent Charges of Rs.7,24,934/-, collected from the petitioner, in respect of the loan account, bearing No.30207016151.

For Petitioner : Mr.D.Durairaj

For Respondent : Mr.A.V.Arun

ORDER

Heard the learned counsel appearing on behalf of the petitioner, as well as the learned counsel appearing on behalf of the respondent Bank.

2 This writ petition has been filed by the petitioner, praying that this Court may be pleased to issue a Writ of Mandamus, directing the respondent to refund the Resolution

Agent Charges of Rs.7,24,934/-, collected from the petitioner, in respect of the loan account, bearing No.30207016151.

3 The learned counsel appearing on behalf of the petitioner had submitted that the petitioner had availed an overdraft facility, to a tune of Rs.36,00,000/-, from the Karnataka Bank Limited. Thereafter, the said loan had been taken over by the respondent Bank, under the current account No.30207016151. The respondent Bank had made a claim, for the recovery of Rs.71,12,174/-, to be paid on or before 31.2.2011. Since the petitioner could not repay the said amount, proceedings, under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, had been initiated against the property. The petitioner had made an One Time Settlement offer, which had been accepted by the respondent Bank and an amount of Rs.67,70,961/- had been paid to the respondent Bank, under the said scheme. However, the amount of Rs.3,86,386/-, said to have been paid to the recovery agents, had also been collected from the petitioner, arbitrarily. Therefore, the petitioner had claimed the refund of the recovery agent charges of Rs.7,24,934/-.

4 The learned counsel appearing on behalf of the respondent Bank had submitted that the petitioner is not entitled to the additional 5% discount, as the petitioner had paid the One Time Settlement amount, after the expiry of one month. It had also been stated that the petitioner had agreed to pay the recovery agent charges, as per the One Time Settlement arrived at between the petitioner and the respondent Bank. Therefore, the claim made by the petitioner, in the present writ petition, cannot be sustained.

5 In view of the submissions made by the learned counsels appearing on behalf of the petitioner, as well as the respondent Bank and on a perusal of the records available, it is noted that the petitioner had agreed for the One Time Settlement scheme. According to the said scheme, the petitioner is liable to pay the recovery agent charges, which amounts to Rs.3,86,386/-. It is also noted that the petitioner had paid the agreed amount, after the expiry of one month, from the date fixed for payment of the One Time Settlement amount. Therefore, the petitioner is not entitled to the additional discount of 5%, as claimed by it.

6 In such circumstances, the relief, prayed for by the petitioner, cannot be granted, by this Court, in the present writ petition. Hence, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vvk

To

State Bank of India,
Stressed Assets Recovery Management Branch,
Red Cross Buildings,
II Floor, No.32, Montieth Road,
Egmore, Chennai-600 008.

+1cc to M/S.A.V.Arun, Advocate Sr.47066
+1cc to Mr.D.Durairaj, Advocate SR.46790

W.P.No.28801 of 2014

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srg 02/09/2016

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