

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.2914 of 2007  
and M.P.No.1 of 2007

M/s.Selvarani Textiles Private Limited  
(earlier known as M/s.G.T.V.Spinner Ltd.,  
244-G, Pulankinar,  
Udumalpet - 642 122,  
Coimbatore District.

... Appellant

Vs.

1. M.Subathra  
2. M.Manikanda Sudan

... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 10-F of the Companies Act, 1956, against the order of the Company Law Board, Southern Region Bench at Chennai, dated 23.04.2007 in Company Application No.17/58A(9)/SRB/2007.

For Appellant : Mr.P.Valliappan

For Respondents : No appearance

J U D G M E N T

Challenging the order dated 23.04.2007 in Company Application No.17/58A(9)/SRB/2007 passed by the Company Law Board, Southern Region Bench at Chennai, the appellant/Company has preferred this appeal.

2. The respondents/depositors have deposited money with the appellant/Company. Since the appellant company filed application under Section 22 of the Sick Industrial Companies (Special Provisions) Act, 1985, seeking protection, the money was not paid to the depositors. Aggrieved over the non-payment, the respondents have filed an application in Company Application No.17/58A(9)/SRB/2007 before the Company Law Board.

3. The Company Law Board had rejected the contention of the appellant and observed that the deposit could not be treated as loan and the company is not entitled to protection under Section 22 of Sick Industrial Companies (Special Provisions) Act, and directed that the company shall return the deposits following the judgment of the High Court of Karnataka in the case of Electrex (India) Ltd. Vs. Krishna Bahecharbhai Patel and Others reported in (2006) 133 Comp Cas 874 (Karn), wherein, it is held that a deposit by the depositors was not a sum lent to the company but a sum deposited with the company to be held in trust by the company till the time of maturity. It was not a loan in the strict sense of the term. Therefore, any claim made for return of a deposit made with the company could not be termed a suit for recovery of money due.

4. This Court does not find any infirmity in the order dated 23.04.2007 in Company Application No.17/58A(9)/SRB/2007. Now that the Board for Industrial and Financial Reconstruction (BIFR), Act, has been repealed, the defence taken by the Company under Section 22 of the Sick Industrial Companies (Special Provisions) Act, 1985, is no longer available to it.

5. Therefore, I do not find any merits in the appeal and accordingly, this Civil Miscellaneous Appeal is dismissed. The respondents are entitled to execute the order for repayment of deposits together with interest up-to-date, as indicated by the Company Law Board. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

The Company Law Board,  
Southern Region Bench at Chennai.

+1cc to Mr.P.Valliappan, Advocate, S.R.No.80053

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CS/04/01/18