

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2017

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.22377 of 2004

M/s.Pavitraa Graphics Limited,
No.20, Third Street, Railway Colony,
Nelson Manickam Road,
Chennai 600 029.
rep. by its Managing Director.

... Petitioner

vs.

The State Industries Promotion Corporation of
Tamil Nadu Limited,
(A Government of Tamil Nadu Undertaking)
having its Registered Office at
No.19-A, Rukmani Lakshmipathi Road,
Egmore, Chennai 600 008.
rep. by its Chairman and Managing Director.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus calling for the records of the respondent herein relating to the proceedings in Reference under F & R-1-830-2004, dated 16.07.2004 and quash the same and direct the respondent herein to accept the balance payment together with subsequent interest as per the one time settlement arrived under the proceedings of the respondent herein under reference in F & R-1-830-2003, dated 18.08.2003 and release all the movable and immovable properties of the petitioner as full and final settlement.

For Petitioner : Ms.Kanmani
for Mrs.A.L.Gandhimathi
For Respondent : Ms.Sudarshana Sundar

O R D E R

The petitioner has come up with this Writ Petition seeking to quash the proceedings of the respondent herein vide Ref.No.F & R-1-830-2004, dated 16.07.2004 and for a consequential direction to the respondent herein to accept the balance payment together with subsequent interest as per the One Time Settlement arrived under the proceedings of the respondent herein vide

Reference No.F & R-1-830-2003, dated 18.08.2003 and release all their movable and immovable properties, as full and final settlement.

2. According to the petitioner, he was initially carrying on business as an Offset Printing Press and was enjoying credit facilities with M/s.Andhra Bank. Thereafter, to expand and modernize his business operations, the petitioner applied to the respondent seeking financial assistance to the tune of Rs.2.30 crores and the said amount was sanctioned by the respondent and conveyed to the petitioner vide letter dated 11.09.1996 subject to the terms and conditions that the machinery which was to be purchased by utilizing the funds sanctioned as loan was to be hypothecated to the respondent herein and the respondent was to have a charge over the same. Apart from that, immovable property of the petitioner was also given by way of collateral security to the respondent herein. As there was a delay in implementation and modification of the project, the respondent had reviewed the Project and reduced the term loan sanctioned to the tune of Rs.2.10 lakhs instead of Rs.2.30 lakhs vide their revised sanction letter No.PF.II/OP-IV/830/97, dated 11.06.1997.

3. At one stage, the petitioner was unable to pay the interest due to the respondent Corporation and hence, he sent a detailed representation to the respondent on 25.04.2003 stating the entire history of his business and requested the respondent to consider his request for One Time Settlement and undertook to pay the down payment for the same. Thereafter, the respondent, by a letter dated 18.08.2003, stated that the petitioner's proposal was considered by the Board of Directors of the respondent in the meeting held on 08.08.2003 and the respondent was agreeable to accept the One Time Settlement for a sum of Rs.2,55,96,198/- with a waiver of interest on interest and penal interest, totalling to Rs.83,04,780/-. But, the respondent issued proceedings dated 16.07.2004 withdrawing the One Time Settlement sanctioned to the petitioner on 18.08.2003 and calling upon the petitioner to pay the entire amount. Hence, aggrieved over the same, the petitioner has approached this Court with the above relief.

4. Learned counsel for the petitioner submitted that even though the benefit of One Time Settlement (OTS) was not availed by the petitioner, he is willing to pay the OTS amount to the respondent.

5. Learned counsel appearing for the respondent submitted that the petitioner is not entitled to OTS even on the date when the request was made, as the petitioner was not a sick Company. Even assuming that the petitioner Company is sick, they have agreed to pay the amount after availing loan from the Bank, but

the amount has not been paid as on date. It is her further submission that the petitioner Company is running profitably and extension of OTS facility at this point of time does not arise.

6. Heard the learned counsel on either side and perused the material documents available on record.

7. The fact remains that the petitioner has not availed the benefit of OTS. Even assuming that the same has been extended to the petitioner as early as in 2003, seeking extension of the said benefit at this point of time that the petitioner is willing to pay the OTS amount together with interest, is not appealable to this Court. As rightly pointed out by the learned counsel for the respondent, the amount due from the petitioner will have to be re-worked and the amount payable by the petitioner as on date has to be determined. Hence, this Court is of the view that the petitioner is not at all eligible for any relief, muchless OTS.

8. Taking note of the submissions made by the learned counsel on either side and in view of the above discussion, this Court is of the view that the Writ Petition has got to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected W.P.M.P.Nos.27090 and 27091 of 2004 are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To:

The Chairman and Managing Director,
State Industries Promotion Corporation of
Tamil Nadu Limited,
(A Government of Tamil Nadu Undertaking)
having its Registered Office at
No.19-A, Rukmani Lakshmipathi Road,
Egmore, Chennai 600 008.

+1cc to Mrs.A.L.Gandhimathi, Advocate, S.R.No.49204
+1cc to Ms.Sudarshana Sundar, Advocate, S.R.No.48915

W.P.No.22377 of 2004

PA(CO)
CS/21/08/17