

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17-09-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.32755 and 32756 of 2017

And

W.M.P.Nos.36095 to 36100 of 2017

A.Subramanian,
Proprietor,
Nascols Textiles,
27, A.V.P. Layout,
Padmavathipuram,
6th Street,
Gandhi Nagar (P.O.),
Tirupur - 641 603.

.... Petitioner in both WPs

..Vs..

1.M/s.Corporation Bank,
SME Branch,
1st Street,
Ganga Nagar,
Kumar Nagar,
Tiruppur - 641 602.

2.Export Credit Guarantee Corporation of
India Limited,
Spencer Towers, VII Floor,
770-A, Anna Salai,
Chennai-600 002.

.... Respondents in both WPs

WP No.32755 of 2017 is filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent culminating in the impugned order dated 3.10.2017 classifying the petitioner's account as an NPA and consequently, direct the first respondent not to adjust amounts credited by way of proceeds towards PRTBL and use that for liquidating the Packing Credit Limits.

WP No.32756 of 2017 is filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent in its rejection order dated 11.8.2017 bearing Ref.RCPC/SR01/22754/NACSOLS/17-18 as arbitrary and illegal and consequently direct

the second respondent to make payments under the policy issued to the petitioner.

For Petitioner in both Wps : Mr.Rahul Balaji

For Respondent-1 in both WPs: Mr.S.Sethuraman

For Respondent-2 in both WPs: Mr.P.V.S.Giridhar,
Senior Counsel for
M/s.Giridhar and Sai.

C O M M O N O R D E R

The order passed by the second respondent in proceedings dated 11.8.2017 and the order passed by the first respondent in proceedings dated 3.10.2017 are under challenge in these writ petitions.

2. The learned counsel for the writ petitioner states that on account of the mistakes committed by the first respondent-Bank, the writ petitioner is made to suffer. On account of the mistakes committed by the first respondent-Bank, the writ petitioner's account was declared as Non Performing Assets as on 3.10.2017. In view of the said order, the writ petitioner is facing number of difficulties and therefore, the writ petitioner is constrained to move the present writ petitions.

3. The learned counsel appearing on behalf of the first respondent-Bank disputes the submission made on behalf of the writ petitioner by stating that it is not at the instance of the first respondent-Bank, the writ petitioner's account was declared as 'Non Performing Assets'. It is because of his own activities, the authorities have declared the writ petitioner's accounts is to be treated as 'Non Performing Assets'.

4. In view of the complex factors raised in WP No.32756 of 2017, this Court is of an opinion that the same is to be adjudicated by the competent Forum and only in the event of complete adjudication, the issues can be resolved in this regard. This Court under Article 226 of the Constitution, cannot adjudicate the disputed facts and circumstances now raised by the respective parties.

5. Thus, the writ petitioner is at liberty to approach the Banking Ombudsman, Reserve Bank of India, Fort Glacis, Chennai-600 001, by filing appropriate application. In the event of receiving any such application, the Banking Ombudsman, Reserve Bank of India, Fort Glacis, Chennai-600 001 is directed to adjudicate the matter by affording reasonable opportunity to all the parties concerned and decide the matter on merits and in accordance with law.

6. With these observations, WP No.32755 of 2017 stands disposed of. After the final orders are passed by the Banking Ombudsman, Reserve Bank of India, Fort Glacis, Chennai-600 001, if the writ petitioner is still aggrieved, the writ petitioner is at liberty to approach the appropriate Forum. In view of the orders passed in WP No.32755 of 2017, directing the writ petitioner to approach the Banking Ombudsman, Reserve Bank of India, Fort Glacis, Chennai-600 001, no further consideration is required in WP No.32756 of 2017 and accordingly, WP No.32756 of 2017 stands closed. Depending the outcome in respect of the appeal to be filed by the writ petitioner before the appropriate Forum, the writ petitioner is at liberty to approach the competent Forum.

7. Accordingly, WP No.32755 of 2017 stands disposed of and WP No.32756 of 2017 stands closed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

Svn
To

1.M/s.Corporation Bank,
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1st Street,
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Tiruppur - 641 602.

2.Export Credit Guarantee Corporation of
India Limited,
Spencer Towers, VII Floor,
770-A, Anna Salai,
Chennai-600 002.

+2 CC to M/s.Giridhar and Sai, Advocate sr 64300, 64279.
+2 Ccs to Mr.S. Sethuraman, Advocate sr 64721,64717.
+2 ccs to Mr.R. Parthasarathy, Advocate sr 65194,65195.

WP Nos.32755 and 32756 of 2017

VD(CO)
SP(03/10/2018)