

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20-09-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.13622 & 13623 of 2017

and

W.M.P.Nos.14768 & 14769 of 2017

Tirupur Vijayalakshmi Spinning Mills

India Private Limited,

24A, Anna Street,

15, Velampalayam,

Tirupur - 641 652

Rep.by its Managing Director

... Petitioner in W.P.No.13622 of 2017

Lawn Textile Mills Private Limited

24A, Anna Street,

15, Velampalayam,

Tirupur - 641 652

Rep.by its Managing Director

.... Petitioner in W.P.No.13623 of 2017

...Vs...

The Chief Manager,

UCO Bank,

Tirupur.

... Respondent in both W.Ps

PRAYER in W.P.No.13622 of 2017: Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the Respondent culminating in its Letter No.Tirupur BR/58/2015-16 dated 31.03.2016, quash portion of the quantum of excess interest only, in as much as it reduced the excess interest from Rs.59,04,095.61/- to Rs.13,70,596/- and to direct the Respondent to redetermine proper and correct excess interest charged with the assistance of an independent chartered accountant.

PRAYER in W.P.No.13623 of 2017: Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the Respondent culminating in its Letter No.Tirupur BR/58A/2015-16 dated 31.03.2016, quash portion of the quantum of excess interest only, in as much as it reduced the excess interest from

Rs.49,42,990.64/- to Rs.11,39,612/- and to direct the Respondent to redetermine proper and correct excess interest charged with the assistance of an independent chartered accountant.

For Petitioners : Mr.S.Sathiyarayanan
(in both W.Ps)

For Respondent : Mr.V.Suthakar
(in both W.Ps)

C O M M O N O R D E R

The learned counsel appearing on behalf of the writ petitioners forcibly contended that the respondent Bank is charging interest exorbitantly over and above the terms and conditions stipulated in the contract.

2.Though, the learned counsel urged this Court in respect of the manner in which the interest amount is charged by the respondent, this Court is of an opinion that such facts and details cannot be gone into the present writ petitions under Article 226 of the Constitution of India. Such complex facts and circumstances arising on account of the contractual obligations can never be adjudicated in a writ jurisdiction. The parties, under those circumstances, have to approach the appropriate forum for the purpose of producing documents and adducing evidences in order to establish such facts and circumstances.

3.The learned counsel for the petitioners state that they made a representation to the respondent, setting out all the details and the same has not been considered.

4.The learned counsel for the respondents, opposed the contention by stating that the account of the petitioners have been declared as non performing asset and therefore, the writ petitioners have to respond in this regard to the Bank. The Respondent Bank has already issued notice under Section 13(2) of the SARFAESI Act and the petitioners have not yet submitted their explanation/ objections for the show cause notice.

5.May that it be. All these aspects are to be considered by the competent authorities.

6.Thus, without going into the merits of the matter, the petitioners are permitted to submit a fresh representation, setting out all the facts and details to the respondent within a period of four weeks from the date of receipt of a copy of this order. On receipt of any such representation, the respondent is directed to consider the same on merits and in accordance with law and by affording an opportunity to the petitioners within a period of eight weeks thereafter.

7. Accordingly, both the writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

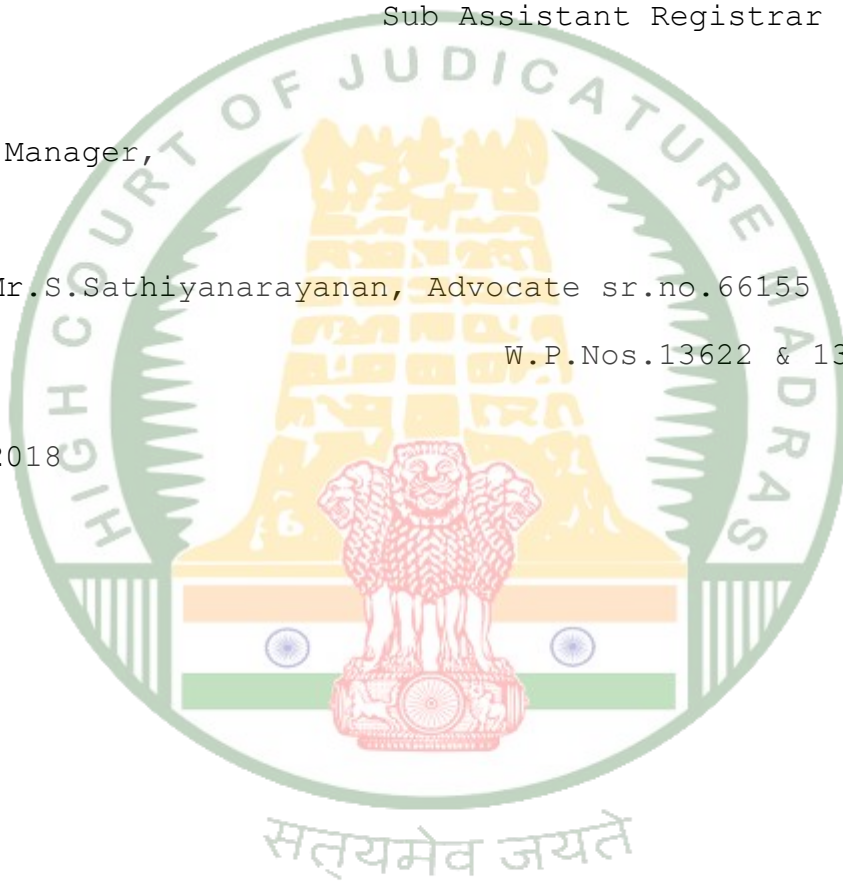
To

The Chief Manager,
UCO Bank,
Tirupur.

+2cc to Mr.S.Sathiyarayanan, Advocate sr.no.66155

W.P.Nos.13622 & 13623 of 2017

gp(co)
nr 16/10/2018



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