BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 13.03.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P.(MD).Nos.5278 and 5279 of 2018
and
W.M.P.(MD).Nos.5254 and 5255 of 2018

M/s.Sri Venkatram Spinners Private Limited,
Represented through one of its Director
S.Srinivasan
Door No.109/2, Koonamkulam Road,
Rajapalayam-626 139
Virudhunagar District. ... Petitioner in W.P.(MD)No.5278/18

S.Srinivasan ... Petitioner in W.P.(MD).No.5279/19

Vs.

The Chief Manager/Authorized Officer,
Bank of Baroda,
Rajapalayam,
855-861, Tenkasi Road,
Rajapalayam,
Virudhunagar District. ... Respondents in both the petitions

COMMON PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned proceedings of the Debt Recovery Appellate Tribunal Chennai in AIR(SA):17/2018 dated 05.03.2018 and quash the same.

For Petitioner in in both petitions : Mr.K.Vijayan, Senior Counsel for Mr.M.Rajaraman

For Respondent in both petitions : Mr.Pala Ramasamy

COMMON ORDER
[Order of the Court was delivered by T.S.SIVAGNANAM, J.]

Heard Mr.K.Vijayan, learned Senior counsel appearing for the petitioner and Mr.Pala Ramasamy, learned counsel appearing for the respondent Bank.

2.Earlier, the petitioner had approached this Court and filed a writ petition in W.P.(MD).Nos.1059 and 1060 of 2018. The reason for approaching this Court is by stating that the condition imposed by the Debt Recovery Appellate Tribunal(hereinafter referred to as DRAT), Chennai, directing the payment of Rs.3 crores in two installments within a period of 8 weeks, was onerous. We disposed of the writ petitions, by order dated 14.02.2018, noting that all factual contentions have to be necessarily raised before DRAT, Chennai. However, considering the fact that the DRAT, Chennai directed the matter to be posted on 22.02.2018 for reporting compliance of the conditional order of payment of Rs.3 crores in two installments, we grant interim protection to the petitioner on account of the fact that there are about 500 people employed in the petitioner's Industry and directed the petitioner to pay a sum of Rs.50 lakhs on or before 21.02.2018. We further directed that if the petitioner complied with the said condition, the DRAT, Chennai may consider the petitioner's case for granting extension and if satisfied grant further time to comply with the first installment of Rs.1.50 crores. The petitioner has complied with the conditional order passed by this Court by remitting Rs.50 lakhs. Immediately, after the order was passed by this Court, the petitioner filed an application in I.A.No.229 of 2018, requesting for extension of time for payment of the first installment of Rs.1.50 crores. When the said application was listed before the Tribunal, the Tribunal though noted the order passed by us in the writ petition held that the order of pre-deposit passed by the DRAT, Chennai has not been complied with and therefore, dismissed the application. We do not appreciate the manner in which, the DRAT has dealt with the matter, especially, when we made an observation that the Appellate Authority may grant reasonable time to comply with the payment of first installment, of course subject to their satisfaction. Therefore, if the DRAT, Chennai was not satisfied with the bonafides of the petitioner, reasons could have been assigned to such effect, while rejecting the application. We find that no such reason was assigned in the impugned order. Therefore, we are constrained to interfere with the impugned order passed by the DRAT, Chennai. We do not propose to remand the matter to the DRAT, Chennai, but would issue certain directions, so that the petitioner can approach the DRT to proceed with the matter further. However, such direction will be subject to certain stringent conditions;

(i)The DRT had directed the payment of Rs.2.65 crores for grant of interim stay, out of the said amount, a sum of Rs.95 lakhs has been paid by the petitioner as on date, the petitioner agrees to pay further amount before the hearing date fixed by the DRT ie., on 12.09.2018.

3.The learned Senior Counsel on instructions from his client, who is present in the Court submits that the petitioner will pay Rs.20 lakhs on or before 31.03.2018 and pay a sum of Rs.25 lakhs every month, commencing from April 2018 and comply with the entire condition of payment of Rs.2.65 lakhs on or before 10th September

2018. Though we are prima facie agreeable to impose such condition as agreed by the petitioner, we are constrained to make certain observations because, the petitioner being a defaulter has to take steps to regularize his account by proposing an one time settlement. There is an allegation that the transactions are now done by the petitioner through some other bank, which should be avoided.

4.In the light of the above, both the writ petitions are allowed and the impugned order is set aside. The petitioner is directed to pay a sum of Rs.20 lakhs on or before 31.03.2018 directly to the respondent bank and continue to pay Rs.25 lakhs every English Calender month on or before 10th of every month commencing from April 2018 to 10th September 2018. After payment of third installment of Rs.25 lakhs in June 2018, the petitioner is directed to submit a proposal for one time settlement, which shall be considered by the respondent bank. In the event of default committed in payment of any one of the installment as stipulated above, the respondent Bank is permitted to proceed further against the petitioner. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To
The Chief Manager/Authorized Officer,
Bank of Baroda,
Rajapalayam,
855-861, Tenkasi Road,
Rajapalayam,
Virudhunagar District.

+1CC to Mr.Mr.M.Rajaraman, Advocate, SR.No. 54746
+1CC to Mr.Pala.Ramasamy, Advocate, SR.No. 55221

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and
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