IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2019

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.3158 of 2019 and W.M.P. Nos.3423 & 3425 of 2019

K.S.Raju .. Petitioner

-vs-

1.State Bank of India
Stressed Assets Management Branch
"Red Cross Buildings",
32, Red Cross Road,
Egmore, Chennai 600 008.

2.Nagarjuna Oil Corporation Ltd.,
MD Chambers, New No.53,
Dr. Radhakrishnan Salai,
Mylapore, Chennai 600 004. ... Respondents

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 first respondent in relation to the impugned communication bearing No.SAMB/CHE/CLO-V/593 dated 05.07.2018, quash the same as arbitrary and illegal and consequently forbear the first respondent from initiating any consequential steps against the petitioner in pursuance of the impugned communication bearing No. SAMB/CHE/CLO-V/593 dated 05.07.2018 or disseminate any information pertaining to declaration of the petitioner as a wilful defaulter to any authority or agency or person.

For Petitioner :: Mr.Rahul Balaji

For Respondents:: Mr.Chevanan Mohan for
M/s.King & Partridge for R1

ORDER

The writ petition has been filed questioning the impugned communication bearing No.SAMB/CHE/CLO-V/593 dated 05.07.2018 issued by the State Bank of India, the first respondent herein, wherein the first respondent has sought to declare the petitioner as a willful defaulter in terms of the RBI Master Circular dated 01.07.2015 in connection with the affairs of the second respondent company.

2.Learned counsel appearing for the petitioner would submit that the petitioner was issued with the communication dated 05.07.2018, which says that the appropriate committee in the Bank, comprising of Deputy Managing Director and two General Managers for identification of wilful defaulters and for inclusion of names in the list of wilful defaulter, has examined the conduct of the account and utilisation of credit facilities and has concluded that the acts/events of wilful default as detailed in the annexure have been committed by the petitioner, would show that the first respondent has prejudged the issue before the receipt of the reply dated 07.08.2018 from the petitioner. Learned counsel appearing for the petitioner would further submit that when the communication dated 05.07.2018 was issued, they ought not to have mentioned that the acts/events of willful default have been committed by the petitioner before receiving the reply/objection from him and also before affording a personal hearing. In any event, the petitioner has given a reply dated 07.08.2018 stating that the question of willful default would not arise in this case. Therefore, issuance of show cause notice, identifying the petitioner as wilful defaulter by the first respondent Bank through its Committee is wholly without jurisdiction and the same is liable to be quashed.

3.A detailed counter affidavit has been filed by the first respondent. Reiterating the averments made in the same, the learned counsel appearing for the first respondent would submit that the petitioner and the second respondent company namely M/s.Nagarjuna Oil Corporation Ltd., is due to pay a sum of Rs.2400 crores to the first respondent bank and a total amount of Rs.8027.14 crores to a consortium of Banks including the amount was due to the first respondent bank. Since the company and its directors did not adhere to the terms and conditions on which credit facilities were sanctioned and also defaulted in the repayment of facilities, the loan account has been classified as NPA with effect from 31.03.2013. However, the events of wilful default by the second respondent and the petitioner were identified and the same were presented before the Deputy Managing Director and two General Managers for identification of wilful defaulters and for inclusion of names in the list of wilful defaulters. After examination of the events, the Committee, concluding that an event of wilful default has occurred, has issued show cause notice on 05.07.2018 to the petitioner and the second respondent company as to why their names should not be included in the list of wilful defaulters as per the RBI guidelines.

In this regard, learned counsel appearing for the first respondent would submit that the reply dated 07.08.2018 given by the petitioner would be examined and an opportunity of personal hearing would also be afforded as per the Master Circular. After affording personal hearing to the petitioner, if the Committee comes to the conclusion that the name of the petitioner should be included in the list of wilful defaulters as per the RBI guidelines, a detailed order will be passed.

4.Recording the submission made by the learned counsel appearing for the first respondent, the writ petition stands disposed of. Accordingly, the respondents are directed to consider the objections dated 06.08.2018 and 07.08.2018 submitted to the Bank and to afford an opportunity of personal hearing to the petitioner and pass appropriate orders, on merits and in accordance with law. Needless to mention that this Court has not addressed any merit of the matter. Consequently, connected W.M.P. are closed. No costs.

s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

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To

State Bank of India
Stressed Assets Management Branch
"Red Cross Buildings",
32, Red Cross Road,
Egmore, Chennai 600 008.

+1 CC to Mr.R.Parthasarathy, Advocate sr 12986.
+1 CC to M/s.King and Partridge, sr 12780

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SV(CO)
SP(15/03/2019)