

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 25.06.2019

CORAM :

THE HON'BLE MRS.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.5374 of 2019

M/s. Power Creating Zone (P) Ltd.,
rep by its Managing Director S.Karunanidhi
Regd. Office: Sukkaliyur Check Post,
Loganayaki Valganaising Building, NH-7,
Karur - 639 003. ... Petitioner

Vs.

1.The Authorized Officer,
Syndicate Bank,
No.40, 80 Feet Road,
Karur - 639 002.

2.M/s.Morvi Exports,
rep by its Partner S.R.Manickavasagam,
NH-7, New Madurai Bye-pass Road,
Karur - 639 002
Presently residing at
No.22/25, Subramani Street,
Purasaivakkam, Chennai - 600 007.

3.Jai Kavitha

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified mandamus calling for the records relating to the order passed by the Debt Recovery Appellate Tribunal dated 03.01.2019 in I.A.No.19 of 2019 in AIR (SA).No.505 of 2018 and to quash the same and to direct the Debt Recovery Appellate Tribunal to permit the petitioner to deposit the amount of Rs.3,00,00,000/- (Rupees Three crores only) or any amount as ordered by this Court in AIR (SA).No.595 of 2014 and dispose both the Applications bearing No. in AIR NO.595 of 2014 and AIR(SA).No.505 of 2018 on merits or alternatively to accept the deposit in AIR (SA).No.505 of 2018 and to dispose the same on merits without influence of the earlier finding of the Debts Recovery Tribunal dated 01.10.2014 passed in S.A.No.96 of 2012.

For Petitioner : Mr.K.V.Dhanapalan
for M/s.T.Fennwalter Associates

For Respondents: Mr.P.Srinivasalu (R1)
Mr.V.Lakshminarayanan
for Mrs.Shase.P (R3)
R2 - not ready in notice

O R D E R

(ORDER OF THE COURT WAS MADE BY M.DURAI SWAMY, J.)

The above Writ Petition has been filed by the petitioner to issue a Writ of Certiorarified mandamus to call for the records relating to the order passed by the Debt Recovery Appellate Tribunal dated 03.01.2019 in I.A.No.19 of 2019 in AIR (SA). No.505 of 2018 and to quash the same and to direct the Debt Recovery Appellate Tribunal to permit the petitioner to deposit the amount of Rs.3,00,00,000/- (Rupees Three crores only) or any amount as ordered by this Court in AIR (SA).No.595 of 2014 and dispose of both the applications AIR (SA) No.595 of 2014 and AIR (SA).No.505 of 2018.

2.By order dated 03.01.2019, the Debt Recovery Appellate Tribunal dismissed the application in I.A.No.19 of 2019 filed by the petitioner seeking for extension of time to make the pre-deposit of Rs.2.8 crores. By order dated 06.12.2018 in I.A.No.1054 of 2018 filed by the petitioner for waiver of pre-deposit, considering the claim made in Section 13(2) notice dated 15.10.2010 issued under SARFAESI Act to the tune of Rs.11.08 crores, the Appellate Tribunal directed the petitioner to make a pre-deposit of Rs.2.80 crores. Thereafter, the petitioner filed an application in I.A.No.19 of 2019 seeking for extension of time to make the pre-deposit. The Appellate Tribunal, by order dated 03.01.2019, dismissed the application. Aggrieved over the same, the petitioner has filed the above Writ Petition.

3.In the affidavit filed in support of I.A.No.19 of 2019, the petitioner has explained the reasons for the non-compliance of pre-deposit within the time stipulated by the Appellate Tribunal.

4.The learned counsel appearing for the petitioner submitted that the petitioner is willing to make the pre-deposit of Rs.3 crores now and on such deposit being made, the Debt Recovery Appellate Tribunal may be directed to decide the appeal in AIR (SA).No.505 of 2018 on merits and in accordance with law.

5.Since the petitioner is willing to make the pre-deposit of Rs.3 crores, the respondents will not be prejudiced in any

manner whatsoever. In these circumstances, in the interest of justice, the order dated 03.01.2019 passed by the Debt Recovery Appellate Tribunal in I.A.No.19 of 2019 in AIR (SA).No.505 of 2018 is set aside. The petitioner is directed to make the pre-deposit of Rs.3 crores on or before 15.07.2019. On making such deposit before the Debt Recovery Appellate Tribunal, the Appellate Tribunal shall decide the appeal in AIR (SA).No.505 of 2018 on merits and in accordance with law. However, we make it clear that all the contentions available to the parties are left open and the parties are at liberty to make their submissions with regard to all the legally tenable contentions. We also make it clear that we are not making any observation with regard to the other appeal in AIR (SA).No.595 of 2014.

6.With these observations, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

va

To

The Authorized Officer,
Syndicate Bank,
No.40, 80 Feet Road,
Karur - 639 002.

+1cc to M/s.T.Fennwalter Associates, Advocate, S.R.No.52493

W.P.No.5374 of 2019

PM(CO)

RRS (27/06/2019)

सत्यमेव जयते

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