IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 6.9.2019

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.26692 of 2019
and
W.M.P.Nos.26073 and 26074 of 2019

M/s.Aascar Film Pvt. Ltd.
rep. by its Managing Director
Shri V.Ravichandran,
No.9, 10th Avenue, Ashok Nagar,
Chennai 600 083. Petitioner

Versus

1. Indian Overseas Bank
rep. by the Assistant General Manager,
Cathedral Branch (0109),
762, Anna Salai, Chennai 600 002.

2. Indian Overseas Bank,
Asset Recovery Management Branch (1535),
Ground Floor, Main Building,
Central Office, 763, Anna Salai,
Chennai 600 002. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus to call for the records of the Respondent relating to the letter dated 31.8.2019 and quash the same as illegal and unlawful and consequently direct the respondents not to alter, modify or cancel the timeline given under the approval letter of the bank dated 20.8.2019.

For petitioner : Mr.R.Sankaranarayanan, Senior Counsel for Mr.S.R.Sundar
For Respondents : Mr.Benjamin George

ORDER
(Order of the court was made by Dr.VINEET KOTHARI, J.)
This

Writ Petition is filed by the Petitioner M/s.Aascar Film Private Limited while the proceedings in C.P.1183/IB/2018 initiated by the Respondent-Indian Overseas Bank under Section 7 of the Insolvency and Bankruptcy Code 2016 is pending before the

National Company Law Tribunal (NCLT), Chennai.

2. The said Application was filed by the Respondent Bank in the year 2018, but, the Application has not so far been admitted by the learned Tribunal.

3. The learned counsel Mr.Benjamin George appearing for the Respondent Bank vehemently opposed and submitted that despite the undertakings given by the petitioner Company before this Court, Tribunal and even before the Hon'ble Supreme Court on earlier occasions and despite the indulgence shown to the Petitioner Firm by way One Time Settlement sanctioned by the Bank, the Petitioner Firm has failed to abide by its own Undertakings and pay the due amounts to the Bank and therefore, no further indulgence deserves to be shown to the Petitioner Company.

4. On the other hand, the learned Senior Counsel Mr.Sankaranarayanan appearing for the Petitioner Company submitted that the Petitioner Company is hard pressed for money and therefore, they seek for some breathing time only from this Court in the matter, subject to any condition as the court may think appropriate and the Petitioner Company would comply with the same without seeking any further indulgence from the court.

5. Having heard the learned counsel for the parties, we are of the opinion that normally when matters are pending before any competent Tribunal or Forum, this court would not interfere in such financial matters where the regular proceedings are pending under the Insolvency and Bankruptcy Code 2016 for recovery of amount from the defaulters.

6. However, the learned Senior Counsel for the Petitioner Company gives a solemn Undertaking that out of Rs.77.20 Crores under One Time Settlement, a sum of Rs.16 crores stands recovered by the Respondent Bank by sale of one property and the Petitioner Company, against the remaining outstanding dues of Rs.61.20 Crores, would pay the sum of Rs.15 Crores on or before Friday, 13th September 2019 and the remaining whole amount of Rs.46.20 Crores before 30th September 2019. He further undertakes that in case of any default in these payments, the court may treat this Petition as dismissed.

7. Therefore, we are inclined to take the said solemn Undertaking made by the learned counsel for the Petitioner on behalf of the Petitioner Company upon instructions from the Authorised Representative of the Company present in the Court, with a clear direction to the Petitioner Company that neither any extension of time nor any further relaxation or indulgence by way of instalments shall be shown by this court under any circumstances whatsoever. We, accordingly, direct that if the Petitioner Company pays a sum of Rs.15 crores on or before

13.9.2019 and the remaining whole sum of Rs.46.20 Crores on or before 30th September, 2019 (totalling to Rs.61.20 Crores), then the learned NCLT Tribunal may proceed further with the case in accordance with law and consider the case of the Petitioner Company/Defaulter under IBC 2016. We make it clear that in case, there is any default or non-compliance on the part of the Petitioner Company with regard to the aforesaid Undertaking given before the court and aforesaid directions to pay, this Writ Petition alongwith the Stay Petition shall be treated as dismissed and the aforesaid interim relief granted subject to the aforesaid conditions shall be treated as vacated forthwith entitling the Respondent Bank as well as the learned NCLT to take such further action as considered appropriate by them.

8. If the Petitioner Company abides by the aforesaid Undertaking to pay the amount in the aforesaid manner and pays the entire sum of Rs.61.20 Crores on or before 30.9.2019 including Rs.15 Crores on or before 13.9.2019, in the aforesaid manner, then the NCLT may consider the case of the Petitioner Company further in accordance with law. With these observations, the Writ Petition is disposed of. No costs. The connected Miscellaneous Petitions are closed. Copy of this order be sent to NCLT, Chennai also forthwith.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssk.
To:
1. Indian Overseas Bank
rep. by the Assistant General Manager,
Cathedral Branch (0109),
762, Anna Salai, Chennai 600 002.

2. Indian Overseas Bank,
Asset Recovery Management Branch (1535),
Ground Floor, Main Building,
Central Office, 763, Anna Salai,
Chennai 600 002.

3.. National Company Law Tribunal,
Division Bench II, Chennai.

+6ccs to Mr.K.Moorthy , Advocate SR.No. 77417,77439,74440

W.P.No.26692 of 2019

A.SK(06/09/2019)