BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 26.08.2020
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)No.10101 of 2020 and
WMP(MD) No.8989 of 2020

M/s.Jehovahjireh Cotton Mills,
Rep by its Proprietor,
G.Ramesh,
No.1 Kumbapatti Road,
Palani Bye Pass Road,
Dindigul District. ... Petitioner

Vs.

1.The Government of India,
Rep by its Secretary,
Ministry of Finance,
Department of Financial Services,
3rd Floor Jeevan Deep Building,
Sansad Marg, New Delhi - 110001.

2.The Chairman and Managing Director,
Canara Bank,
Erstwhile Syndicate Bank,
112, J.C.Road, Head Office Road,
Bangalore - 560002,
Karnataka.

3.The Assistant General Manager,
Canara Bank,
Erstwhile Syndicate Bank,
Regional office,
Palani Road, Dindigul.

4.The Chief Manager,
Canara Bank,
Erstwhile Syndicate Bank,
Nagal Nagar,
Dindigul District. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 4th respondent in his proceedings REF.6202/RES/JEH/ADV/2020/7 dated 07.08.2020 and quash the same as illegal, arbitrary and consequently directing the respondents 2 to 4 to extend the benefit of the scheme namely Guaranteed Emergency Credit Line (GECL) as per the circular of the respondent bank in Circular No.389/2020 dated 26.05.2020 within a time frame fixed by this Court.

For Petitioner : Mr.B.Saravanan

For Respondents : For R1 - Mr.A.Srinivasan
Standing Counsel
For R2 to R4 - Mr.N.Dilip Kumar

O R D E R

Heard the learned counsel for the Writ petitioner and the learned Standing Counsel for the respondent Canara Bank.

2.The Writ petitioner had availed loan from the respondent bank. The loan account became a Non Performing Asset (NPA). Based on the petitioner's request, the loan account was restructured and communication to that effect was issued on 23.10.2019. The petitioner's over draft account had been converted into term loan for a period of 120 months with 12 months repament holiday for all thre three loans. In the meanwhile, the petitioner has been requesting for infusion of additional capital also. Following COVID-19 pandemic striking the nation, in order to encourage and boost the small/medium entrepreneurs, the respondent bank introduced a scheme to provide guaranteed emergency credit line for eligible business enterprises/MSME borrowers. The petitioner's counsel draws my attention to Clause C of the said circular.

c) The Scheme is valid for existing customers on the books of the MLIs.Borrower accounts should be less than or equal to 60 days past due as on 29th February,2020 in order to be eligible under the Scheme. Ie All borrowers which have not been classified as SMA 2 or NPA by any of the MLIs as on 29th February,2020 will be eligible for the Scheme.

The petitioner requested for infusion of capital under this guaranteed emergency credit line scheme. On 07.08.2020, the said request was negatived and the same is questioned in this Writ Petition.

3.The impugned order of rejection rests on the following reasons.

"1. The account was slipped to NPA on 20.04.2019
2. Subsequently the account was restructured on 23.10.2019 (sanction date)
3. As per Credit Bureau Information obtained from CIBIL, the account showing over dues for 103 days as on 29.02.2020.''

The petitioner's counsel states that even though the petitioner's loan account was originally classified as Non Performing Asset(NPA) during April 2019, following the restructuring of his account in October 2019, the same cannot be put against him. He also stated the other reasons set out in the impugned communication are also not sustainable. I am not however persuaded by the submissions of the learned counsel for the Writ Petitioner.

4. As rightly pointed out by the learned Standing Counsel, the Reserve Bank of India had always taken a stand that the non-performing assets, upon restructuring, would continue to have the same asset classification as prior to restructuring and slip into further lower asset classification categories as per extant asset classification norms with reference to the pre-restructuring repayment schedue. He also pointed out that the doubtful accounts which have been subjected to restructuring will be upgraded to the standard category, after the specified period i.e a period of one year after the date when first payment of interest or of principal, whichever is earlier, falls due under the rescheduled terms, subject to satisfactory performance during the period.

5. In view of the aforesaid position, I am of the view that the respondents cannot be expected to gloss over the earlier categorisation of the petitioner's account as non-performing asset (NPA) in April 2019. Merely because the petitioner's loan account was restructured, the petitioner cannot now claim eligibility. I do not find any merit in this Writ Petition and no interference is required with the impugned communication. Hence, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vrn

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Secretary, Government of India,
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Canara Bank,
Erstwhile Syndicate Bank,
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Dindigul District.

+1 CC to M/s.N. DILIPKUMAR, Advocate (SR-15034[F] dated 26/08/2020)

+1 CC to M/s.B. SARAVANAN, Advocate (SR-15207[F] dated 28/08/2020)

W.P.(MD)No.10101 of 2020 and
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