



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.09.2020

CORAM

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD) .No.11666 of 2020

and

W.M.P (MD) No.10155 of 2020

1.M/s.Thamanian Agro Foods,
A Partnership Firm,
Rep. by its Managing Partner,
S.GanesaPandian

2.S.Ganesa Pandian

...Petitioners

Vs.

1.The Reserve Bank of India,
RBI Main Building,
Fort, Mumbai - 400 001.

2.The Deputy General Manager,
State Bank of India,
Stressed Assets Management Branch,
No.1112, First Floor,
Raja Plaza, Avinashi Road,
Coimbatore.

3.The Branch Manager,
State Bank of India,
Karaikudi Branch,
Subramaniapuram, First Street,
Karaikudi,
Sivaganga District.

... Respondents

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the second respondent in the impugned communication in SAMB/CBE/CLO-II 335, dated 14.08.2020, declaring the petitioners as willful defaulters said to be on the basis of the conclusion of the Committee for identification of wilful defaulter and to quash the same and consequentially direct the second respondent to remove the names of the petitioners from the list of willful defaulters within a period to be specified by this Court.

For Petitioner
For R-2 & R-3

: Mr.S.Suresh
: Mr.N.Dilip Kumar



O R D E R

(Order of the Court was made by **M. SATHYANARAYANAN, J.**)

The petitioner had availed the loan facilities from the third respondent for commercial purposes and in view of the default committed by him, proceedings were initiated under the provisions of the Recovery of Debts and Bankruptcy Act, 1993, as well as under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the Rules framed thereunder.

2. The learned counsel appearing for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that for inclusion of the name of the petitioner Concern in the list of wilful defaulters, show-cause notice was issued on 12.11.2019 and on account of onset Covid -19 Pandemic Virus, he was not able to appear in person and without granting him fair and sufficient opportunity, by means of a cryptic order, has rejected his reply and thereby, included his name as a wilful defaulter. Therefore, challenge is made to the impugned communication of the second respondent dated 14.08.2020.

3. Per contra, the learned standing counsel appearing for the respondents 2 and 3, would submit that in the light of the Master Circular of the first respondent dated 02.07.2007, the decision taken by the Wilful Defaulter Identification Committee would be automatically placed before the Wilful Defaulter Review Committee, where based on assessment of materials, the Wilful Defaulter Review Committee will pass appropriate order either to confirm the order of the Wilful Defaulter Identification Committee or to modify the same and further points out that even in the impugned communication, the petitioner is provided with an alternate remedy to make a representation against the order of the Wilful Defaulter Identification committee before the Wilful Defaulter Review Committee and in the light of the same, this writ petition is not maintainable.

4. This Court has carefully considered the rival submissions made and also perused the materials placed before it.

5. It is a well settled position of law that personal hearing contemplated under the relevant statute before taking any decision, cannot be insisted as a matter of right.

6. A perusal of the impugned communication of the second respondent dated 14.08.2020, would disclose that the Wilful Defaulter Identification Committee, has considered the reply of the petitioner dated 08.12.2019 and took a decision to include the name of the petitioner Concern in the list of wilful defaulters. The said communication also provides an alternate remedy to approach the



Wilful Defaulter Review Committee by submitting a representation within fifteen days from the date of receipt of a copy of the order.

7. In the light of the above facts and circumstances, this Court is of the considered view that the writ petition, at present is not maintainable. It is open to the writ petitioner to submit a representation against the order of the Wilful Defaulter Identification Committee before the Wilful Defaulter Review Committee, within a period of fifteen days from the date of receipt of a copy of this order and the said Committee upon receipt of the same, is directed to consider the said representation in accordance with law and pass appropriate orders as expeditiously as possible, without insisting on limitation period.

8. In the result, this writ petition is dismissed, subject to above liberty/observation. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pm

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 Reserve Bank of India,
RBI Main Building,
Fort, Mumbai - 400 001.
- 2.The Deputy General Manager,
State Bank of India,
Stressed Assets Management Branch,
No.1112, First Floor,
Raja Plaza, Avinashi Road,
Coimbatore.

Copy to

The Court Manager,
Madurai Bench of Madras High court,
(For e-Mail to the SBI.16454@sbi.co.in)

+1 CC to M/s.N. DILIP KUMAR, Advocate (SR-17765[F] dated 22/09/2020
W.P(MD)No.11666 of 2020

21.09.2020

KM(CO)

KB(29.09.2020) 3P 5C

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