IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.1296 of 2021

Kiran Global Chems Limited,
rep. by its Director Mr.Charles Navis Rufus,
42, New Avadi Road,
Kilpauk, Chennai - 600 042. .. Petitioner

Vs.

Assistant General Manager,
State Bank of India,
Stressed Assets Recovery Branch,
Red Cross Buildings,
IInd Floor, No.32, Montieth Road,
Chennai - 600 008. .. Respondent

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus calling for the records pertaining to the letter of the respondent dated 28.12.2020 bearing Ref.SAMB/CHE/CLO-V/1122 and quash the same and consequently direct the respondent to consider the OTS application of the petitioner dated 19.10.2020 and accept the same in accordance with law and the scheme dated 12.10.2020.

For Petitioner : Mr.P.Wilson
Senior Counsel
for Mr.Richardson Wilson

For Respondent : Mr.Satish Parasaran
Senior Counsel
for Mr.B.Raghavulu Naidu

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner has obtained credit facilities from the State Bank of India against certain securities which have been furnished. The grievance of the petitioner is that despite the State Bank floating a scheme under which defaulting borrowers could make a one-time payment and the disputes would stand resolved, the petitioner has not been allowed to avail of the benefit. In the meantime, it appears that the respondent bank has resorted to measures under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. There are several impediments in the exercise of jurisdiction in favour of the petitioner. For one, the secured creditor has proceeded under the said Act of 2002 and, if the petitioner is aggrieved thereby, the remedy of the petitioner is by approaching the appropriate Debts Recovery Tribunal having jurisdiction under Section 17 of the Act. Ordinarily, Debts Recovery Tribunals require a substantial deposit to be made before a borrower is heard. It is such deposit that the petitioner seeks to dodge by invoking the extraordinary jurisdiction under Article 226 of the Constitution.

3. At any rate, since the settlement was a scheme which was formulated by the respondent bank itself and not a statutory scheme or a scheme that had been promulgated by the Reserve Bank of India, it was open to State Bank to not extend the same on certain conditions not being met. The State Bank has indicated the reasons for the scheme not to be applicable to the petitioner and the conditions which form an integral part of the scheme may not be justiciable.

4. Since there is an efficacious remedy available to the petitioner under the scheme of the Act of 2002, this petition is not permitted to be pursued. In any event, the several disputes that arise on facts cannot be conveniently addressed on affidavit evidence in summary proceedings.

5. Accordingly, W.P.No.1296 of 2021 is disposed of by leaving the petitioner free to raise whatever the grounds that may be available to the petitioner before the appropriate Debts Recovery Tribunal in accordance with law. It will be open to the petitioner to seek exclusion of the period spent in this Court in the event the question of limitation arises before the Debts Recovery Tribunal. However, as to whether such time

should be excluded or not, is entirely left to the discretion of the Debts Recovery Tribunal.

There will be no order as to costs. Consequently, W.M.P.No.1440 of 2021 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

BBR

To:

The Assistant General Manager,
State Bank of India,
Stressed Assets Recovery Branch,
Red Cross Buildings,
IInd Floor, No.32, Montieth Road,
Chennai - 600 008.

+1cc to Mr.Richardson Wilson, Advocate, S.R.No.21984

W.P.No.1296 of 2021

KV(CO)
TE(28/04/2021)