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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.NO.14092 OF 2021

M/s.Saj Roofing Solutions Pvt Ltd.,
Rep. by S.Cletus, Managing Director,
Old No.13/ 116B, New No.8,
Golden Garden, Palapampatti,
Periyakottai Pirivu,
Udumalpet.

... Petitioner

.Vs.

1. The Ministry of Finance,
Rep. by the Secretary, Finance Ministry ,
Government of India,
Rajapath Marg, E Block,
Central Secretariat, New Delhi - 110 011.
2. The Ministry for MSME
Rep. by its Secretary
Room No.356A, Udyog Bhavan, Rafi Marg
New Delhi 110 011
3. The Reserve Bank of India,
Rep. by its Secretary,
Banking Department, Finance Department,
Government of India,
3rd Floor, Jeevan deep Building
Sansadmarg, New Delhi - 110 001.
4. The Reserve Bank of India,
Rep. by Regional Director for Tamilnadu,
St. Fort Glacis, Rajaji Salai, PB No.40,
Chennai - 600 001.
5. The MSME,
Rep. by Joint Director and Head of Office,
Ministry of MSME Government of India,
MSME Bhavan, 65/1, GST Road,
Guindy, Chennai - 32.



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6. Tamilnadu Mercantile Bank Ltd.,
Rep. by its Authorized Officer,
Coimbatore Zonal Office ,
540, 1st Floor, D.B.Road, R.S.Puram,
Coimbatore - 641 002.

... Respondents

PRAYER:-

Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents herein to consider my representation dated 07.05.2021 and take steps for restructuring of loans of the petitioner considering the company within the ambit of COVID 19 Regulatory Circulars issued by the RBI and grant such further or other orders as this Hon'ble Court.

For Petitioner : Ms.Josephine Shree G

For Respondents : Mr.K.B.Arul, ACGSC
For respondents 1, 2 and 5

Not ready in notice for R3

No appearance for R4

Mr.V.Chandrasekaran
For respondent-6

ORDER

(Made by the Hon'ble Chief Justice)

The petitioner claims to be a small enterprise within the meaning of the expression used in the Micro, Small and Medium Enterprises Development Act, 2006 and the prayer made in the writ petition is for the respondent secured creditor to consider the petitioner's representation to restructure the loan in line with guidelines issued by the Reserve Bank of India pertaining to loans obtained by MSME Enterprises.

2. The respondent bank says that the petitioner's account became NPA on December 31, 2019. Further, it is evident that the petitioner's request for restructuring the loan or the group accounts was expressly declined by a letter dated June 01, 2021 issued by the secured creditor.

3. The secured creditor's counter-affidavit indicates that measures under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security



Interest Act, 2002 have been adopted and one of the properties furnished as security has already been sold. The affidavit further reveals that the writ petitioner has approached the Debts Recovery Tribunal, Coimbatore under Section 17 of the Act and, by an order dated August 11, 2021, the Debts Recovery Tribunal granted a conditional interim order by directing the petitioner to deposit Rs.1.50 crore in two instalments by October 06, 2021. In the meantime, a property at Udumalpet Taluk in Tiruppur District has been sold by way of auction.

4. Ordinarily, a petition under Article 226 of the Constitution is not entertained when there is an efficacious alternative remedy available to the petitioner. In this case, it is evident that the petitioner has already invoked the jurisdiction of the appropriate Debts Recovery Tribunal. As a consequence, the merits of the matter cannot be gone into and the petitioner is left free to work out its remedies in the proceedings pending before the Debts Recovery Tribunal.

5. In any event, the petitioner's representation for restructuring the loan has been considered by the secured creditor and rejected by letter dated June 01, 2021, as aforesaid.

W.P.No.14092 of 2021 is dismissed. W.M.P.No.14971 of 2021 is closed. There will be no order as to costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

kpl

To

1. The Secretary,
Ministry of Finance,
Finance Ministry,
Government of India,
Rajapath Marg, E Block,
Central Secretariat, New Delhi - 110 011.
2. The Secretary,
Ministry for MSME,
Room No.356A, Udyog Bhavan, Rafi Marg,
New Delhi - 110 011.



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3. The Secretary,
Reserve Bank of India,
Banking Department, Finance Department,
Government of India,
3rd Floor, Jeevan deep Building,
Sansad Marg, New Delhi - 110 001.
4. The Regional Director for Tamilnadu,
Reserve Bank of India,
St. Fort Glacis, Rajaji Salai, PB No.40
Chennai - 600 001.
5. The Joint Director and Head of Office, MSME
Ministry of MSME Government of India,
MSME Bhavan,
65/1, GST Road, Guindy
Chennai - 32.
6. The Authorized Officer,
Tamilnadu Mercantile Bank Ltd.,
Coimbatore Zonal Office,
540, 1st Floor, D.B.Road, R.S.Puram,
Coimbatore - 641 002.
7. The Debts Recovery Tribunal,
Coimbatore.

W.P.NO.14092 OF 2021

RLD(CO)
PBS/23/08/2021