BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.03.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.1538 of 2021 and
W.M.P.(MD)No.1317 of 2021

S.Thirumalai,
S/o.S.A.Soundarajan,
Proprietor of M/s.Sri Balaji Fibers,
D.No.82-A, Mannar Thirumalai Street,
W.Pudupatti, Srivilliputhur Taluk,
Virudhunagar District. ... Petitioner

Vs.

The Branch Manager,
Tamil Nadu Industrial Investment,
Corporation Limited(TIIC),
98/C4, II Floor,
Chairman Shunmuga Nagar Road,
Sivakasi Town,
Virudhunagar District. ... Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order made in TIIC:SVKS:B.O.:LAO:2020-21 dated 07.01.2021 on the file of the respondent and to quash the same as arbitrary and illegal and consequently direct the respondent to give waiver of interest amount.

For Petitioner : Mr.M.Thirunavukkarasu
For Respondent : Mr.R.Saravanan,
Standing Counsel

* * *

O R D E R

Heard the learned counsel appearing for the writ petitioner and the learned Standing counsel appearing for the respondent Corporation.

2. The petitioner is a businessman. He approached Tamil Nadu Industrial Investment Corporation Limited and availed financial assistance to the tune of Rs.12,00,000/- in the year 2011. He had also executed a mortgage in favour of the Corporation to secure the said transaction. The petitioner states that he had remitted a sum of Rs.7,47,377/- towards interest. But then, the repayment made by

the petitioner was not in terms of the loan conditions and therefore, the respondent was left with no other option but to bring the mortgaged properties to sale. The petitioner thereupon filed W.P.(MD)No.11745 of 2020 before this Court questioning the auction sale notice dated 27.08.2020. The writ petition was disposed of on 16.09.2020 and the petitioner was permitted to move the Corporation by submitting One Time Settlement proposal. The petitioner accordingly submitted such a proposal. There was negotiation between the petitioner on the one hand and the respondent on the other. The respondent made it clear that if the petitioner was willing to pay a sum of Rs.17,74,546/-, the account can be closed. However, the petitioner was willing to remit only a sum of Rs.10,50,000/-. The talks broke down and the respondent by the impugned communication rejected the petitioner's OTS proposal. Challenging the same, this writ petition came to be filed.

3. When the matter was listed for admission before this Court, I adjourned the matter by two months to enable the petitioner to pay the OTS amount as mentioned by the respondent. In the meanwhile the respondent filed a detailed counter affidavit. The learned Standing counsel took me through the contents set out therein. In the said counter affidavit, the Corporation has highlighted as to how the petitioner was not regular in the matter of repayment. However, he confirmed the stand that has been taken to the effect that the amount of Rs.5,00,000/- earlier paid by the petitioner in terms of the order dated 16.09.2020 in W.P.(MD) No.11745 of 2020 will be adjusted towards OTS payment.

4. Today when the matter was taken up for hearing, the learned counsel appearing for the petitioner submitted that the petitioner has by now paid a sum of Rs.17,80,918/-. The remittance of this amount is not in dispute. However, the learned Standing counsel would state that this OTS amount of Rs.17,80,918/- ought to have been remitted in December itself and since this amount came to be paid only on 17.03.2021, the petitioner is liable to pay interest also. The interest amount is quantified at Rs.60,000/-.

5. I must take note of the fact that we are now in pandemic times. The petitioner's counsel states that with great difficulty, the petitioner could mobilise the OTS amount and pay the same. When the OTS amount as quantified by the respondent has been remitted, I am of the view that the respondent can show some indulgence. In any event, the petitioner states that he would pay a further sum of Rs.20,000/-(Rupees Twenty Thousand only) towards interest for the belated remittance of the OTS amount on or before 15.04.2021. The respondent is directed to accept the same. On payment of the said amount of Rs.20,000/-, the respondent will issue proceedings closing the petitioner's account and release the securities created by the petitioner in favour of the respondent Corporation. It is stated by the learned counsel on either side that apart from the transaction

on hand, there is no other transaction between the petitioner and the respondent Corporation.

6. Therefore, the order impugned in this writ petition is quashed. This writ petition stands allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PMU

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:

The Branch Manager,
Tamil Nadu Industrial Investment,
Corporation Limited(TIIC),
98/C4, II Floor,
Chairman Shunmuga Nagar Road,
Sivakasi Town,
Virudhunagar District.

+1 CC to M/s.M.THIRUNAVUKKARASU, Advocate (SR-13654[F] dated 25/03/2021)

+1 CC to M/s.G.MURUGAN, Advocate (SR-13822[F] dated 26/03/2021)

W.P.(MD)No.1538 of 2021
25.03.2021

DKS(CO)
TR(07.04.2021) 3P 4C