



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.4.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.8704 of 2022
and

W.M.P.No. 8622 of 2022

M/s. Matrix Boilers Pvt. Ltd.,
Represented by its Managing
Director Mr.N.Pandian

.. Petitioner

vs

1. The Joint Development Commissioner,
Office of the Development Commissioner,
Ministry of MSME, Government of India,
New Delhi.
2. The Secretary to Government,
Department of Micro Small and
Medium Enterprises,
St. George Fort,
Chennai - 600 009
3. The District Collector,
Office of the District Collector,
Trichy,
Trichy District.
4. The Authorized Officer,
Canara Bank,
Trichy Cantonment Branch,
No. 21, Sri Complex,
Madurai Road,
Trichy 620008.

.. Respondents

Prayer: Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 1 and 2 to formulate a revival and



rehabilitation plan in pursuant to the proceedings issued by the second respondent vide D.O.Letter No.37/Secy.MSME/2018 dated 13.11.2018, thereby enabling the petitioner to discharge the liability from the fourth respondent bank and further direct the fourth respondent not to initiate any legal proceedings under the SARFAESI Act against the petitioner in pursuant to the proceedings issued by the third respondent vide R.C.No.0865-2019-Q4 dated 27.2.2019 till Government Order is passed.

For Petitioner : Mr.S.Arivazhagan

For Respondents : Mr.P.Muthukumar,
State Government Pleader,
Assisted by
Mr.Alagu Gowtham
for R1 to R3

ORDER

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

We have heard the learned counsel appearing for the respective parties.

2. The writ petition has been filed seeking a direction to respondents 1 and 2 to formulate a revival and rehabilitation plan pursuant to the proceedings issued by the second respondent vide D.O.Letter dated 13.11.2018, thereby enabling the petitioner to discharge the liability with the fourth respondent bank and further, to direct the fourth respondent not to initiate any legal proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 against the petitioner in pursuance of the proceedings issued by the third respondent dated 27.2.2019 till a Government Order is passed.

3. Learned counsel for the petitioner has made a reference to a Government Order issued on 23.3.2022 regarding the constitution of a tripartite committee for revival of the unit due to scale down of operation of the BHEL, Trichy. The petitioner has failed to show any provision to issue a direction that before taking any action under the Act of 2002, the bank has to take up the matter for revival and rehabilitation plan.

4. A reference to the letter of the Secretary to Government, MSME Department, dated 13.11.2018, has been given with reference to a particular issue, which is general in nature. It could not



be stated as to how the said letter is applicable to seek a direction of the nature sought in the writ petition. The writ petition has otherwise been filed at the stage when the financial institution initiated action against the petitioner for recovery of the loan, which was admittedly not paid pursuant to the agreement.

5. If at all the case of the petitioner is taken to analyse for revival package, the learned counsel for the petitioner was asked to draw our attention to the provision to withhold the proceedings of the Act of 2002. However, he could not show any provision for the same. Thus, in the absence of any provision under the Act of 2002, we cannot issue a restraint order against the financial institution under the Act of 2002. If at all it is initiated by invoking either Section 13(4) or Section 14 of the Act of 2002, the petitioner would be having liberty to take the remedy of appeal under Section 17 of the Act of 2002. But, in anticipation, the prayer in the writ petition cannot be granted to withhold the proceedings on the grounds raised in the writ petition.

6. In the light of what is stated above, the writ petition is disposed of with liberty to the petitioner to take the remedy of appeal if the notice under Section 13(4) of the Act of 2002 is served or proceedings are taken under Section 14 of the Act of 2002 before the Debts Recovery Tribunal. However, the disposal of this writ petition would not come in the way of the tripartite committee to take up the matter for revival of the industry. At the same time, we cannot accept the prayer of the petitioner restraining the financial institution to take up action as in the Act of 2002. Consequently, the connected WMP is closed. There will be no order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To:

1. The Joint Development Commissioner,
Office of the Development Commissioner,
Ministry of MSME, Government of India,
New Delhi.



2. The Secretary to Government,
Department of Micro Small and Medium Enterprises,
St. George Fort,
Chennai - 600 009

WEB COPY

3. The District Collector,
Office of the District Collector,
Trichy, Trichy District.

4. The Authorized Officer,
Canara Bank, Trichy Cantonment Branch,
No. 21, Sri Complex, Madurai Road,
Trichy - 620008.

+1cc to Mr.S.Arivazhagan, Advocate, S.R.No.24640

+1cc to the Government Pleader, S.R.No.24593

W.P.No.8704 of 2022 &

W.M.P.No.8622 of 2022

GPL[co]
NSK 22/04/2022