



W.P.(MD)No.9520 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.06.2022

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P.(MD)No.9520 of 2022

and

W.M.P.(MD)Nos.6805, 6806 and 6808 of 2022

Siva Cotton Mills (India) Private Limited,
Represented by its Managing Director,
Mr.P.Nagarajan,
T.Kunnathur Post,
Usilampatti Taluk,
Madurai District.

... Petitioner

Vs.

The Principal Secretary,
Chairman and Managing Director,
State Industries Promotion Corporation
of Tamil Nadu Limited,
19-A, Rukmani Lakshmipathy Road,
Post Box No.7223,
Egmore,
Chennai.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records pertaining the impugned order of the respondent in Letter No.F/F&R/833/1996 dated 18.04.2022 and quash the same and



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consequently directing the respondent to accept the request of the petitioner for the One Time Settlement within stipulated time.

For Petitioner : Mr.S.Ram Sundar Vijayraj
for M/s.Veera Associates

For Respondent : Mr.N.Aditya Vijayalayan
Standing Counsel

ORDER

The impugned order passed by the respondent in Letter No.F/F&R/833/1996 dated 18.04.2022 is under challenge in the present Writ Petition.

2. The case of the petitioner is that the petitioner is a Company, which borrowed a term loan of Rs.250 Lakhs from the respondent for setting up a Spinning Mill, in the year 1996. As against the said loan, the petitioner also offered collateral security to the respondent. However, after sometime, the Company became sick and therefore, the petitioner approached the Board for Industrial and Financial Reconstruction (BIFR).



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Thereafter, some proceedings went on before the BIFR and ultimately, the respondent approved an One Time Settlement Scheme (hereinafter referred to as 'OTS Scheme' in short) dated 10.12.2012, under which, a sum of Rs.440.10 Lakhs to be paid by the petitioner. Thereafter, before sanctioning OTS, the petitioner Company sent a letter dated 10.04.2012 to the respondent stating that the market value of the primary and collateral security is very much less than 50% of the term loan principal's outstanding to the SIPCOT. The petitioner Company requested the respondent to charge simple interest at 8% p.a., to the principal outstanding of Rs.191.5 Lakhs as per O.O.No.7 of 2005 dated 24.05.2005, since the petitioner Company comes under the Category-I. But the respondent, contrary to the O.O.No.7 of 2005 dated 24.05.2005, charged interest at 12% p.a., in the OTS proposal dated 10.12.2012. Immediately, the petitioner Company made a request through its letter dated 26.11.2012 requesting the respondent to furnish statement of the term loan account and also further requested to furnish a valuation report. Thereafter, the petitioner Company requested the respondent to grant one month time for payment of 25% of OTS amount. The respondent herein in his letter, dated 02.01.2013 rejected the request



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made by the petitioner Company. Hence, the petitioner Company filed a Writ Petition in W.P.(MD)No.1429 of 2013. This Court, by order dated 29.10.2021 in W.P.(MD)No.1429 of 2013, passed the following order:

"12. That the petitioner on or before 23.11.2021, shall deposit a sum of Rs.50 Lakhs (Rupees Fifty Lakhs only) in the loan account at the second respondent along with the format application and affidavit with Rs.25,000/- towards processing fee, also Rs.4,500/- towards GST & upfront fee. On receipt of the said partial amount and the format application, the Board shall consider the same and to pass orders with regard to the approval of the Scheme and such communication has to be made to the petitioner within a period of four weeks thereafter and on receipt of the said approval communication from the second respondent, remaining due, ie.,

355.07 lakhs - 50 lakhs = 305.07 lakhs

shall be paid by the petitioner within 60 days thereafter.

13. It is made clear that, if there is any default on the part of the petitioner on the aforesaid schedule of payment, it is open to the respondent SIPCOT to initiate further persuasive action against the petitioner in accordance with the provisions of the State Finance



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Corporation Act, 1951.

14. It is further made clear that, on completely wiping out of the OTS as indicated above by the petitioner, the second respondent SIPCOT shall handover all original documents, which had already been filed with the second respondent by the petitioner at the time of availing loan."

3. Thereafter, the petitioner Company could not comply with the order passed by this Court and filed an application for extension of time on 28.02.2022 in W.M.P(MD)No.3448 of 2022 in W.P.(MD)No.1429 of 2013, for compliance of the order dated 29.10.2021 before expiry of 60 days, i.e., on 13.03.2022. During the pendency of the application for extension of time, the respondent passed the impugned order on 18.04.2022 in Letter No.F/F&R/833/1996 cancelling the OTS offer dated 06.01.2022. Therefore, this petition.

4. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.



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5. At the time of admission, the petitioner Company expressed its reasons for not complying with the earlier conditional order. Thereafter, this Court, on 06.05.2022, had considered the difficulty of the petitioner Company and based on the undertaking given by the petitioner, out of total outstanding amount of Rs.2,28,07,000/-, the petitioner was directed to pay a sum of Rs.1,00,00,000/- within a period of 15 days from today and pay the balance amount of Rs.1,28,07,000/- within a period of one month thereafter.

6. Today, the learned counsel for the petitioner has produced the bank receipt for payment. The only point raised by the petitioner is that the incidental charges, if any, have to be paid by him. Accordingly, the respondent is directed to find out whether there are any incidental charges, and if so, issue communication to the petitioner within a period of three weeks from the date of receipt of a copy of this order. If there are any incidental charges, the respondent shall collect the same from the petitioner and hand over the original documents to him within a period of four weeks thereafter.



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7. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes / No

Speaking Order : Yes / No

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To

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