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WP.Nos.4445 and 7478 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.Nos.4445 and 7478 of 2023
and WMP Nos.7556 and 4470 of 2023

WP.No.4445 of 2023

M/s.Malack Leathers

by M.R.Zahida Begam

W.o.Late M.Mohammed Salem Sahib

No.4, Khizarabad 3rd Street

Melvisharam 632 509

Vellore District.

... Petitioner

.Vs.

1.The Additional Chief Secretary/

Chairman and Managing Director

The TIIC Ltd., Head Office

No.692, Anna Salai

Nandanam, Chennai 600 035.

2.The Branch Manager

TIIC Ltd.,

No.73/A, Katpadi Main Road

Vellore 632 006.

.. Respondents



WP.Nos.4445 and 7478 of 2023

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent letter No.TIIC/VLR/BO/2022-23 dated 13.01.2023 and to quash the same and to further direct the respondents to consider the representation of the petitioner's dated 23.12.2022 addressed to the 2nd respondent in terms para 15.2.5 at page no.13 of the OTS Policy 2018 of the respondents within a fixed time span as may be decided by this Court.

For Petitioners

Mr.V.Karthic
Senior Counsel
Mr.B.Raviraja

For Respondents

Mr.R.Kumaravel
Additional Government Pleader
for R1
Mr.K.H.M.Afsal
Senior Counsel
for R2

WP.No.7478 of 2023

M/s.Saleem Leathers Pvt.Ltd.,
by M.R.Zahida Begam
W.o.Late M.Mohammed Salem Sahib
No.4, Khizarabad 3rd Street
Melvisharam 632 509
Vellore District.

... Petitioner

.Vs.



WP.Nos.4445 and 7478 of 2023

1.The Additional Chief Secretary/
Chairman and Managing Director
The TIIC Ltd., Head Office
No.692, Anna Salai
Nandanam, Chennai 600 035.

2.The Branch Manager
TIIC Ltd.,
No.73/A, Katpadi Main Road
Vellore 632 006.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the 2nd respondent to consider the representation of the petitioners dated 23.12.2022 addressed to the 2nd respondent in terms para 15.2.5 at page no.13 of the OTS Policy 2018 of the respondents within a fixed time span as may be decided by this Court.

For Petitioner

Mr.V.Karthic
Senior Counsel
Mr.B.Raviraja

For Respondents

Mr.R.Kumaravel
Additional Government Pleader
for R1
Mr.K.H.M.Afsal
Senior Counsel
for R2



WP.Nos.4445 and 7478 of 2023

COMMON ORDER

The issue involved in both these writ petitions are common and hence they are taken up together, heard and disposed of through this common order.

2.The petitioner in WP.No.4445 of 2023, has challenged the OTS offer made by the 2nd respondent through letter dated 13.01.2023 and for a consequential direction to the respondents to consider the representation made by the petitioner dated 23.12.2022, wherein the petitioner has requested TIIC to consider finalising the OTS offer in terms of para 15.2.5 of the OTS policy of TIIC.

3.WP.No.7478 of 2023, has been filed for a direction to the 2nd respondent to consider the representation made by the petitioner dated 23.12.2022, wherein the petitioner has requested the 2nd respondent to consider the OTS offer in line with para 15.2.5 of the OTC policy of TIIC.

4.When these writ petitions were entertained by this Court, this Court in order to ascertain the bonafides of the petitioners took into consideration the undertaking given by the petitioners to pay a sum of Rs.50/- lakhs within a period of three weeks. Considering the same, this Court also granted interim protection to the petitioners. Accordingly, the petitioners also took a demand draft in favour of TIIC for a sum of Rs.50/-lakhs and subsequently, pursuant to the orders passed by this Court, demand draft was taken in the name of the Registrar General, High Court, Madras.



5. When the matter was taken up for hearing on 19.04.2023, this Court passed the following order :

Pursuant to the earlier order passed by this Court on 12.04.2023, the matter was taken up for hearing today. The petitioner had given the one time settlement proposal to the 2nd respondent and has offered to pay a total sum of Rs.1.10 crores as full and final settlement. The learned counsel for the petitioner submitted that this was the amount that was arrived at after negotiation. Based on the representation / offer made by the petitioner, the same has been sent to the head office for a decision/approval. The relevant letter dated 18.04.2023, was also placed before this Court.

2. The learned counsel for the respondent submitted that a decision will be taken in a week and it will be reported before this Court.

*3. Post this case under the same caption on **26.04.2023** along with W.P.No.4445/2023.*

6. Pursuant to the above order, TIIC through letter dated 23.05.2023, gave approval not less than for a sum of Rs.10.93 crores towards one time settlement. This fact was recorded when the matter came up for hearing on 06.06.2023. The learned Senior Counsel appearing on behalf of the petitioners submitted that the business was originally run by one Mohammed Saleem. The business ran into rough weather and as a result, the amount that was borrowed from various borrowers became due and payable. The said Mohammed Saleem had dues payable to State Bank of India (SBI), SIPCOT and TIIC. Insofar as SBI and SIPCOT are concerned, the entire amount was settled and no due certificate was also issued.



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This was pursuant to the OTS that was offered and which was accepted and paid by the petitioners. Insofar as TIIC is concerned, an initial offer was made through letter dated 22.03.2004 and unfortunately, by the time it could be acted upon, the said Mohammed Saleem seems to have died in a road accident on 25.03.2004. From then on, his family members have been trying their best to settle the dues to TIIC. It is also pertinent to note that the one time settlement that was offered by SBI and SIPCOT was acted upon and already paid by the legal heirs of late Mohammed Saleem.

7.The short issue that was contended before this Court was that TIIC must come up with the OTS offer by following their own policy under para 15.2.5 which reads as follows:

15.2.5. In the case of multiple / consortium financing, details of settlements reached, any, with other lender(s) to the borrower unit /company should be obtained and examined. The offer made to TIIC should then be compared with the offers made / settlement reached with other lender(s). If necessary, negotiation should be held with the unit/company to improve the OTS offer.

8.The learned Senior Counsel appearing on behalf of the petitioners submitted that in a case of consortium financing, TIIC must take into consideration the details of the settlement reached by the borrower with the other lenders and it must be compared and ultimately, the OTS offer must be made. It is contended that this procedure was not followed by TIIC and every time, the OTS offer made by TIIC is only increasing and by virtue of the letter dated 23.05.2023, it has gone beyond the capacity of the petitioner to



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settle the dispute. The learned Senior Counsel further submitted that during negotiations, an impression was given by TIIC that the OTS can be finalised if the petitioners pay a sum of Rs.1.10 crores. Going by this understanding, the petitioners were also making all efforts to arrange for funds and to make the payment. However to the shock and surprise of the petitioners, TIIC has come up with a letter dated 23.05.2203 and the OTS has been increased to an astronomical figure of not less than 10.93 crores.

9.As already observed by this Court, the negotiations are going on for quite a long time. Even on an earlier occasion, an one time offer was made by TIIC where the total amount was fixed at nearly 32.80 lacks and the petitioners were asked to make 15% down payment and the petitioners also made this payment which is evident from the letter dated 20.8.2014 annexed along with the demand drafts. The petitioners were expecting this one time settlement to go through and unfortunately it failed. At some stage, TIIC must realise that the family members of the deceased Mohammed Saleem are attempting to settle the money and there must be some reaching point for both parties to resolve the dispute. When such resolution was possible with SBI and SIPCOT who had also offered one time settlement and was settled by the petitioners, there is no reason as to why TIIC must not follow suit and demand the one time settlement in line with 15.2.5 policy.

10.In the light of the above discussion, the impugned letter dated 13.01.2023 issued by the 2nd respondent is hereby quashed. There shall be a direction to the 2nd respondent to consider the representations made by the petitioners on 23.12.2022 and deal with the same



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in line with para 15.2.5 of the one time settlement policy of TIIC. A final decision shall be taken by TIIC within a period of four weeks from the date of receipt of copy of this order.

The petitioners in order to show their bonafides, are directed to deposit a sum of Rs.50/- lakhs before the 2nd respondent on or before 19.06.2023. The same shall be kept in no lien account deposit by TIIC and this Court directs that the TIIC shall take a final decision and while finalising the OTS, the amount deposited by the petitioners shall be given due credit and the balance amount shall be payable by the petitioners.

11.Both the writ petitions are disposed of in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

12.06.2023

KP

Internet : Yes/No

Index : Yes/No

Neutral Citation :Yes/No



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To

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