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WP No.16517 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23-03-2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.16517 of 2016
and
WPMP No.14276 of 2016

KPR Mill Limited,
Represented by its Company Secretary,
No.9, Gokul Buildings,
AKS Nagar,
Thadagam Road,
Coimbatore-641 001,
Tamil Nadu.

... Petitioner

Vs.

- 1.The Secretary,
The Ministry of Textiles,
Government of India,
Udyog Bhavan,
New Delhi-110 011.
- 2.The Textile Commissioner,
O/o.The Textile Commissioner,
Government of India,
Ministry of Textiles,
Nistha Bhavan, New CGO Buildings,
48, New Marine Lines,
Mumbai-400 020.



3. Bank of India,
Represented by its Asset General Manager,
Coimbatore Mid-Corporate Branch,
1st Floor, Chamber Towers,
8/732, Avinashi Road,
Coimbatore-641 018.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to pay the petitioner-Company the 4% interest reimbursement/Foreign Exchange Rate Fluctuation loss due to the petitioner under the Modified Technology Upgradation Fund Scheme 2007-12, for the period from 30.03.2010 to 31.03.2018 in respect of the third respondent-Bank of India Term Loan.

For Petitioner : Ms.Chitra Sampath,
Senior Counsel for
Mr.A.E.Ravichandran.

For Respondent-1 and 2 : Mr.A.Kumaraguru,
Senior Central Government Panel
Counsel.

For Respondent-3 : Mr.K.M.C.Arunmogan for
Mr.S.Sathiya Narayanan

ORDER

The relief sought for in the present writ petition is to direct the



respondents 1 and 2 to pay the petitioner-Company the 4% interest reimbursement/Foreign Exchange Rate Fluctuation loss due to the petitioner under the Modified Technology Upgradation Fund Scheme 2007-12, for the period from 30.03.2010 to 31.03.2018 in respect of the third respondent-Bank of India Term Loan.

2. The learned Senior Central Government Panel Counsel appearing on behalf of the respondents 1 and 2 made a submission, based on the instructions given by the officials, who all are also present before this Court, that the respondents 1 and 2, had received the application from the third respondent-Bank only in respect of KPR Cotton Mills Pvt Limited. Thus, in respect of the said application, the Competent Authorities sanctioned eligible amount in the name of the 'KPR Cotton Mills Pvt. Limited'.

3. It is further brought to the notice of this Court that the said sanctioned amount of the Central Government was erroneously credited in favour of the petitioner-Mill instead of crediting the said amount in the account of 'KPR Cotton Mills Pvt. Limited'.



4. Therefore, the Authorities are not responsible for any error or otherwise. However, after the lapse of one year from the date of sanctioning, the amount in favour of KPR Cotton Mills Pvt. Limited, the third respondent-Bank of India submitted an application to the Competent Authorities for sanctioning the said amount in favour of KPR Cotton Mills Pvt. Limited and the said application was time barred.

5. The learned Senior Counsel appearing on behalf of the petitioner states that the statement made on behalf of the respondents 1 and 2 by the learned Standing Counsel appearing on behalf of the respondents 1 and 2 is factually incorrect. The Competent Authorities have not passed any speaking order in respect of the application sent by the third respondent-Bank of India recommending the case of the petitioner for sanctioning of the 4% reimbursement/foreign exchange rate fluctuation loss due to the petitioner, which is impugned as per the Scheme. Thus the factual disputes raised between the parties cannot be adjudicated in the writ proceedings under Article 226 of the Constitution of India, since it requires scrutinisation of original documents and evidences.



6. On the one hand, the learned Central Government Standing Counsel states that the amount was already credited to KPR Cotton Mills Pvt. Limited and the said amount was erroneously credited in the name of the petitioner by the third respondent-Bank of India.

7. On the other hand, the learned Senior Counsel appearing on behalf of the petitioner states that the statement made on behalf of the respondents 1 and 2 is incorrect. Thus the parties have to adjudicate their issues with reference to the sanction order credits made and the other related disputes in respect of the claim made by the petitioner.

8. In view of the facts and circumstances, the second respondent shall adjudicate the issues on merits and in accordance with law and by affording an opportunity to the writ petitioner and thereafter, take decision and pass speaking orders as expeditiously as possible.

9. In this regard, the petitioner is at liberty to submit the other grounds before the second respondent along with documents, if any. The



said exercise is directed to be done by the second respondent within a period of four months from the date of receipt of a copy of this order.

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10. With the abovesaid liberty, the present writ petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

23-03-2023

Index : Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn



To

1. The Secretary,
The Ministry of Textiles,
Government of India,
Udyog Bhavan,
New Delhi-110 011.
2. The Textile Commissioner,
O/o. The Textile Commissioner,
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Ministry of Textiles,
Nistha Bhavan, New CGO Buildings,
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S.M.SUBRAMANIAM, J.

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