



W.P.No.12031 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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M/s.G.D. Foods & Beverages Pvt. Ltd.,  
rep. by its Managing Director, Raja Saravanan,  
No.62/1, Kodambakkam High Road,  
T.Nagar, Chennai – 600 017  
Also at 2/58, ECR, Injambakkam,  
Chennai – 600 115.

.. Petitioner

Vs

- 1.Union of India,  
rep. by its Secretary,  
Ministry of Finance,  
Department of Banking,  
Sanmadmurg,  
New Delhi.
- 2.Reserve Bank of India,  
Central Office Building,  
18<sup>th</sup> Floor, Shahid Bhagat Singh Road,  
Mumbai-400 001.
- 3.Union of India,  
Ministry of Food Processing Industries,  
rep. by its Under Secretary,  
Panchaseel Bhavan,  
New Delhi.



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4.State Bank of (Hyderabad) India,  
Main Branch,  
rep. by its Asst. General Manager,  
Ground Floor,  
No.45, Second Lane Beach,  
Chennai – 600 001.

5.State Bank of India,  
rep. by its Asst. General Manager,  
Assets Recovery Management Branch (ARMB)  
No.44, 1<sup>st</sup> Floor, Eldams Road,  
Teynampet,  
Chennai – 600 018.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records of the fourth respondent relating to the email dated 31.7.2021 and quash the same and thereby direct the fifth respondent to give effect to the letter dated 18.11.2020 and having Ref:SBI/ARMB/1014 issued by the fifth respondent in favour of the petitioner and thereby allow the OTS revised proposal dated 19.1.2023 so that the petitioner to avail the One Time Settlement scheme as per the guidelines of the Reserve Bank of India and pass appropriate orders with respect to the representation made by the petitioner.

For the Petitioner : Mr.R.Thiagarajan

For the Respondents : Ms.P.J.Anitha  
Central Government Standing Counsel  
for respondent Nos.1 & 3



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: Mr.M.L.Ganesh  
for respondent Nos.4 & 5

ORDER

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

This writ petition has been filed seeking issuance of a writ of certiorarified mandamus to call for the records of the fourth respondent relating to the email dated 31.7.2021 and quash the same and consequently direct the fifth respondent to give effect to the letter dated 18.11.2020, having Ref:SBI/ARMB/1014, issued by the fifth respondent in favour of the petitioner and thereby allow the One Time Settlement (OTS) revised proposal dated 19.1.2023 given by the petitioner, to enable the petitioner avail the benefit of the OTS scheme as per the guidelines of the Reserve Bank of India.

2. Mr.M.L.Ganesh, learned counsel taking notice on behalf of respondents 4 and 5, submitted that when an OTS offer was made by the respondent/bank on 18.11.2020 imposing various conditions, the petitioner complied with only one condition and defaulted compliance of the other conditions and, therefore, the OTS offer



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was cancelled by the respondent/bank. He, therefore, pleaded that the writ petition may be dismissed.

3. It is trite that this court exercising jurisdiction under Article 226 of the Constitution of India cannot direct the bank to accept the one time settlement offered by the petitioner. The Supreme Court in the case of ***Bijnor Urban Cooperative Bank Limited v. Meenal Agarwal and others, 2021 SCC OnLine SC 1255***, emphatically held as under:

*"30. The sum and substance of the aforesaid discussion would be that **no writ of mandamus can be issued by the High Court in exercise of powers under Article 226 of the Constitution of India, directing a financial institution/bank to positively grant the benefit of OTS to a borrower. The grant of benefit under the OTS is always subject to the eligibility criteria mentioned under the OTS Scheme and the guidelines issued from time to time.** If the bank/financial institution is of the opinion that the loanee has the capacity to make the payment and/or that the bank/financial institution is able to recover*



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*the entire loan amount even by auctioning the mortgaged property/secured property, either from the loanee and/or guarantor, the bank would be justified in refusing to grant the benefit under the OTS Scheme. **Ultimately, such a decision should be left to the commercial wisdom of the bank whose amount is involved and it is always to be presumed that the financial institution/bank shall take a prudent decision whether to grant the benefit or not under the OTS Scheme, having regard to the public interest involved and having regard to the factors which are narrated hereinabove.***

*[emphasis supplied]*

4. In view of the law enunciated by the Supreme Court in the decision, referred supra, we are not inclined to direct the respondent/bank to accept the OTS offer made by the petitioner.

5. At this juncture, learned counsel for the petitioner submitted that the petitioner is ready and willing to pay the entire amount due within a period of eight weeks.



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6. Considering the aforesaid submission made by learned counsel for the petitioner, we direct the petitioner to approach the respondent/bank within a period of one week from the date of receipt of a copy of this order expressing its willingness to repay the entire amount due within eight weeks. On the petitioner making such request, the authorised officer of the respondent/bank shall consider the same on its own merits and take a final decision in the matter, as expeditiously as possible.

The writ petition is disposed of accordingly. There will be no order as to costs. Consequently, W.M.P.Nos.11880 and 11886 of 2023 are closed.

(T.R., ACJ.) (D.B.C., J.)  
21.04.2023

Index : No  
Neutral Citation : No  
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To:

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- 2.Reserve Bank of India,  
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