



W.P.Nos.10970 & 10976 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 31.07.2023

Pronounced on : 11.08.2023

CORAM : JUSTICE N.SESHASAYEE

W.P.Nos.10970 & 10976 of 2020

W.P.No.10970 of 2020 :

Achuthan Traders
Represented by its Proprietrix T.Shanthi
W/o. Mr.P.Saravanan
No.63/2A, Chetpet Main Road
Neelampoondi, Gingee Taluk
Villupuram District.

... Petitioner

Vs.

- 1.Reserve Bank of India
Chennai.
- 2.The Banking Ombudsman
Reserve Bank of India
Chennai.
- 3.The Deputy Manager
DBS Bank India Limited
4/1, Sardar Patel Road
Guindy, Chennai - 600 032.
- 4.The Manager
DBS Bank India Limited
Gingee Branch
Gingee - 604 202.

... Respondents



W.P.Nos.10970 & 10976 of 2020

[R3 & R4 cause title amended vide order dated
20.06.2023 made in WMP.No.17334 of 2023
in W.P.No.10970 of 2020]

WEB COPY

W.P.No.10976 of 2020 :

VPN Traders

Represented by its Proprietor Mr.P.Saravanan

S/o. Late Mr.V.Perumal Nainar

No.63/2A, Chetpet Main Road

Neelampoondi, Gingee Taluk

Villupura District.

... Petitioner

1.Reserve Bank of India
Chennai.

2.The Banking Ombudsman
Reserve Bank of India
Chennai.

3.The Deputy Manager
DBS Bank India Limited
4/1, Sardar Patel Road
Guindy, Chennai - 600 032.

4.The Manager
DBS Bank India Limited
Gingee Branch, Gingee - 604 202.
[R3 & R4 cause title suo motu amended vide
order dated 11.08.2023]

PRAYER in W.P.No.10970 of 2020 : Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the entire records pertaining to email letter dated 04.11.2019 issued by the third respondent, quash the same and consequently direct the



W.P.Nos.10970 & 10976 of 2020

respondents to pay the penal charges of Rs.5,90,000/- (Rupees Five Lakhs Ninety Thousand only) along with 12% as per RBI norms.

PRAYER in W.P.No.10976 of 2020 : Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the entire records pertaining to email letter dated 04.11.2019 issued by the third respondent, quash the same and consequently direct the respondents to pay the penal charges of Rs.8,85,000/- (Rupees Eight Lakhs Eighty Five Thousand only) along with 12% as per RBI norms.

For Petitioners : Mr.T.Karunakaran
(in both WPs)
For Respondents : Mr.C.Mohan of M/s.King & Patridge
(in both WPs) for R1 & R2
Mr.N.G.Durairajan for R4

COMMON ORDER

1.1 Shanti and Saravanan were proprietors of two business concerns. They availed separate cash credit facility originally with Axis Bank, and this loan was transferred to M/s.Lakshmi Vilas Bank. (M/s.Lakshmi Vilas Bank was since amalgamated with M/s DBS Bank India Limited, respondents 3 and 4 are M/s.DBS Bank Ltd., in W.P.No.10970 of 2020. Since respondents 3 & 4 in W.P.No.10976 of 2020 are shown as Lakshmi Vilas Bank, this Court *suo motu* amends the cause-title of respondents 3 and 4). This had occurred in 2017 and it was to operate for a year from 20.01.2017 to 19.01.2018 and



W.P.Nos.10970 & 10976 of 2020

the value of the loan is Rs.200 Lakhs (in W.P.No.10970 of 2020 filed by Shanti) and Rs.260 Lakhs (in W.P.10976 of 2020 filed by Saravanan).

1.2 After the expiry of the initial one year period, it was further extended for another one year from 12.03.2018 to 11.03.2019. Thereafter both the petitioners sought for further renewal, but this time it was granted only for three months from 05.09.2019 to 04.12.2019.

1.3 While so, on 22.10.2019, the petitioner had transferred the entire loan liability in both the loan accounts of both the petitioners to M/s.Tamilnadu Mercantile Bank, Gingee branch. Thereafter, the third respondent vide email dated 23.10.2019, required both the petitioners to pay 3% penal interest for pre-closure of loans. In W.P.No.10970 of 2020, the claim was for Rs.7,08,000/- whereas in W.P. 10976 of 2020 it was Rs.10,62,000/-. The penalty interest rate was later reduced from 3% to 2.25% and this brought down the penalty from Rs.7.08 Lakhs to Rs.5.90 Lakhs in W.P. 10976 of 2020, and from Rs.10,62,000/- to Rs.8,85,000/-.

1.4 The petitioner challenged the same before the Ombudsman, but in vain, and hence, he is before this Court.



WEB COPY

2. Learned counsel for the petitioners made a pointed submission that he had not pre-closed any loan liability, but closed it only after the extended period of loan.

3. Learned counsel for the respondents / bank submitted that as per Clause 12 of the Sanction letter of the petitioner, there is a specific stipulation that in case of takeover of term loans and working capital credit limit accounts by any other bank 3% penal interest will be charged on the outstanding balance in case of pre-closure. He further submitted that notwithstanding the fact that the respondent can levy penalty at 3%, it has charged penalty only at 2.25%.

4. On careful consideration of the rival submissions, this Court is not in agreement with the contention of the petitioner, and the reasons are :

- (a) A sanction letter of the petitioner indeed enables the bank to levy 3% penal interest on pre-closure. This is contractual and unless the levy is not supported by the sanction of law, it will have its force. In this regard, RBI has only exempted home loan from levy



W.P.Nos.10970 & 10976 of 2020

of penal charges for pre-closures, but not commercial loans.

WEB COPY

(b) Contrary to the contention of the petitioner, loans with respondents 3 and 4 were transferred to Tamil Nadu Mercantile Bank on 22.10.2019, midway through the last extension of loan given by these respondents. Inasmuch as there is a pre-closure of commercial loans during the loan period, the petitioner cannot escape paying the penal charges as stipulated in the sanction letter.

5. In view of the reasons stated above, both the writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

11.08.2023

Index : Yes / No
Speaking order / Non-speaking order
anu/ds



W.P.Nos.10970 & 10976 of 2020

To:
WEB COPY

1. Reserve Bank of India
Chennai.
2. The Banking Ombudsman
Reserve Bank of India
Chennai.



WEB COPY



W.P.Nos.10970 & 10976 of 2020

N.SESHASAYEE.J.,

ds

Pre-delivery order in
W.P.Nos.10970 & 10976 of 2020

11.08.2023