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W.P.No.23621 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 28.03.2023**

CORAM :

**THE HONOURABLE MR. JUSTICE M. DHANDAPANI**

**W.P.No.23621 of 2018**

**and**

**W.M.P.No.27557 & 27558 of 2018**

SP Textile Processors (P) Ltd.,  
S.F.No.54/2 B, Kumilamparappu,  
Perumalmalai Koil Road,  
Chithode – 638 102.  
Rep. by its Manager-Finance

... Petitioner

Vs.

1. Government of India,  
Ministry of Textiles,  
Represented by the Secretary to the Government,  
Udhyog Bhavan,  
New Delhi – 110 011.
2. The Textile Commissioner,  
New CGO Building,  
48, New Marine Lines,  
Post Bag No:11500,  
Mumbai – 400 020.
3. The Tamil Nadu Industrial Investment Corporation Ltd.,  
692, Anna Salai,  
Nandanam,  
Chennai – 600 035.



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4.Asst. General Manager,  
TUFS Cell, LCG,  
IDBI Bank Limited,  
IDBI Tower,  
WTC Complex, Cuffe Parade,  
Mumbai – 400 005.

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2<sup>nd</sup> respondent relating to the order bearing Ref No.F.No.50(5)/2017/MOT-Ref./MS/131, dated 13.10.2017, issued by the 2<sup>nd</sup> respondent, refusing to consider the Application of the petitioner for the release of subsidies under the Textiles Upgradation Fund Scheme in respect of the loans availed of by the petitioner from the 3<sup>rd</sup> respondent and quash the same as illegal, arbitrary and without authority of law and consequently, directing the respondents to forthwith release the subsidies to the petitioner under the Textiles Upgradation Fund Scheme in respect of the loans availed of by the petitioner and in terms of the Eligibility Certificate(s) issued by the 4<sup>th</sup> respondent.

For Petitioner : Mr.Rahul Balaji

For Respondents : Mr.AR.L.Sundaresan  
Additional Solicitor General Assisted  
by M/s.Rajesh Vivekanandam  
Deputy Solicitor General [R1 & R2]  
M/s.K.Magesh [R3]

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## **ORDER**

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This Writ Petition has been filed seeking for a Writ of Certiorarified Mandamus, to call for the records of the second respondent relating to the order bearing Ref No.F.No.50(5)/2017/MOT-Ref./MS/131, dated 13.10.2017, issued by the second respondent, refusing to consider the Application of the petitioner for the release of subsidies under the Textiles Upgradation Fund Scheme in respect of the loans availed of by the petitioner from the third respondent and quash the same as illegal, arbitrary and without authority of law and consequently, directing the respondents to forthwith release the subsidies to the petitioner under the Textiles Upgradation Fund Scheme in respect of the loans availed of by the petitioner and in terms of the Eligibility Certificate(s) issued by the fourth respondent.

2. The case of the petitioner is that it is a textile processing unit, mainly engaged in bleaching and dyeing of yarn on job-work basis and also manufactures woven fabric. The petitioner company has been existing for 25 years and is a primary player in the textile processors market in South India, with an annual turnover of 50 crores for the year 2016-2017.



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Subsequently, the petitioner proposed to expand its processing unit capacity from 1500 kgs/day to 6000 kgs/day and accordingly, sought for necessary approvals and permits. With great difficulty, after four years, the petitioner obtained permission from the Tamil Nadu Pollution Control Board for the expansion. The expansion project was estimated at a cost of Rs.1080 crores, for which financial assistance from the third respondent was sought. Accordingly, vide Loan Sanction Letter No.TIIC/HO/Proj/ST., dated 21.11.2007, the petitioner was granted a term loan for a sum of Rs.7,85,00,000/-. Subsequently, vide Sanction Letter No.HO/AW/ST/2008-09, dated 21.04.2008, the term loan was restructured under the Technology Upgradation Fund Scheme (in short 'TUFS') as follows:

| Means of Finance                 | Tuff Loan     | General Loan  | Total          |
|----------------------------------|---------------|---------------|----------------|
| Unsecured Loan                   | 0.00          | 47.50         | 47.50          |
| Int accrual – already brought in | 75.87         | 76.02         | 151.89         |
| Int accrual proposed             | 52.90         | 42.73         | 95.63          |
| Term Loan                        | 384.05        | 355.55        | 739.60         |
| 10% Term Loan CLCS               | 45.38         | 0             | 45.38          |
| <b>TOTAL</b>                     | <b>558.20</b> | <b>521.80</b> | <b>1010.00</b> |

2.1. It is the further case of the petitioner that TUFS was launched by the Government of India with the basic objective of making available



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adequate capital from the banks for modernization of textile industry at an internationally comparable rate of interest. The said scheme was originally launched for a period of five years from 01.04.1999 and was subsequently, extended up to 31.03.2007. Due to the success of the said scheme, it was continued with minor modifications with effect from 01.04.2007 for a further period of five years, at which time the petitioner's term loan came to be restructured. In terms of the benefits available under the scheme, the TUFs provides for interest reimbursement of a certain percentage on the loan outstanding on a project for technology upgradation in conformity with the scheme. Further, the scheme also provides for a capital subsidy for eligible units. In the case of the petitioner, as per the letter dated 21.04.2008, in accordance with the scheme applicable at the time, the petitioner was sanctioned capital subsidy of 10% amounting to Rs.44,15,000/- and an interest subsidy at 5% amounting to Rs.72,38,183/-.

2.2. The industries which propose to avail of benefits under the TUFs are required to approach a bank for a term loan. The bank will evaluate the project and after sanctioning the term loan, the bank, if it is a nodal agency, would grant an Eligibility Certificate No. (ECN) indicating



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the loan amount eligible for interest subsidy under the scheme as well as grant an ECN for capital subsidy. Accordingly, the fourth respondent forwarded the ECN for grant of subsidy under TUFSS on 25.05.2010. The petitioner paid the interest and principal dues and finally by 04.08.2017, effected full repayment of the loan. While so, to the shock and dismay of the petitioner, upon seeking information from the second respondent vide letter dated 09.11.2011, the petitioner was informed that certain claims, including the petitioner's claim were returned on the ground that they were filed beyond one year. However, it is informed that the second respondent vide order dated 28.06.2011, had condoned the delay in filing of claims on behalf of 11 units including the petitioner's unit. The petitioner was informed that the condonation at the time of online filing for the quarter ending 30.06.2011, the claim of the petitioner was lodged by the third respondent and the petitioner was further informed that the first respondent had released subsidy for cases except the cases that were condoned in the last week of October 2011. However, the first respondent arbitrarily withheld release of subsidies of those cases and passed the impugned order dated 13.10.2017 rejecting the petitioner's claim on the ground that the Lending Agency had not uploaded the petitioner's claim within the



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prescribed time limit of one year as per Circular No.7 dated 22.12.2008.

Challenging the same, the present writ petition is filed by the petitioner.

3. The learned counsel for the petitioner would submit that the second respondent though rejected the claim on the ground that the Lending Agency had not uploaded the petitioner's claim within a period of one year as per Circular No.7 dated 22.12.2008, which is not applicable to the petitioner's case, since the petitioner's claim is before 31.03.2007, if it uploaded the claim before 31.03.2008, their case is to be considered. The petitioner's loan was sanctioned only in November 2007 and restructured in the year 2008. Hence, Circular No.7 is not applicable to the petitioner and further, the petitioner effected full repayment of loan on 04.08.2017 and prior to that Lending Agency of the petitioner namely TIIC forwarded the petitioner's claim on 30.06.2011 and the same was not considered and discussed in the impugned order. Further, the respondents filed counter affidavit stating that the Lending Agency had not forwarded the claim through the Nodal Agency, namely IDBI Bank and has not submitted any records or documents to prove that the Lending Agency had uploaded through Nodal Agency to the second respondent. The said fact was not



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discussed in the impugned order and the impugned order is prima facie passed on the basis of the Circular No.7, which is not sustainable and rejecting the petitioner's claim is illegal. Accordingly, he prayed for appropriate orders.

4. The learned Additional Solicitor General appearing for the respondents 1 and 2 fairly submits that the present impugned order passed on the basis of the Circular No.7 dated 22.12.2008 itself is prima facie wrong, the applicable Circulars are Circular Nos.8 and 9, dated 28.01.2009 and 12.03.2009 respectively and the respondents also not elaborately discussed the matter and they mechanically passed the impugned order based on Circular No.7 is wholly erroneous. Hence, this Court may set aside the impugned order and remand the matter for fresh consideration and direct the petitioner to produce all the documents including the uploading by the Lending Agency to the second respondent. If such documents are produced, the same may be considered and reasoned order will be passed within a time frame that may be stipulated by this Court.



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5. Heard the learned counsel for the petitioner, the learned Additional Solicitor General appearing for the respondents 1 and 2 and the learned counsel for the third respondent and perused the materials available on record.

6. The facts in the present case is not in dispute. Admittedly, the petitioner borrowed loan from TIIC vide loan sanction letter dated 21.11.2007. It is also equally undisputed that the loan was restructured on 21.04.2008 and the present impugned order is passed on the premise that the petitioner's Lending Agency had not uploaded the claim in terms of Circular No.7 dated 22.12.2008. However, on perusal of the Circular No.7, it is clear that, if any loan is sanctioned before 31.03.2007, but not put up for claiming interest reimbursement/capacity subsidy by Lending Agency with the office of the Textile Commissioner till the quarter ending 31.12.2008, the same shall not be extended the benefits under the TUFS. However, in the present case, the loan was sanctioned in favour of the petitioner on 21.11.2007 and the loan is restructured in the year 2008. Hence, the Circular referred to in the impugned order is not applicable to the petitioner. Further, the petitioner claimed that the Lending Agency,



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namely TIIC forwarded the subsidy claim to the second respondent on 30.06.2011. However, in the counter affidavit filed by the third respondent, it has been specifically stated that the subsidy claim were filed through online in the quarter ending 30.06.2011 in the Ministry of Textiles website and further, the second respondent vide their e-mail dated 28.02.2011 for returning the claims including the petitioner's claim and subsequently, the first respondent vide e-mail dated 28.06.2011 condoned the delay in filing the claim and requested TIIC to lodge the fresh claims once again. Accordingly, TIIC namely the Lending Agency of the petitioner forwarded the claims ending on 30.06.2011 through online filed for the quarter ending on 30.06.2011 and the said fact was not properly considered by the second respondent in the impugned order and the order has been passed mechanically, which renders the impugned order unsustainable. Hence, the impugned order is liable to be set aside. Further, as fairly conceded by the learned Additional Solicitor General, the proper circular has not been taken into account, while considering the application of the petitioner, which also renders the order unsustainable.



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7. Accordingly, the impugned order passed by the second respondent dated 13.10.2017 is set aside and the matter is remanded to the second respondent to reopen the case of the petitioner and the second respondent is directed to issue fresh notice to the respondents 1, 2 and 3 and pass appropriate orders after perusing the entire records. The entire exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

8. In the above terms and with the aforesaid directions, the writ petition is allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

**28.03.2023**  
(2/2)

Index : Yes / No  
Speaking order / Non-speaking order  
Neutral Citation Case : Yes / No  
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To

1. The Secretary to the Government,  
Ministry of Textiles,  
Udhyog Bhavan,  
New Delhi – 110 011.



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**M.DHANDAPANI, J.**

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2.The Textile Commissioner,  
New CGO Building,  
48, New Marine Lines,  
Post Bag No:11500,  
Mumbai – 400 020.

3.The Tamil Nadu Industrial Investment Corporation Ltd.,  
692, Anna Salai,  
Nandanam,  
Chennai – 600 035.

4.The Assistant General Manager,  
TUFS Cell, LCG,  
IDBI Bank Limited,  
IDBI Tower,  
WTC Complex, Cuffe Parade,  
Mumbai – 400 005.

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**28.03.2023**

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