



W.P. No. 8116 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 8116 of 2017

and

W.M.P. No. 8887 of 2017

M/s. CYS Power Technologies,
Having registered office at 11/2, 1st Floor, S.P.Complex,
Opposite K.P.N. Travels,
Mettur Road,
Erode – 638 011,
Represented by its Proprietor,
K.Sivakumar.

... Petitioner

-VS-

1. The Chairman & Managing Director,
State Industries Promotion Corporation of Tamil Nadu Limited,
No. 19-A, Rukmani Lakshmipathi Road,
Egmore,
Chennai – 600 008.
2. The Chairman & Managing Director,
Tamil Nadu Small Industries Investment Corporation Limited,
Anna Salai,
Nandhanam,
Chennai – 600 035.
3. The Branch Manager,
Tamil Nadu Small Industrial Investment Corporation Limited,
C.S.Sengittiah Complex,
No. 23, Chidambaram Colony,
80 Feet Road,
Periyar Nagar,
Erode – 638 001.



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4. The Project Officer,
SIPCOT Industrial Growth Centre,
Perundurai – 638 052,
Erode District.

5. The General Manager,
District Industries Centre,
Chenimalai Road,
SIDCO Industrial Estate Campus,
Erode – 600 001.

Respondents

...

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the Third Respondent in relation to the order of the Third Respondent made in TIIC/ERD/LAO-KR/2016-2017 dated 28.06.2016 and quash the same and consequently direct the Second and Third Respondents to re-schedule the Petitioner's loan account.

For Petitioner : Mr. M.R.Thangavel

For Respondents : Mrs. Sudharsana Sunder (for R1)

Mr. K.Mahesh (for R2 to R5)

ORDER

Heard Mr. M.R.Thangavel, Learned Counsel for the Petitioner, Mrs. Sudharsana Sunder, Learned Counsel for the First Respondent and Mr. K.Mahesh, Learned Counsel for the Second to Fifth Respondents and perused the materials placed on record, apart from the pleadings of the parties.



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2. Since the Petitioner has defaulted in the repayment of the various loans borrowed from the Respondent, possession of the primary assets (land and building) had been taken under Section 29 of the State Financial Corporation Act, 1951, and it was informed to the Petitioner by the Respondent by Proceedings No. TIIC/ERD/LAO/2016-17 dated 06.03.2017 that it was proposed to hold tender *cum* public auction of those assets at 11.00 a.m. on 05.04.2017. At that stage, the Petitioner has filed this Writ Petition challenging the earlier Demand Notice No. TIIC/ERD/LAO-KR/2016-2017 dated 28.06.2016 calling upon him to pay the entire outstanding aggregating to Rs. 17,94,903/- upto 31.05.2016, failing which it has been informed that the Respondent would proceed to take further action for the recovery of the dues from him.

3. The Respondent during the hearing on 09.11.2023 filed a memo stating that a letter dated 08.11.2023 has been sent by the Respondent to the Petitioner, which reads as follows:-

“With reference to the above, you have availed term loan from us and committed default in repayment of the loan, inspite of our regular demand notice and our letters you have not settled



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our loan. Further, the total amount payable by you as on 08.11.2023 is Rs. 6,96,334/- and further interest and other charges from 09.11.2023. Hence, we request to pay the above mentioned amount to settle the loan account."

In view of the same, this Court required the Petitioner to remit the aforesaid amount under written acknowledgment by 07.12.2023, but no proof of such compliance has been produced till date.

4. At this juncture, reference has to be made to the decision of the Hon'ble Supreme Court of India in ***Prestige Lights Limited -vs- State Bank of India*** [(2007) 8 SCC 449], where it has been held as follows:-

"24. An order passed by a competent court - interim or final - has to be obeyed without any reservation. If such order is disobeyed or not complied with, the court may refuse the party violating such order to hear him on merits. We are no unmindful of the situation that refusal to hear a party to the proceeding on merits is a "drastic step" and such a serious penalty should not be imposed on him except in grave and extraordinary situations, but sometimes such an action is needed in the larger interest of



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justice when a party obtaining interim relief intentionally and deliberately flouts such order by not abiding by the terms and conditions on which a relief is granted by the court in his favour."

Following the said dictum, in the light of the facts narrated supra as borne out from the record, it would not be possible to show any more indulgence to the Petitioner, which unwittingly delays the recovery of the public dues owed by him to the Respondent.

5. Moreover, the Petitioner has not been able to demonstrate any error in the decision-making process leading to the impugned order warranting interference by this Court in the exercise of its discretionary powers under Article 226 of the Constitution. Though obvious, it is made clear that the Respondent is not precluded from proceeding further for recovering the amounts due from the Petitioner following the prescribed procedure in accordance with law.

In the result, the Writ Petition is dismissed with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed.

11.12.2023

Index: Yes/No

NCC: Yes/No



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Note: Issue order copy by 24.05.2024.

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To

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P.D. AUDIKESAVALU, J.

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