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W.P. Nos. 31846 and 32606 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2023

CORAM

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

W.P. Nos. 31846 and 32606 of 2023

and

W.M.P. Nos. 31454 and 32191 of 2023

M/s. Malack Leathers,
No. 4, Khizarabad 3rd Street,
Melvisharam - 632 509,
Vellore District,
by Munawer Hussain.

... Petitioner in W.P. No. 31846 of 2023

M/s. Saleem Leathers Pvt. Ltd.,
No. 4, Khizarabad 3rd Street,
Melvisharam - 632 509,
Vellore District,
by Munawer Hussain.

... Petitioner in W.P. No. 32606 of 2023

-VS-

1. The Additional Chief Secretary/
Chairman and Managing Director
The TIIC Ltd., Head Office,
No. 692, Anna Salai,
Nandanam,
Chennai – 600 035.

2. The Branch Manager,
TIIC Ltd.,
No. 73/A, Katpadi Main Road,
Vellore - 632 006.

... Respondents in both W.P.s



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Common Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus to call for the records of the Second Respondent's Letter No. TIIC/VLR/BO/2023-24 dated 09.10.2023 and to quash the same and to further direct the respondents to apply for the formula as directed by this Court in W.P. Nos. 4445 and 7478 of 2023 dated 12.06.2023.

For Petitioner : Mrs. Sudharsana Sunder
(in both W.P.s) for Mr. S.R.Mounaswamynathan

For Respondents : Mr. K.H.M.Afzal
(in both W.P.s)

C O M M O N O R D E R

Heard Mr. Sudharsana Sunder, Learned Counsel appearing for the Petitioners and Mr. K.H.M.Afzal, Learned Counsel, who takes notice for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Respondents had advanced certain term loans to the Petitioners, viz., M/s. Saleem Leathers Pvt. Ltd., and M/s. Malack Leathers (Proprietary Concern), which were then represented by Thiru M.Mohamed Salim Sahib, who subsequently died on 25.03.2004. The Petitioners had earlier filed the Writ



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Petitions in W.P. Nos. 4445 and 7478 of 2023 for extending the benefit of One

Time Settlement under its policy. This Court in the order dated 12.06.2023

while disposing the said Writ Petitions has held as follows:-

“10. In the light of the above discussion, the impugned letter dated 13.01.2023 issued by the 2 nd respondent is hereby quashed. There shall be a direction to the 2 nd respondent to consider the representations made by the petitioners on 23.12.2022 and deal with the same in line with para 15.2.5 of the one time settlement policy of TIIC. A final decision shall be taken by TIIC within a period of four weeks from the date of receipt of copy of this order. The petitioners in order to show their bonafides, are directed to deposit a sum of Rs.50/- lakhs before the 2 nd respondent on or before 19.06.2023. The same shall be kept in no lien account deposit by TIIC and this Court directs that the TIIC shall take a final decision and while finalising the OTS, the amount deposited by the petitioners shall be given due credit and the balance amount shall be payable by the petitioners.”

It is accepted that each of the Petitioners have paid the said amount of Rs. 50,00,000/- on 14.06.2023 to the Respondents in terms of the aforesaid



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order. However, as it is not clear as to whether the representations dated 22.12.2022 said to have been made by the Petitioners before the aforesaid order was passed has been received by the Respondents, Learned Counsel for the Petitioners has produced their copies along with proof of postal registration, and Learned Counsel for the Respondents acknowledges their receipt in Court today.

3. While matters stand as narrated supra, the Second Respondent by separate Proceedings No. TIIC/VLR/BO/2023-24 dated 09.10.2023 has informed the Petitioner of the proposal to conduct Tender *cum* Public Auction on 09.11.2023 in respect of the property of the Petitioner in W.P. No. 31846 of 2023, and on 16.11.2023 in respect of the property of the Petitioner in W.P. No. 32606 of 2023, which are assailed in these Writ Petitions and consequential reliefs have also been sought therein.

4. In this regard, Learned Counsel for the Respondents states that there were no bidders for the said auction of the properties and separate memo dated 09.11.2023 and 17.11.2023 have been filed to that effect, which are placed on record.



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5. In such circumstances, this Court without expressing any view on the merits of the controversy involved, passes the following order:-

- (i) it shall be incumbent upon the Respondents to examine the representations dated 22.12.2022 made by the Petitioners for extending the benefit of One Time Settlement under the relevant terms of their policy;
- (ii) the Respondents shall, within 5 days from the date of receipt of a copy of this order, furnish the Statement of Accounts showing the total liability due from each of the Petitioners with specific entries of calculation of interest charged on the loans advanced from the time of borrowings till date, after appropriation of all repayments and recoveries made, as required by the Constitution Bench of the Hon'ble Supreme Court of India in *Central Bank of India -vs- Ravindra* [(2002) 1 SCC 367] to ensure transparency and fairness in the dealings of public financial institutions with their borrowers;
- (iii) the Petitioners shall be entitled to make further representations, if any, within 5 days from the date of receipt of the Statement of Accounts, to the Respondents thereafter;



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- (iv) if it is found that any other details or supporting documents is necessary, the deficiencies in that regard shall be informed by the Respondents in writing to the Petitioners requiring the same to be furnished within a time frame of not less than 10 days for the same;
- (v) in the event of not being satisfied with the requirements even thereafter, an enquiry shall be conducted affording full opportunity of personal hearing to the Petitioners and all other persons concerned to explain their position in that regard;
- (vi) a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated under written acknowledgment;
- (vii) the Respondents shall specify the amount required to be remitted by the Petitioners in terms of their policy for One Time Settlement along with the working-sheet showing the calculation for the same *viz-a-viz.*, the contentions raised by the Petitioners, and the time limit for complying with the same; and
- (viii) in the event of the default of the Petitioners to pay the said amounts, the public auction of their properties for realization of the dues shall be conducted only after the aforesaid exercise has been completed.



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In the result, the Writ Petitions are disposed on the aforesaid terms.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

17.11.2023

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 22.05.2024.

vjt/nsi

To

1. The Additional Chief Secretary/
Chairman and Managing Director
The TIIC Ltd., Head Office,
No. 692, Anna Salai,
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Chennai – 600 035.
2. The Branch Manager,
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P.D. AUDIKESAVALU, J.

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