



W.P.(MD) No.391 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.391 of 2023

and

W.M.P.(MD)No.362 of 2023

M/s.Golden India Infrastructure Pvt. Ltd.,
Represented by its Managing Director,
N.S.Jayachandran,
11-77B, Kala Bhavan, Kalluthotti Junction,
Marthandam, Kanyakumari District,
Tamilnadu – 629 165.

... Petitioner

Vs.

1.The Assistant General Manager,
State Bank of India,
Stressed Assets Recovery Branch (SARB),
Vinayagar Branch 1st Floor,
8, Dr.Ambedkar Road,
Madurai – 625 020.



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2.The Chief Manager / Authorized Officer,
State Bank of India,
Stressed Assets Recovery Branch (SARB),
Vinayagar Branch 1st Floor,
8, Dr.Ambedkar Road,
Madurai – 625 020.

3.The Chief Manager,
State Bank of India, SME Branch,
No.14-B, Distillery Road,
Nagercoil, Kanyakumari District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, call for the records pertaining to the impugned order passed by the 1st respondent herein in his letter proceedings vide SARB/MDU/CLO-1/VK/1652, dated 27.12.2022 and quash the same as illegal and consequently direct the 1st respondent to permit the petitioner to settle the Cash Credits and Term Loans stands in the name of the petitioner as One Time Settlement on the basis of the revised proposal made by the petitioner before the 1st respondent by RPAD, dated 03.01.2023.

For Petitioner : Mr.B.Brijesh Kishore

For Respondents : Mr.D.Saravanan



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ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

This Writ Petition has been filed for issuance of a Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 1st respondent herein in his letter proceedings vide SARB/MDU/CLO-1/VK/1652, dated 27.12.2022 and quash the same as illegal and consequently direct the 1st respondent to permit the petitioner to settle the Cash Credits and Term Loans stands in the name of the petitioner as One Time Settlement on the basis of the revised proposal made by the petitioner before the 1st respondent by RPAD, dated 03.01.2023.

2. Heard Mr.B.Brijesh Kishore, learned counsel for the petitioner and Mr.D.Sivaraman, learned Standing, who takes notice for the respondents.

3. By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.



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4. The learned counsel appearing for the petitioner submitted that the petitioner has availed a loan for a sum of Rs.4 Crores from the respondent Bank. Since the petitioner was unable to pay the said loan amount, the respondent bank issued demand notice on 24.03.2020. Thereafter, on 19.06.2020, issued the possession notice. Thereafter, the petitioner has paid a sum of Rs.1,17,70,000/- from 17.09.2020 to 02.11.2020. Without considering the same, the respondents has filed an application under Section 14 of the SARFAESI Act, before the Chief Judicial Magistrate, Kanyakumari District and the same was allowed by the learned Chief Judicial Magistrate, Kanyakumari District on 29.08.2022. As against the same, the petitioner has also filed an appeal before the Debts Recovery Tribunal, Madurai. In the said appeal, the DRT, Madurai, directed the petitioner to deposit a sum of Rs.2.94 Crores to the respondent bank, out of which, a sum of Rs.1.47 Crores, on or before 21.10.2022 and another sum of Rs. 1.47 Crores on or before 18.11.2022. Aggrieved over the said order, the petitioner has filed an appeal before the Debts Recovery Appellate Tribunal, Chennai in DN.AIR (S.A.)No.410 of 2022 and the same is pending. Thereafter, the petitioner made a revised proposal on 03.01.2023 to the respondent bank for



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settling the amount under the OTS scheme. Since the same was not considered the petitioner has approached this Court.

5. The learned counsel appearing for the respondents bank submitted that the petitioner's revised proposal has been considered and rejected on 05.01.2023. The copy of the said rejection order has also been given to the learned counsel appearing for the petitioner.

6. In view of the above, we are of the view that the Writ petition cannot be entertained and the same is liable to be dismissed. Accordingly, this Writ Petition is dismissed. It is for the petitioner to approach the respondent bank to seek necessary relief, if so advised. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] [R.V., J.]

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NCC : Yes / No

Index : Yes / No

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vsm

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