BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.10.2023

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.(MD)No.15419 of 2020
and
W.M.P.(MD)Nos.12957 & 14484 to 14486 of 2020 and 8397 of 2021

Ismail Lucky Travels,
Rep. by its Proprietor,
A.Mohammad Ismail,
S/o.Abdul Kadar,
No.127, TPK Road,
Madurai - 625 001. .. Petitioner

Versus

1.The Union of India,
Represented by its Joint Secretary,
Ministry of Finance, Parliament Buildings,
New Delhi - 110 001.

2.The National Credit Guarantee Trustee Company Ltd,
(Ministry of Finance Government of India),
Swavalamban Bhavan,
C-11G Block, Bandra Kurla Complex,
Bandra East, Mumbai – 400 051.

3.The Chairman,
Reserve Bank of India,
Shahid Bhagat Singh Marg,
Mumbai - 400 001.

4.IDFC First Bank Limited,
(Earlier Capital First Bank), Naman Chambers,
No. C-32, G-Block, Bandra Kurla Complex,
Bandra East, Mumbai - 400 051.

5.The General Manager,
IDFC First Bank Limited,
(Earlier Capital First Bank), KRM Towers, 7th Floor,
1, Harrington Road, Chetpet, Chennai - 600 031.

6.The Branch Manager,
IDFC First Bank Limited,
(Earlier Capital First Bank),
79/2, Raja Barley Hospital,
Bypass Road, Madurai - 625 010. .. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order of the 5th respondent dated 19.11.2020, quash the same and directing the respondents 4 to 6 disburse and pay a sum of Rs.36,16,107/- under the Working Capital Term Loan (WCTL) under Emergency Credit Line Guarantee Scheme (ECLGS) of the respondents 1 to 3 and as per the communication of the 4th to 6th respondents, dated 25.06.2020.

(Prayer amended vide Court order dated 23.02.2021 in W.M.P.(MD) No. 14482/2020 in W.P.(MD).15419/2020)

For Petitioner	:	Mr.S.Ramsundar Vijay Raj
For R1	:	Mr.K.Prabhu Central Government Standing Counsel
For R4 to R6	:	Mr.A.Sivasubramanian

ORDER

This Writ Petition has been filed challenging the impugned proceedings of the fifth respondent, dated 19.11.2020 and for a consequential direction to the respondents 4 to 6 to disburse a sum of Rs.36,16,107/- under the Working

Capital Term Loan (WCTL) under Emergency Credit Line Guarantee Scheme (ECLGS).

2. The case of the petitioner is that he is running a transport business and was intending to expand his business by taking a loan facility from the fourth respondent Bank. Accordingly, he submitted an application to the fourth respondent Bank and the loan was also sanctioned by the Bank on 29.05.2018 for a total sum of Rs.85,00,000/-. Subsequently, on 30.05.2018, a further sanction was made for a sum of Rs.1,15,00,000/-. The petitioner claims that he has been duly repaying back to the dues without any demur.

3. The further case of the petitioner is that the Bank got merged with IDFC First Bank Limited. Due to the intervention of Covid-19 Pandemic, there was a nationwide lockdown and the movement of the vehicles came to a standstill. In view of the same, the petitioner availed moratorium as per the RBI guidelines. The petitioner also wanted to revive the business and accordingly, applied for Working Capital Term Loan under the Emergency Credit Line Guarantee Scheme.

4. The grievance of the petitioner is that the fifth respondent rejected the application of the petitioner and the same has been made a subject of challenge in the present Writ Petition.

5. The respondents 4 to 6 have filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:-

"8. It is submitted that the operational guidelines of Emergency Credit Line Guarantee Scheme (ECLGS) was initially made available as ECLGS - 1.0 and later expanded as ECLGS-2.0, ECLGS 3.0 and ECLGS 4.0. Even as per the clause 7 of the operational guidelines updated as on 07.06.2021, the writ petitioner is not eligible for the Emergency Credit Line Guarantee Scheme (ECLGS), as the specific eligibility criteria is that the borrower should not have been classified as SMA 2 or NPA by any of the lender as on 29.02.2020.

9. It is submitted that the ground 'c' raised in support of writ petition is nothing but clear misunderstanding and non-application of mind of the operational guidelines issued for the purpose of Emergency Credit Line Guarantee Scheme (ECLGS). As stated earlier, even if the loan, which is not availed with respondents 4 to 6, but availed with any other institution and declared as SMA2 and the borrower will not be eligible for the scheme. All the other grounds 'd' to 'g' are only repetition of the earlier grounds and same are hereby denied. It is further submitted that as stated earlier, the impugned order passed by the 5th respondent on 19.11.2020 clearly states that the writ petitioner is not eligible for the said scheme. Hence, the intention of the writ petitioner is only to grab amount from the respondents 4 to 6 unreasonably."

6. Heard the learned counsel appearing for the parties.

7. The petitioner is claiming the loan for Working Capital Term Loan under the Emergency Credit Line Guarantee Scheme. In order to avail the loan under the Scheme, the petitioner has to satisfy the parameters that have been fixed under the Scheme.

8. Clause 7 of the Emergency Credit Line Guarantee Scheme provides for the eligibility criteria for the borrowers to avail the loan. The respondents 4 to 6 have taken a very clear stand that the petitioner is not eligible under the Scheme, as the specific eligibility criteria is that, the borrower should not have been classified as SMA 2 or NPA by any of the lender as on 29.02.2020. The petitioner had already availed two commercial vehicle loans and he has been classified as SMA 2 for both the loans. In view of the same, the petitioner does not satisfy the eligibility criteria under the Scheme and hence, the petitioner cannot insist for the sanction of the Working Capital Term Loan. This issue has been specifically taken into account by the fifth respondent while rejecting the claim made by the petitioner and this Court does not find any ground to interfere with the same.

9. In the result, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes/No 05.10.2023
Index : Yes/No

To

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2.The National Credit Guarantee Trustee Company Ltd,
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3.The Chairman,
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Shahid Bhagat Singh Marg,
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N.ANAND VENKATESH, J.

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W.P.(MD) No.15419 of 2020

05.10.2023