**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 26.06.2023**

**CORAM:**

**THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**WP(MD)No.9555 of 2016**
**and**
**WMP(MD)Nos.7604 of 2016 and 16470 of 2017**

Madras Suspensions Limited,
Represented by Managing Director,
Ligi George,
S/o.Late George Cherian,
No.4, 3rd Cross Street,
DSP Nagar, By-pass road,
Madurai - 625 106. ... Petitioner

Vs

1.The Board for Industrial and
Financial Reconstruction Bench Office III,
Jawahar Vyapar Bhawan,
1, Tolstoy Marg,
New Delhi- 110 001.

2.The State Bank of India,
Commercial Branch,
Stressed Asset Management Branch,
No.6A, West Veli Street,
Madurai - 625 001.

3.The State Bank of India,
Stressed Asset Management Branch,
Red cross Buildings,
32, Montieth Road,
Egmore, Chennai - 600 008.

4.The Managing Director,
Karnataka State Financial Corporation,
KSFC Bhavan, No.1/1 Thimmaiah Road,
Near Contonment Railway Station,
Bangalore – 560052.

5.The CEO/Executive Member,
Karnataka Industrial Areas Development Board,
No.14/3, 2nd Floor, RP buildings,
Nrupathunga Road,
Bangalore – 560 001. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the respondents 2 to 5 herein to consider the petitioner's representation made on 11.05.2016 and to direct the 4th respondent to act in terms of its own circular 955 dated 03.10.2012.

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| For petitioner | : Mr.B.Raviraja |
| For Respondent Nos.1 to 4 | : No representation |
| For Respondent No.5 | : Mr.S.Kadarkarai |

**ORDER**

The petitioner, who availed loan from the 4th respondent a financial Corporation in the year 1993, has approached this Court for a writ of mandamus to direct the respondents 2 to 5 to consider the petitioner's representation dated

11.05.2016 over the circular issued in Circular No.955 dated 03.10.2012.

2.The learned Counsel appearing for the petitioner submits that the petitioner company availed loan to the tune of Rs.86,89,427/- from the 4th respondent financial corporation in the year 1993 and has repaid a sum of Rs.47,45,000/- towards principal and Rs.74,26,258/- towards interest totalling to Rs.1,21,71,258/- between the years 1994 and 2000. Thereafter there was some delay in repayment of the loan to the 4th respondent Corporation. The 4th respondent Corporation has offered for OTS but, failed to provide sufficient time. In the meantime, the petitioner company was declared as sick on 18.08.2005 by 1st respondent Board for Industrial and Financial Reconstruction, under Section 3(i)(c) of the Sick Industrial Companies Act and appointed the State Bank of India as operating agency under Section 17(3) of the Sick Industrial Companies Act. The Board has also suggested SBI, as the operating agency to formulate a draft rehabilitation scheme. Since the petitioner company is operating from Madurai, the petitioner has approached this Court in the year 2016 for the above relief, this Court has also entertained this writ petition by recording the undertaking of the petitioner and granted an order of interim stay.

3.The learned Counsel for the petitioner further submits that pursuant to the undertaking, the petitioner has deposited a sum of Rs.90 Lakh on 24.12.2014 and a sum of Rs.15 Lakh on 27.12.2014 and now the petitioner company is prepared to settle the amount dues to the 4th and 5th respondents as per the fresh proposal.

4.The learned Counsel for the State Bank of India submits that they are only a formal party and they have nothing to do with the proposal made by the petitioner.

5.There is no representation for the 4th respondent. However, counter affidavit was filed by the 4th respondent in the month of December 2017 stating that opportunity was provided to the petitioner for one time settlement in the years 2005 and 2006. However, the petitioner has not utilised the opportunity provided by the 4th respondent. In the meeting held on 31.01.2008, the petitioner was provided with another offer of one time settlement to pay a sum of Rs.147.31 Lakh. However the same was revised to Rs.100 Lakh as a special case with 4% interest from 01.04.2008 till the date of settlement and it was also communicated to the petitioner on 27.03.2008. Further the request of the petitioner dated 16.12.2013 for revival of OTS extended to Rs.100 Lakh was not acceptable to the 4th respondent Corporation. The subsequent proposal made by the State Bank of India on behalf of the petitioner was also not accepted by the 4th respondent.

6.The learned Counsel for the 5th respondent seeks time to further instructions.

7.This writ petition is pending from the year 2016. This writ petition was entertained by this Court, based on the undertaking of the petitioner, interim order was granted and the petitioner has deposited a sum of

Rs.105 Lakh before the State Bank of India in the year 2017. Considering that the petitioner is running a company and it has also been declared as sick company by BIFR, this Court disposes of this writ petition with a direction to the petitioner to submit a fresh proposal to the 4th respondent Corporation within a period of four weeks from the date of receipt of a copy of this order. If any such proposal is made, the 4th respondent Corporation shall consider it in the light of the orders passed by the BIFR and the circular 955, dated 03.10.2012 issued by the 4th respondent within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petitions are closed.

26.06.2023

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To

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**B.PUGALENDHI, J.**

**dsk**

**WP(MD)No.9555 of 2016**

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