IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2021

CORAM

THE HONOURABLE MR.JUSTICE R. MAHADEVAN

W.P. No. 4771 of 2021
and
W.M.P. No. 5382 of 2021

M/s. MK Auto Components India Ltd.,
represented by its Managing Director
Mr.P.Sriram, having their office and
factory at SP 25, 26, 27 XVII Phase,
Ambattur Industrial Estate,
Chennai 600 058. ..Petitioner

Versus

1. The Chief Manager
   Canara Bank, SME Branch
   Ambattur, Chennai 600 050

2. The Asst. General Manager,
   SME/MSME Division,
   Canara Bank, No.524, Anna Salai,
   Teynampet, Chennai 600 018.

3. The General Manager,
   SME/MSME Division,
   Canara Bank,
   No.524, Anna Salai, Teynampet,
   Chennai 600 018. ..Respondents

Writ Petition filed under Section 226 of Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the demand letter of the 1st respondent dated 28.12.2020 in Reference No.CB SME MKA 23642931 KTI quash the same and consequentially direct the respondents to cancel the MODT and release the collateral security of the petitioners as given under the sanction memorandum dated 12.3.2019.

For Petitioner : Mr. S.N. Kirubanantham

For Respondents : M/s. T.S.Gopalan & Co

ORDER

The relief sought in this Writ Petition is to issue a Writ of Certiorarified Mandamus calling for the demand letter of the 1st respondent dated 28.12.2020, quash the same and direct the respondents to cancel the MODT and release the collateral security of the petitioners as given under the sanction memorandum dated 12.3.2019.

2. According to the petitioner, their company has been registered under the Companies Act and they are engaged in the business of manufacturing of auto components. The petitioner company availed cash credits and bank guarantee facilities during the year 1996 from the respondents and the same were periodically renewed on its expiry. Due to the pandemic and the prevailing market situation, the petitioner decided to close all the facilities with the respondents, pursuant to which it issued a letter to 1st respondent on 24.12.20 pre-intimating their decision for closing all the facilities and also requested not to levy any pre-payment/pre-closure charges as they were in contradiction to the "Code of Banks Commitment to Micro Small Enterprises-August 015". The petitioner also forwarded the sanction letter from IndusInd Bank. Due to petitioner's business urgency, on instructions of the petitioner, their new bankers IndusInd Bank had paid the entire dues by way of Demand Draft for Rs.21,02,28,402/- to the 1st respondent on 23.12.2020. On payment of all the outstanding, the petitioner company requested to release the collaterals and cancel the MODT and sought for return of all the collateral security documents. While so, on 28.12.2020, the 1st respondent issued the impugned letter demanding interest for various finance facilities availed by it as a condition precedent for releasing the collateral security documents.

3. It is the grievance of the petitioner that though their new bankers viz., IndusInd Bank have remitted the entire outstanding dues to the respondents, the impugned demand letter issued by the respondents are unwarranted and illegal. Further, the failure of the respondents to release the collaterals have put the petitioner under pressure from their new bankers. Therefore, the petitioner has filed this writ petition.

4. Upon notice, refuting the allegations in the writ petition, counter affidavit and additional counter affidavit have been filed stating that the respondent bank is ready and willing to release securities upon payment of the amounts due to the Bank .

5. Heard both sides and perused the materials available on record. After some arguments, the learned counsel for the

petitioner as well as the respondents suggested a via media settlement to the effect that the petitioner shall deposit Rs.1crore 10 lakhs to the respondent Bank, and on such deposit, the prayer of the petitioner to release the security documents can be considered by the Court subject to placing this matter before the Banking Ombudsman for consideration.

6. In the light of the above consensus arrived at between the parties, this Court passes the following order:

(a) The petitioner shall deposit a sum of Rs.1,10,00,000/- (Rupees one crore and 10 lakhs only) within a period of two weeks with the respondents bank

(b) On such deposit, the collateral security documents, so claimed by the petitioner shall be returned forthwith and the deposited amount shall be kept in an interest bearing account.

(b) The petitioner is permitted to submit a claim petition along with all necessary documents, enclosures etc., and to raise all the points which are raised in this writ petition, before the Banking Ombudsman within a period of two weeks from the date of receipt of a copy of this order

(d) If such an application is filed, the Banking Ombudsman shall adjudicate the dispute within a period of six weeks thereafter

7. With the above direction, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Chief Manager
   Canara Bank, SME Branch
   Ambattur, Chennai 600 050

2. The Asst. General Manager,
   SME/MSME Division,
   Canara Bank, No.524, Anna Salai,
   Teynampet, Chennai 600 018.

3. The General Manager,
   SME/MSME Division,
   Canara Bank,
   No.524, Anna Salai, Teynampet,
   Chennai 600 018

+1cc to Mr.S.N.Kirubanandan, Advocate, S.R.No.41413
+1cc to M/s.T.S.Gopalan, Advocate, S.R.No.41469

WP No. 4771 of 2021

AJS(CO)
KKV/19/08/2021