IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2024
CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.25651 of 2021
and
W.M.P. No.27084 of 2021

M/s. Marutham Creation,
Rep by its Knitting Manager,
Shri M. Surendran S/o. P. Muthusamy,
Residing at 68, Periyathottam Main Road, Tirupur 641 604.
Having office at 102, LEEDS Industrial Estate,
Kasipalayam Main Road,
Nallur, Vijayapuram Post, Tirupur 641 606. ... Petitioner

Versus

1.The Deputy Director,
O/o. The Regional Office of the Textile Commissioner,
Chinthamani Co-operative Super Market Complex,
Mettupalayam Road, R.S. Puram (Po) Coimbatore 641 002.

2.The Assistant Director,
TUFS Cell, Office of Textile Commissioner,
Nistha Bhavan, 48 New Marine Lines, Mumbai 400 020.

3.The Chief Manager,
M/s. Karnataka Bank Ltd.,
Tirupur Main Branch,184, Eswaran Koil Street, Tirupur 641 604.

4.The Nodal Officer,
Karnataka Bank, P.B No. 599, Mahaveer Circle,
Kankandy, Mangalore 575 002, Karnataka. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the entire records in pursuant to the impugned communication of 2nd respondent in Nos. (203) / Spl.JIT /Marutham Creations /2020/TUFS/71 dated 27.07.2021 and the quash the same.

For Petitioner : Mrs. R. Hemalatha,
for Mr. B. Thirunavukkarasu.

For Respondents : Mr. A.R.L. Sundaresan, Additional Solicitor General,
Assisted by Mr. B. Rabu Manohar,
Senior Standing Counsel for the Central
Government,
(SCGC) (for R1 & R2).

: Mr. Imayavarman,
for M/s. Ramalingam & Associates (for R3 & R4).

ORDER

By a communication dated 27.07.2021, on behalf of the Ministry of Textiles, the second respondent demanded the petitioner/M/s. Marutham Creation to refund the subsidy of Rs.45,85,830/- with penal interest at the rate of 10% per annum. The said demand is challenged through this instant writ petition.

2. The essence of the case is that the petitioner's firm took a term

loan from the third respondent bank to purchase machinery under the TUF Scheme, with the assistance of first and second respondents sanctioning the loan and subsidy in the year 2014. After the entire loan was repaid by the petitioner on 22 November 2018, the first and second respondents conducted an inspection with the officials of Joint Inspection Team (JIT), in the year 2020, it was found that the petitioner had purchased inferior version of machineries. Consequently, the first and second respondents demanded the repayment of the subsidy, prompting the third respondent bank to place a lien on the petitioner's current account. Therefore, the petitioner seeks interim injunctive relief to prevent the lien and to quash the communication dated 27.07.2021 of the second respondent.

3. Learned counsel for the petitioner would submit that the petitioner company availed a term loan for a sum of Rs.185 lakhs under the Revised Restructured Technology Upgradation Fund Scheme (RR-TUFS) to purchase machinery in co-ordination with first and second respondents. Upon satisfaction with the first and second respondents with regard to the purchase of machinery, the third respondent bank

sanctioned the term loan to the petitioner. Subsequently, the entire term loan sanctioned was settled on 22.11.2018 along with interest with the third respondent bank by the first and second respondents. After the settlement of the entire term loan, the second respondent initiated proceedings to inspect the petitioner premises and arrived at an unilateral conclusion that the machinery purchased by the petitioner is not the machinery which was claimed in the loan document and passed the present impugned order as against the petitioner *inter alia* directing the third respondent bank to collect the amount from the petitioner. All of those facts are existed in the impugned order passed by the second respondent itself. Hence, the impugned order passed by the first respondent is a clearly violation of principles of natural justice and the impugned order is liable to be set aside.

4. Mr. A.R.L. Sundaresan, learned Additional Solicitor General, appearing for Mr. B. Rabu Manohar, learned Senior Standing Counsel for the Central Government, (SCGC) appearing for the first and second respondents would submit that as per the point no.(v) of issue No.2, "*if the machinery/technology procured is lower than the*

machinery/technology applied for/approved/sanctioned, then such change in the machinery/technology by the unit shall not be permitted by Textiles Commissioner and claim shall be rejected", and on basis the claim of the petitioner was rejected and subsidy paid for purchase of the machinery was sought to be refunded. Further, he submits that as per the Joint Inspection Team (JIT) report, there is discrepancies in the installed machinery and the claimed machinery, which rendering it ineligible for 5% interest rate subsidy, the 10% capital subsidy + 5% interest rate which was claimed initially. As a result, the second respondent issued the impugned order demanding a refund of Rs.45,85,830/- with 10% penal interest. Hence, the impugned order passed by the second respondent does not require any interference of this Court.

5. Heard the submissions made by the learned counsel on both sides and perused the materials on record.

6. The admitted fact that the loan was granted in the year 2014 and settled on 22.11.2018. However, in the year 2020, the first respondent and second respondent inspected the petitioner premises and declared that the

machinery purchased by the petitioner at the time of availing of loan does not fall under Point No.(v) of Issue No.2, of the clarification given by the Ministry of Textiles, vide letter No.16011/02/2020-TUFS dated 07.02.2020, and therefore, the subsidy conferred to the petitioner was rejected. In the present case, the above said letter dated 07.02.2020 is relevant during the year 2014 when the petitioner availed the loan. The first and second respondents allowed the petitioner to purchase machinery and granted subsidy with the third respondent bank and the third respondent has also disbursed the loan amount in favour the of the petitioner and the entire term loan was also settled in year 2018. Thereafter, the impugned order was passed without issuing any notice by the first and second respondents and it is in clear violation of principles of natural justice.

7. In view of the foregoing, this Court holds that the impugned order passed by the second respondent is liable to be set aside and accordingly, it is set aside. The matter is remanded back to the first respondent with a direction to reconsider the petitioner's claim and pass

appropriate orders in accordance with law, after affording a fair opportunity of hearing to the petitioner.

8. With these above observations and directions, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is also closed.

20.09.2024

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order

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To

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M.DHANDAPANI, J.,

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