IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2024

CORAM :

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.23986 of 2024

Indus Ind Bank Ltd.,
Steeple Reach Towers,
25/14, Block 2, 2nd Floor, Cathedral Road,
Chennai-600 086.
Rep. By Mr.Tadimarri Chandrasekar Reddy ...Petitioner

Vs.

1. TATA AIG General Insurance Company Ltd.,
   15th Floor, Tower 'A', Peninsula Business Park,
   Ganpatrao Kadam Marg,
   Lower Parel, Mumbai-400 013.

2. TATA AIG General Insurance Company Ltd.,
   2nd Floor, Samson Towers,
   403 L, Pantheon Road, Egmore,
   Chennai-600 008.

3. M/s.Right Health Platter Pvt. Ltd.,
   2nd Floor, No.11/6, 2nd Cross Street,
   CIT Colony, Mylapore, Chennai-600 004,
   Tamil Nadu.

4. Gallagher Insurance Brokers Pvt. Ltd.,
   1801, C Wing, ONE BKC,
   Bandra Kurla Complex, Mumbai-400 051.

...Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing respondents 1 and 2 to honour their commitment under Policy No.2000010430 dated 09.12.2022 by indemnifying the petitioner bank and to make payment of the claim amount of Rs.10,48,72,490.47/- to the petitioner bank.

For Petitioner : Mr.Om Prakash, Senior Counsel
for M/s.Skanda Legal

ORDER

This writ petition has been filed seeking to direct respondents 1 and 2 to honour their commitment under Policy No.2000010430 dated 09.12.2022 by indemnifying the petitioner bank and to make payment of the claim amount of Rs.10,48,72,490.47/- to the petitioner bank.

2. Since no adverse order is being passed against the respondents, notice to the respondents is dispensed with.

3. The case of the petitioner is that the 3rd respondent is a private limited company incorporated under the Companies Act, 2013 and is engaged in the business of import and export of dairy and food products. For the purpose of meeting its capital requirements, the 3rd respondent

approached the petitioner bank to sanction various credit facilities to the tune of Rs.25 Crores. After considering the request of the 3rd respondent, vide sanction letter dated 29.12.2022, the petitioner bank sanctioned the credit facility such as sales bill discounting facility to an extent of Rs.24 Crores and overdraft facility to the tune of Rs.1 Crore. The 4th respondent is the insurance facilitator, through which, the insurance coverage was obtained by the 3rd respondent from the 1st and 2nd respondents and the 1st and 2nd respondents assessed various eligibility conditions and issued the insurance policy on 09.12.2022 in favour of the 3rd respondent wherein it has been stipulated that the policy period was from 09.12.2022 to 08.12.2023 and also specified the policy liability limit at Rs.55 Crores. Further, respondents 1 and 2 recorded the estimated turnover of the 3rd respondent at Rs.1,25,00,00,000/- and fixed the premium rate at 0.744% of the estimated turnover. The provisional premium was fixed at Rs.46,50,000/- and the minimum premium was fixed at Rs.93,00,000/-. After receipt of the said insurance premium from the 3rd respondent, respondents 1 and 2 granted the insurance coverage by issuance of the trade credit insurance policy. In compliance of the terms of sanction of the credit facilities dated 29.12.2022 issued by the petitioner bank, the 3rd respondent requested the 1st respondent to assign the said insurance policy in favour of the petitioner bank. Accordingly, while granting consent for assignment, the 1st respondent recorded in the said policy the name of the petitioner bank as the assignee of the trade credit insurance policy. The 1st respondent also issued the assignment endorsement certificate and confirmation of endorsement of assignment. Thereafter, the 3rd respondent submitted several sale invoices for the goods supplied to one M/s.Avemore Pte. Ltd. for discounting by the petitioner bank. In turn, in terms of the sanctioned sales bill discounting facility, the petitioner bank discounted the sales bills and made payment to the 3rd respondent only after necessary confirmation received from respondents 1 and 2 and the respondents 1 and 2 also issued a buyer endorsement and it strengthened the discount of the bills of the said M/s.Avemore Pte Ltd. When the bills were submitted for payment, the said M/s.Avemore Pte Ltd. defaulted in payment of the bills, which remained unpaid exceeding the agreed period of payment. In spite of several reminders and demands made by the 3rd respondent to the said M/s.Avemore Pte Ltd., the bills remained unpaid leading to buyer default. Consequently, the 3rd respondent submitted a claim before respondents 1 and 2 invoking the trade credit insurance and seeking the claim amount. The petitioner had also taken up the matter to respondents 1 and 2 for payment of the subject outstanding invoices through a separate claim. Due to non payment of the liabilities, the accounts of the respondents were classified as non performing assets on 10.10.2023. Thereafter, as the assignee of the trade credit insurance policy, the petitioner bank submitted a claim dated 12.09.2023 before the 1st respondent along with necessary documents. However, till date, respondents 1 and 2 did not honour their liability. Further, the claim of the 3rd respondent dated 27.02.2024 is also pending without any progress. Hence, this Writ petition.

4. Though very many grounds have been raised, the learned Senior counsel for the petitioner submitted that, it would suffice, if this Court issues direction to the 1st and 2nd respondents to honour their commitment under Policy No.2000010430 dated 09.12.2022 by indemnifying the petitioner bank and to make payment of the claim amount of Rs.10,48,72,490.47/- to the petitioner bank, by considering the claim made by the 3rd respondent dated 27.02.2024 and the notice dated 21.05.2024 issued by the petitioner.

5. Considering the aforesaid submissions, this Court without going into the merits of the case, directs the 1st respondent to consider the claim made by the 3rd respondent dated 27.02.2024 and the reminder sent by the petitioner through their counsel on record dated 21.05.2024 on merits and in

accordance with law and pass appropriate orders within a period of six (6) weeks from the date of receipt of a copy of this order, after affording an opportunity of hearing to the petitioner and aggrieved persons, if any.

6. With the above directions, this Writ petition stands disposed of. No costs.

22.08.2024

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Index : Yes (or) No
Neutral Citation : Yes (or) No
Speaking Order : Yes (or) No

M.DHANDAPANI, J.

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