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W.P. No. 36325 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2024

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 36325 of 2023

and

W.M.P. No. 36305 of 2023

M/s. Venus Sizing Mills,
Rep. By its Partner
Mr.V.S. Balamurugan,
27F, East Colony,
Kumarapalayam 638 183,
Namakkal District.

... Petitioner

-VS-

1. The Managing Director,
Tamil Nadu Industrial Investment Corporation Limited,
629, Anna Salai, Nandanam, Chennai 600 035.
2. The Branch Manager,
Tamil Nadu Industrial Investment Corporation Limited,
4/22, Sri Lakshmi Complex, Omalur Main Road,
Swarnapuri, Salem 636 004.
3. The Branch Manager,
Tamil Nadu Industrial Investment Corporation Limited,
No.5/2, Dr.Sankaran Road, Namakkal 637 001.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the letter No.TIIC/Salem BO/2021-22, dated 24.06.2021



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issued by the 2nd respondent and to quash the same and to issue consequential directions to the respondents to consider the representation dated 03.03.2022 of the petitioner and waive the outstanding loan amount due and payable to the respondent under Loan No. 72F1099 and to pass further orders.

For Petitioner : Mr. M. Ravi

For Respondents : Mr. Mohamed Sulaiman Basha

ORDER

Heard Mr. M. Ravi, Learned Counsel for the Petitioner and Mr. Mohamed Sulaiman Basha, Learned Counsel appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner has defaulted in the repayment of the financial assistance availed from the Respondents and had earlier filed the Writ Petition in W.P. No. 20067 of 2020 challenging the auction notice dated 28.11.2020 for the sale of the property which was mortgaged as security for the borrowing made from the Respondents. This Court taking note of the then prevailing COVID pandemic situation and the postponement of the auction, had disposed that Writ



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Petition by order dated 21.01.2021 with a direction to the Petitioner to approach

the Second Respondent with the One Time Settlement (hereinafter referred to as 'OTS' for short) proposal within a period of two weeks from the date of receipt of its copy. After receipt of the representation dated 15.05.2021 from the Petitioner, the Respondents by Letter No. TIIC/SALEM-BO/2021-22 dated 24.06.2021 required the Petitioner to submit the additional particulars of its audited balance-sheet for the last 3 financial years as per its policy for OTS. Instead of complying with that requirement, the Petitioner has filed this Writ Petition challenging it raising the contention that it is not feasible of compliance as the unit of the Petitioner has become defunct and the mortgaged properties and machineries have already been sold out and to consequently direct the Respondent to pass orders on its representation to waive the outstanding loan amount.

3. It is not possible to countenance the claim of the Petitioner that the requirement to produce the audited balance-sheet for 3 financial years as per the OTS Policy of the Respondents was not feasible. It is an unexceptionable obligation of the Petitioner to maintain proper accounts till the dissolution of its partnership firm, even if it has become defunct and produce the audited balance-sheet for the relevant period, whenever required. When the immovable



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properties of the partnership firm have been mortgaged as security and the machineries have been hypothecated, the Petitioner is barred from alienating the same and cannot take advantage of its own wrong by pleading as if they have already been sold out. There does not appear to be any infirmity in the impugned action of the Respondents warranting interference by this Court in the exercise of discretionary powers of judicial review under Article 226 of the Constitution.

4. That apart, the Hon'ble Supreme Court of India in ***Bijnor Urban Co-operative Bank Limited, Bijnor -vs- Meenal Agarwal*** (Order dated 15.12.2021 in Civil Appeal No. 7411 of 2021) has categorically ruled that neither any borrower can as a matter of right pray for grant of benefit of one time settlement nor the High Court can issue any Writ of Mandamus in the exercise of powers under Article 226 of the Constitution directing the Financial Institution/Bank to positively grant the benefit of one time settlement to a borrower.

5. In such circumstances, the Petitioner cannot be granted any relief as sought in this Writ Petition. It is made clear that the Respondents are not precluded from proceeding further for recovering the amounts due from the



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Petitioner following the prescribed procedure in accordance with law.

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In the result, the Writ Petition, which is devoid of merits, is dismissed.

Consequently, the connected Miscellaneous Petition is closed. No costs.

10.01.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 24.05.2024.

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To

1. The Managing Director,
Tamil Nadu Industrial Investment Corporation Limited,
629, Anna Salai, Nandanam, Chennai 600 035.
2. The Branch Manager,
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P.D. AUDIKESAVALU, J.

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