



W.P.(MD) No.18985 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.18985 of 2017

and

W.M.P.(MD) Nos.15349 and 15350 of 2017
and 17723 of 2021

M/s.Sai Flexi Bag Pvt. Ltd.,
S.No.167/1C, Ramanachiyarpuram,
Muthusampuram Village,
Maravanmadam Post,
Thoothukudi-628 101,
Rep., by its Managing Director.

.. Petitioner

Vs.

The Tamil Nadu Industrial Investment
Corporation Ltd.,
Rep., by its Branch Manager,
Branch Office,
4/35, N.P.S. Complex (Near New Bus Stand),
Tuticorin-628 002.

.. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the respondent, pertaining to its proceedings in TIIC/TUTY/LAO/2017-18 dated 22.09.2017, on its file, quash the same and direct the respondent to accept the petitioner's proposal for One Time



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Settlement of all its loans from the respondent, as stated in the petitioner's letter dated 04.09.2017.

For Petitioner : Mr.K.N.Thampi

For Respondent : Mr.R.Saravanan

ORDER

The challenge in the writ petition is to the order made by the respondent in rejecting the claim of the petitioner for an One Time Settlement (OTS).

2. The learned counsel for the petitioner would submit that the petitioner had availed loans from the respondent towards his manufacturing purposes. The petitioner had been in regular payment of his dues. While that being so, the petitioner was surprised to receive a communication from the respondent on 20.06.2017, calling upon the petitioner as to whether they would consent for an OTS proposed by a third party. Since the petitioner had not approached any third party, the petitioner did not give its consent, rather had independently sought for an



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OTS of the entire dues and had offered a sum of Rs.2 Crores towards the OTS and had also enclosed two cheques. However, by the impugned communication dated 22.09.2017, the respondent had rejected the request by contending that the case of the petitioner do not come within the policy of the OTS. He would submit that when the respondent themselves have sought for a consent from the petitioner at the behest of a third party, who was not authorised by the petitioner, the rejection of the claim of the petitioner is wholly arbitrary. Therefore, he would seek interference of this Court.

3. On the contrary, the learned counsel appearing for the respondent would submit that the petitioner's account had become a Non-Performing Asset (NPA) as early as in the year 2013 and since a request had come from the third party, who claims to be the supplier of the petitioner, the respondent believed that the third party had made the application at the behest of the petitioner and therefore, the petitioner's consent was sought for and not otherwise. Even if the consent was given by the petitioner pursuant to the earlier communication, only if the



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petitioner's case fall within the OTS policy, such OTS would have been entertained. Since the petitioner did not give consent and independently made an application for OTS applying the policy, his claim was rejected. Therefore, there is no arbitrariness on the part of the respondent.

4. I have considered the submissions made by the learned counsel on either side.

5. The case of the petitioner is that there is an arbitrary action on the part of the respondent in denying the request of the petitioner for OTS.

6. A reading of the communication dated 20.06.2017 where the petitioner was called upon to intimate his consent, shows that the respondent had called upon the petitioner to submit his OTS request along with a processing fee and including the service tax and down payment which being 15% of the principal outstanding. It could be only inferred that at the time of giving the said communication, the respondent



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had unilaterally called upon the petitioner for an OTS. The said communication was pursuant to a request made by a third party. When that be so, under the impugned communication, the respondent ought not to have held that the case of the petitioner do not fall within the policy of OTS and rejected the same. This action of the respondent is definitely arbitrary and colourable.

7. For the aforesaid reasons, the order impugned is set aside and the claim of the petitioner is remitted back to the respondent for fresh consideration in accordance with law.

8. With the aforesaid direction, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

04.12.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

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K.KUMARESH BABU, J.

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