IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2025

CORAM :

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

Writ Petition No.6459 of 2005

George Oakes Limited
43, Greams Road
Chennai 600 006
Rep.by its Whole time Director
Mr.M.Siddharth Kumar .... Petitioner

-Vs-

1.Banking Ombudsman
(Tamil nadu and Union Territories of
Pondicherry and Andaman & Nicobar Islands)
Reserve bank of India Building (II Floor)
Fort Glacis, Post Box No.40
16, Rajaji Salai, Chennai 600 001.

2.Central Bank of India
Corporation Finance Branch
Addison Buildings, 803 Anna Salai
Chennai 600 002. .. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records connected with the order dated 29.12.04 in BO(CHN)4416/Rs/2004-05 of the 1st respondent confirming the earlier order dt.09.11.2004 in Bo(CHN)3838 Re/2004-05 and quash the same and direct the 1st respondent to dispose the complaint of the petitioner dated 29.10.04 on merits.

For Petitioner : Mr.Krishna Srinivasan
Senior Counsel
for M/s.S.Ramasubramaniam & Associates

For Respondents : Mr.G.B.Sabari Das for R1

Mr.P.Magesh
Standing Counsel for R2

ORDER

This writ petition has been filed challenging the impugned proceedings of the 1st respondent dated 29.12.2004 confirming the order dated 09.11.2004, whereby the petitioner was informed that the complaint given by the petitioner against the 2nd respondent Bank cannot be entertained since it was made after one year after the cause of action had arisen.

2.Heard Mr.Krishna Srinivasan, learned Senior Counsel appearing on behalf the petitioner. Mr.G.B.Sabari Das, learned counsel for R1 and Mr.P.Magesh, learned Standing Counsel for R2.

3.The case of the petitioner is that they are operating their account from the year 1959 onwards with the 2nd respondent Bank. The petitioner has been sanctioned with working capital limits of Rs.605 lakhs. The subject matter of the present writ petition pertains to debits amounting to nearly 1.54 crores in the petitioner's cash credit account maintained with the 2nd respondent Bank.

4.The further case of the petitioner is that during October 2001, a variation was noticed by the petitioner on the utilization of the petitioner's Bank limits between the books of account maintained by the Company and the figures that were furnished by the Bank. On reconciliation, it came to light that 17 cheque leaves belonging to the petitioner were found missing out of which 9 cheques were fraudulently utilized and the amount has been debited from the account maintained with the 2nd respondent Bank.

5.The petitioner submitted their representation/complaint before the 2nd respondent Bank for return of paid-out 9 cheques which were fraudulently utilized. Ultimately, the 2nd respondent through a communication dated 07.12.2002 informed the petitioner Company that they have made their position clear that they are not liable and that they have nothing further to add.

6.The petitioner Company aggrieved by the decision taken by the 2nd respondent knocked the doors of the Executive Director of Central Bank of India at Mumbai. A meeting was held on 30.03.2004 and the minutes of the meeting was also recorded. During the meeting, it was acknowledged that the bank had the responsibility to make good the loss suffered by the Company in the event of it being established that the cheques in question had been forged. Inspte of the above decision taken by the Executive Director, nothing was forthcoming and hence the petitioner submitted a complaint/application before the 1st respondent. The 1st respondent on receipt of the same through communication dated 09.11.2004 informed the petitioner that the complaint was given beyond the period of one year after the cause of action had arisen and therefore the complaint was rejected. Through communication dated 29.12.2004, the petitioner was informed that unless and otherwise there is a settlement between the petitioner and the 2nd respondent Bank, nothing further can be done by the 1st respondent. Aggrieved by the same, the present writ petition has been filed before this Court.

7.This Court has carefully considered the submissions made on either side and the materials available on record.

8.The primary issue that requires the consideration of this Court is as to whether the 9 cheques that were misused fraudulently, was found to be forged by any competent Court. It was brought to the notice of this Court that criminal proceedings were initiated and a complaint was given and the same was investigated by the CBI. The police report was filed before the Special Court for CBI cases and the trial was conducted in C.C.No.54/2003. Ultimately, all accused persons were convicted and sentenced by the Special Court through judgment dated 12.08.2010. Thus, it is clear that the 9 cheques belonging to the petitioner Company has been misused and it has been forged and fabricated and thereby, the petitioner Company has suffered a loss of nearly Rs.1.08 crores [approximately]. In the light of the above development, the agreement arrived at in the meeting held with the Executive Director of Central Bank of India, Mumbai has to be honoured. In that meeting, it was specifically agreed that the Central Bank of India will take the responsibility to make good the loss suffered by the Company in the event of it being established that the cheques in question had been forged. A Competent Court has already come to a conclusion that the cheques have been forged and therefore the complaint given by the petitioner against the 2nd respondent Bank has been substantiated.

9.This is not a case involving disputed facts and the 2nd respondent Bank considering the fact that the petitioner was a longstanding account holder, should have acted in a fair manner. The fact that the executive Director of the Central Bank of India has agreed that the bank will take the responsibility of making good the loss if the cheques are found to be forged, shows that the complaint given by the petitioner was considered at the highest level and the decision was taken.

10.The 1st respondent without appreciating the grievance expressed by the petitioner, has mechanically rejected the complaint given by the petitioner on the ground that the complaint was made after one year after the cause of action had arisen. The petitioner had initially approached the 2nd respondent and since the 2nd respondent was not willing to compensate the petitioner, the petitioner had to move the Executive Director of the Central Bank of India and they were able to reach an agreement on 29.03.2004 to the effect that the Bank will make good the loss if the cheques had been forged. Thereafter, there was no response and hence a cause of action had arisen only from April 2004 onwards. If according to the 1st respondent, the complaint has to be filed not later than one year after the cause of action had arisen, the complaint made by the petitioner was very much within the limitation period and the 1st respondent has chosen to reject the complaint by taking a hyper technical view that the cause of action had arisen on 26.10.2002 that the complaint itself was given in 2004.

11.In the light of the above discussion, the impugned proceedings of the 1st respondent dated 09.11.2004 and the subsequent communication dated 29.12.2004 are hereby quashed. No useful purpose will be served in remanding the matter back to the 1st respondent since this Court can act upon the agreement that was reached between the parties in the meeting that was held with the Executive Director of Central Bank of India dated 29.03.2004. The Bank had agreed to take the responsibility and to make good the loss suffered by the Company in the event of establishing that the cheques in question had been forged. As observed supra, it has now been proved that the cheques were forged. Therefore, the Central Bank of India has to abide by their undertaking. In view of the same, there shall be a direction to the 2nd respondent to make good the loss suffered by the petitioner and the sum of

Rs.1,07,35,908.30 shall be compensated to the petitioner, within a period of six weeks from the date of receipt of copy of the order.

12.This writ petition is disposed of with the above directions. No costs.

30.06.2025

Index : Yes/No
NCS : Yes/No
KP

To

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N.ANAND VENKATESH, J.

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