IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 07.08.2025	PRONOUNCED ON 07.10.2025

CORAM :

THE HON`BLE MR.JUSTICE K.KUMARESH BABU

A.No.2237 of 2024
in
C.S.No.4 of 2024

Axis Bank Limited,
New No.3, Old No.2,
Club House Road,
Anna Salai, Chennai – 600 002. …Applicant/ Defendant

vs.

Gympac Fitness systems Private Limited,
Represented by its
Director Mr.Manmohan Gupta,
Old No.7A, New No.15, Giri Road,
T.Nagar, Chennai – 600 017. … Respondent/ Plaintiff

For Applicant : Mr.Om Prakash
Senior Counsel
for Mr.V.V.Sivakumar

For Respondent : Mr.C.Manishankhar
Senior Counsel
for Ms.Chandini Pradeep Kumar

ORDER

The present application has been filed to reject the plaint of the plaintiff in C.S.No.4 of 2024 as being barred by law.

2. Heard Mr.Om Prakash, learned Senior Counsel for Mr.V.V.Sivakumar, learned counsel for the applicant and Mr.C.Manishankhar, learned Senior Counsel for Ms.Chandini Pradeep Kumar, learned counsel appearing on behalf of the respondent.

3. Mr.Om Prakash, learned Senior Counsel appearing for the applicant would submit that the applicant at the instance of the respondent had sanctioned a credit facilities to a tune of Rs.10 Crores to the respondent for the material supplied by the respondent to M/s.Talwalkars Better Value Fitness Limited (hereinafter referred to as "TBVFL").

4. Under Master letter dated 09.10.2017 as executed by the respondent and accepted by the TBVFL, the proforma invoice could be raised by the respondent upon TBVFL and upon acknowledgment made by the TBVFL and on submission of relevant documents, the applicant would disburse the loan to the respondent. In case of default in payment of the TBVFL, the recourse for payment falls upon the respondent as per the sanctioned letter dated

06.10.2017 as accepted by the respondent. The said Rs.10 Crores had been released in different tranches and is also admitted by the respondent in his plaint. As the TBVFL failed to adhere to the repayment schedule, a demand notice was also issued by the applicant to the respondent.

5. Originally an application was moved before the Debt Recovery Tribunal – II, Chennai for recovery of dues from the respondent and also had initiated Corporate Insolvency Resolution Process against the respondent before the National Company Law Tribunal (hereinafter referred to as "NCLT") invoking the Provisions of Section 7 of Insolvency and Bankruptcy Code (hereinafter referred to as "IBC"). The same came to be allowed on 01.07.2022. The respondent had not chosen to challenge the said order but however, approached the applicant for one time settlement on outstanding dues which was accepted by the applicant and as full and final settlement a sum of Rs.10 Crores was also paid by the respondent. In the light of the one time settlement, the account in the name of the respondent was closed as settled out of Court and withdrew the said proceedings initiated before NCLT. Thereafter, the present suit had been filed for various reliefs.

6. Learned Senior Counsel would submit that the present suit is barred by the Provisions of Section 63 & 231 of IBC. He would further submit that having failed to file an Appeal as against the order passed by the NCLT and having settled the loan, the respondents are claiming that the applicant had played fraud in obtaining the order before the NCLT. He would submit by application of Section 63 of IBC, no Civil Court or any other Authority could entertain a suit or proceedings which would fall within the realm of issues where the NCLT or NCALT has jurisdiction. Section 63 specifically excludes that Civil Courts jurisdiction in such issues.

7. Placing reliance on Section 231 he would contend that the Civil Courts jurisdiction is barred in any matter in which the adjudicating Authority or the Board is empowered by the IBC to pass any orders and that no injunction could be granted by any court or Authority in respect of any action taken in pursuance of any order passed by the adjudicating Authority or the Board. He would further submit that the NCLT has also been clothed with inherent powers to recall its order as held by the Hon'ble Apex Court in Civil Appeal No.4620 of 2023. He would submit that the NCLT is further clothed with powers to even punish a person who had fraudulently approached it to

meet its ends and therefore, he would pray this Court to reject the plaint.

8. Referring to the judgments reported in ***2020 (13) SCC 308***, the learned Senior Counsel would submit that the IBC is a Single Unified Umbrella Code covering the entire canopy of the law relating to the insolvency resolutions of corporate persons in a time bound manner. He would submit that the Hon'ble Apex Court had noted the *pre-trial* mechanism available in the Court and that any order passed by the NCLT is appealable to NCALT under Section 61 of IBC. Without filing an appeal and after having successfully removed the clout on it, the respondent had approached this Court. He would submit that if such procedure is allowed to be adopted, then the persons like the respondent would be filing such suits to wriggle out of their liability.

9. Further, relying upon the judgment of the Hon'ble Apex Court in the case of ***Greater Noida v. Prabhjit Singh Soni,*** reported in ***(2024) 6 SCC 767***, he would contend that the Hon'ble Apex Court had held that NCLT is vested with power to recall the orders even with the absence of a specific Provisions empowering the NCLT to recall its own order. Therefore, he would submit that on the strength of the same averments made in the suit, the respondent could

have approached the NCLT for recalling its order. Hence, he prays this Court to reject the plaint as being barred under law particularly the IBC.

10. Countering his arguments, Mr.C.Manishankhar, learned Senior Counsel appearing on behalf of the respondent would submit that the sanctioned letter that was executed was valid for a period of one year ending on 05.10.2018 and that the respondent had not subscribed to any renewal. However, it is the claim of the applicant that it had disbursed certain loan facilities in March, 2019 and without producing the actual bills to tax invoices such amount had been disbursed by the applicant for which the respondent cannot be held liable. He would submit that the renewal sanctioned letter dated 07.12.2018 had been fabricated at the ends of the applicant upon which they had approached the NCLT. He would further submit that on the date when the applicant had approached the NCLT, the respondent had Fixed Deposits to a tune of Rs.18 Crores. The respondent only in order to protect its interest and its future as it has internationally renowned customers had approached the applicant with the one time settlement or otherwise it would have affected its reputation and its businesses internationally. After the issues were resolved, on a thorough verification of records, it was found that TBVFL had submitted

certain documents which have been fabricated. He would submit that even the alleged renewal on 07.12.2018 had not been counter signed by the respondent and in the place where the respondent is alleged to have been signed, it is the signature of one of the Bank officials. He would further submit that when the suit itself was listed under the caption "for maintainability" as raised by the Registry on the very same issue, this Court had noted that the signature of the respondent to the bare eye was not the signature of the authorised representative of the respondent and same seems to have been forged.

11. The learned Senior Counsel for the respondent would further submit that the issue of fraud was raised before the NCLT and that the NCLT had not even considered such plea and an IRP was appointed and that the issue of fraud could only be gone into by this Court as raised in the plaint.

12. He would further submit that all these points were raised by the applicant during the hearing by this Court on the issues of maintainability and even the issue of non-availing the appellate remedy was also decided by this Court after seriously contested by the applicant and this Court had found that it

has jurisdiction to entertain the present suit and had directed the Registry to number the suit. He would submit that the liberty granted by this Court to the Defendant/ Bank to seek rejection of the plaint was only on the ground that if the applicant is able to show that the amounts were transferred under the Scheme pursuant to the so-called renewal sanctioned letter alone. He would submit that even as of this date, the applicant had not produced any renewal letter which has been counter signed by the respondent and whatever letter that had been produced by the applicant is only a letter where in the place of the respondent, one of the Officials of the Bank had signed. Therefore, he would submit that the application itself is wholly misconceived and therefore, prays this Court to reject the application.

13. In reply, Mr.Om Prakash, learned Senior Counsel appearing for the applicant would submit that the findings of this Court at the stage of maintainability cannot be binding on this Court and hence, prays this Court to independently decide the issue.

14. I have considered the submissions made by the learned Senior Counsels appearing on either side and perused the materials available on

record.

15. The primordial contention of the applicant is that the suit is barred by law particularly Provisions of Section 63 & 231 IBC. It is a well settled principle of law that a Civil Court can go into the question of fraud upon which a judgment, decree or an order had been obtained from any Court or Tribunal, even though, such Court is inferior to the Court which has passed the judgment and decree/ order.

16. It is true that the order passed by this Court at the stage of maintainability cannot be a binding precedent for this Court to reject the claim made by the applicant. But, however, from a perusal of the order of this Court passed at the stage of maintainability, it could be seen that this Court had considered various judgments of the Hon'ble Apex Court in coming to a conclusion that this Court had jurisdiction to deal with the suit. This Court had granted liberty to the applicant to seek rejection of the plaint if it is shown that the amounts transferred under the Scheme was pursuant to the so-called renewal sanctioned letter which is dated 07.12.2018.

17. The purported renewal letter dated 07.12.2018, had been filed before this Court by the respondent in A.No.179 of 2024. The said typed also contained the original sanctioned letter. The said letter had not been signed by anyone on behalf of the respondent, but, had been signed by the one Praveen Jaisinghani, who is the Relationship Manager and Amit Naik who is the DVP & Head both belonging to the applicant.

18. A copy of the very same letter was also found in the typed set in which the Amit Naik who has singed as DVP & Head of the applicant SME Centre had singed for the respondent. For better appreciation, both the said relevant letters are scanned and extracted hereunder:

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AXIS BANK

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Renewal Letter

Ref: SME/SCF/452A/2018-19

Date:07.12.2018

M/s. Gympac Fitness Systems Pvt Ltd (GFSPL)
7A Eashwar House, Giri Road,
T Nagar, Chennai,
Tamil Nadu 600017

Kind Attn.: Mr. Manmohan Gupta (Director)

Dear Sir,

Sub: Sanction of Vendor Financing limit under Talwalkar Better Value Fitness Limited scheme (TBVFL).

With reference to your request and our further discussion, we advise sanction of vendor finance limit under Vendor Financing scheme approved to Vendors/Suppliers of Talwalkars Better Value Fitness Ltd. (TBVFL) for their supplies to TBVFL with recourse on vendors of TBVFL subject to satisfactory compliance of the terms and conditions stipulated in the Appendix A enclosed herewith.

(Rs. In Cr)

Facility	Existing limit	Sanctioned limit
Vendor Financing under TBVFL scheme	10.00	10.00
Total	10.00	10.00

You are requested to return the duplicate copy of the sanction letter duly signed by the authorized signatories of the company to our Corporate Banking Branch (CBB)(Address: 1st floor, A Wing, Mittal Tower, Nariman Point, Mumbai-400021). Kindly be in touch with CBB Mumbai officials for completion of documentation and other related formalities for disbursement of credit facilities sanctioned.

Kindly note to get in touch with your Relationship Manager, Mr. Praveen Jaisinghani (Cell No.9768007090)/ Mr. Divyansh Gupta (Contact No.,022-22895123) for any further assistance in this regard.

Yours faithfully,

Praveen Jaisinghani
Relationship Manager-SCF

Amit Nayak
DVP & Head – SME Centre

For Gympac Fitness Systems Pvt Ltd

Authorized Signatory/Director

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AXIS BANK

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Ref: SME/SCF/452A/2018-19

Date:07.12.2018

M/s. Gympac Fitness Systems Pvt Ltd (GFSPL)
7A Eashwar House, Giri Road,
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Tamil Nadu 600017

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(Rs. In Cr)

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Kindly note to get in touch with your Relationship Manager, Mr. Praveen Jaisinghani (Cell No.9768007090)/ Mr. Divyansh Gupta (Contact No..022-22895123) for any further assistance in this regard.

Yours faithfully,

Praveen Jaisinghani
Relationship Manager-SCF

Amit Nayak
DVP & Head – SME Centre

We hereby acknowledge receipt of the original of the above letter and accept the offer contained therein and undertake to comply with the terms and conditions.

For Gympac Fitness Systems Pvt Ltd

Authorized Signatory/Director

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19. It is further to be noted that it is not disputed that the repayments have been made by the respondent pursuant to the amounts disbursed under the sanctioned letter dated 09.10.2017. What is claimed by the applicant is that the non payment of the amount disbursed during the year 2019, as tabulated by the applicant in the affidavit filed in support of this application, which is alleged to have been made on the strength of the renewal sanctioned dated 07.12.2018, which this Court had *prima facie* found that have not been accepted to by the respondent.

20. Further, this Court by referring to two judgments of the Hon'ble Apex Court had found that this Court had jurisdiction to deal with the suit. Hence, this Court finds no reasons to differ with the reasons attributed while deciding that the suit is maintainable before this Court to reject the plaint.

21. For the aforesaid reasons, this Court finds no merits in the application and accordingly, the same stands dismissed. However, there shall be no order as to costs.

07.10.2025

Index : Yes / No
Internet :Yes / No
Gba

K.KUMARESH BABU.J.,

Gba

Pre-Delivery Order in
A.No.2237 of 2024
in
C.S.No.4 of 2024

07.10.2025