

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

MONDAY, THE NINTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HON'BLE SRI JUSTICE C. V. BHASKAR REDDY

WRIT PETITION NO: 24576 OF 2024

Between:

Mr. M. Suresh Kumar Reddy, (Suspended Director of M/s Kranthi Edifice Private Limited) S/O. M. Prathap Reddy. Aged about 42 Years, 3-5-784/2/8/A, Sri Sai Heights, Opp- Pardagate, King Koti, Hyderabad - 500 029.

...PETITIONER

AND

1. Union of India, Rep. by its Secretary. Ministry of Finance, Government of India. North Block, Central Secretariat, New Delhi -110001
2. Canara Bank, (formerly Syndicate Bank) Stressed Assets Management Branch, -104. First Floor, Golden Edifice Complex. Khairatabad, Hyderabad - 500 004.
3. The Assistant General Manager, Stressed Assets Management Branch. -104. First Floor, Golden Edifice Complex. Khairatabad, Hyderabad - 500 004.
4. M/s. Kranthi Edifice Private Limited, Represented by its Resolution Professional Ms. Kalpana G (1 B BI/IPA-001/IP-P00756/2017-201 8/11288) Having its registered office at 3-5-784/2/8/A, Sri Sai Heights, OPP- Pardagate, King Koti. Hyderabad - 500 029

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus, to declare the action of the respondent No. 2 and 3 in not accepting the proposal for rehabilitation and restructuring of existing SOD by considering the representation dt. 08.08.2024, 17.12.2020, 11.09.2020, 19.10.2019, 18.10.2019, 19.08.2019, 17.08.2019, 09.08.2019, 05.08.2019, 29.07.2019, 22.07.2019 and 05.07.2019 as illegal, arbitrary, unconstitutional, unreasonable and in violation of the fundamental rights of the Petitioner, more particularly Article 14 and 19(1)(g) of the Constitution of India, violative of Master Directions of the RBI dt. 21.07.2016 and against all settled principles of law and consequently set aside the declaration of the account of the respondent No. 4 company as non-performing asset on 06.08.2018, by directing the respondent No. 2 and 3 to accept the proposal for rehabilitation and restructuring of existing SOD

by considering the representations dt. 08.08.2024, 17.12.2020, 11.09.2020, 19.10.2019, 18.10.2019, 19.08.2019, 17.08.2019, 09.08.2019, 05.08.2019, 29.07.2019, 22.07.2019 and 05.07.2019

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondent No. 2 and 3 to rehabilitate and restructure the existing SOD by considering the representations dt. 08.08.2024, 17.12.2020, 11.09.2020, 19.10.2019, 18.10.2019, 19.08.2019, 17.08.2019, 09.08.2019, 05.08.2019, 29.07.2019, 22.07.2019 and 05.07.2019, pending disposal of the main writ petition

IA NO: 2 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to Stay all further proceedings pursuant to declaration of account of the respondent No. 4 company as Non-Performing asset on 06.08.2018, pending disposal of the main writ petition

**Counsel for the Petitioner: SRI B. CHANDRASEN REDDY, SENIOR COUNSEL
FOR SRI BASA CHANAKYA**

**Counsel for Respondents: SRI GADI PRAVEEN KUMAR
Dy. SOLICITOR GEN. OF INDIA**

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE C.V.BHASKAR REDDY

WRIT PETITION NO.24576 of 2024

ORDER:

This Writ Petition is filed seeking the following relief:

"....to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus to declare the action of the respondent Nos.2 and 3 in not accepting the proposal for rehabilitation and restructuring of existing SOD by considering the representation dated 08.08.2024, 17.12.2020, 11.09.2020, 19.10.2019, 18.10.2019, 19.08.2019, 17.08.2019, 09.08.2019, 05.08.2019, 29.07.2019, 22.07.2019 and 05.07.2019 as illegal, arbitrary, unconstitutional, unreasonable and in violation of the fundamental rights of the Petitioner more particularly Articles 14 and 191g of the Constitution of India violative of Master Directions of the RBI, dated 21.07.2016 and against all settled principles of law and consequently set aside the declaration of the account of the respondent No.4 company as nonperforming asset on 06.08.2018 by directing the respondent Nos.2 and 3 to accept the proposal for rehabilitation and restructuring of existing SOD by considering the representations dated 08.08.2024, 17.12.2020, 11.09.2020, 19.10.2019, 18.10.2019, 19.08.2019, 17.08.2019, 09.08.2019, 05.08.2019, 29.07.2019, 22.07.2019 and 05.07.2019...."

2. Considered the submissions of the learned counsel for the respective parties and perused the record.

3. It is stated that the petitioner herein is the suspended Director of respondent No.4-Company, which is incorporated under the provisions of the Companies Act, 2013 vide registration No.TS-02-0077644, dated 11.05.2021, having its registered office at premises No.3-5-784/2/8/A, Sri Sai Heights, Opp: Pardagate, King Koti, Hyderabad and also registered under the provisions of the Micro, Small and Medium Enterprises

Development Act, 2006 (for short "the Act") *vide* its Udayam registration No.UDYAM-TS-02-0077644, dated 18.05.2012 and it has been running infrastructure business for the last 35 years and the company also involved in executing several important irrigation projects in both the States of Andhra Pradesh and Telangana. It is the further case of the petitioner that respondent No.4 has availed credit card facilities from respondent No.2 bank to the tune of Rs.12.00 Crores towards working capital limit (fund based) and Rs.110.00 Crores towards bank guarantee limit (non-fund based) and has also maintained a fixed deposit of Rs.11.00 Crores i.e., 10% of the bank guarantee limit as security/margin money for the bank guarantee limits and to ensure that respondent No.2-Bank is protected in case of any unwarranted and unforeseen invocation of bank guarantees. It is the further case of the petitioner that in the year 2018 due to an albeit wrongful invocation of bank guarantees by a beneficiary to the tune of Rs.8.40 Crores respondent No.2 bank issued demand drafts in favour of the beneficiary. As a consequence of the wrongful invocation, respondent No.4 converted the non-fund liability of Rs.8.40 Crores into a fund based liability of Rs.8.40 Crores, pursuant to which respondent No.4 momentarily defaulted on the working

capital limits. Therefore, respondent No.4-company has been classified as NPA on 06.08.2018. It is the further case of the petitioner that he has submitted several representations before respondent Nos.2 and 3 for rehabilitation and restructuring of existing SOD. The grievance of the petitioner is that even after receiving the said representations, respondent Nos.2 and 3 are not accepting the proposal of rehabilitation and restructuring of existing SOD.

4. Sri B.Chandrasen Reddy, learned Senior Counsel appearing for the petitioner has submitted that as on the date of classification of respondent No.4 company as NPA, the company is liable only an amount of Rs.20.37 Crores and is entitled for the benefits of restructuring of the loan facilities as per the Master Directions of the RBI, dated 21.07.2016.

5. Clause 4.8 of the Master Directions of the RBI, dated 21.07.2016 reads as follows:

“4.8 Framework for Revival and Rehabilitation of MSMEs:

The Ministry of Micro, Small and Medium Enterprises, Government of India, vide their Gazette Notification dated May 29, 2015 had notified a 'Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises' to provide a simpler and faster mechanism to address the stress in the accounts of MSMEs and to facilitate the promotion and development of MSMEs. The Reserve Bank was advised to issue necessary instructions to banks for effective implementation and monitoring of the said Framework. After carrying out certain

changes in the captioned Framework in consultation with the Government of India, Ministry of MSME so as to make it compatible with the existing regulatory guidelines on 'Income Recognition, Asset Classification and provisioning pertaining to Advances' issued to banks by RBI, the guidelines on the captioned Framework along with operating instructions were issued to banks on March 17, 2016. The revival and rehabilitation of MSME units having loan limits up to Rs.25 crore would be undertaken under this Framework. Banks were required to put in place their own Board approved policy to operationalize the Framework not later than June 30, 2016. The revised Framework supersedes our earlier Guidelines on Rehabilitation of Sick Micro and Small Enterprises issued vide our **circular RPCD. CO. MSME & NFS.BC.40/06.02.31/2012-2013 dated November 1, 2012**, except those relating to Reliefs and Concessions for Rehabilitation of Potentially Viable Units and One Time Settlement, mentioned in the said circular.

The salient features of the Framework are as under:

- i) Before a loan account of an MSME turns into a Non-Performing Asset (NPA), banks or creditors should identify incipient stress in the account by creating three sub-categories under the Special Mention Account (SMA) category as given in the Framework;
- ii) Any MSME borrower may also voluntarily initiate proceedings under this Framework;
- iii) Committee approach to be adopted for deciding corrective action plan and
- iv) Time lines have been fixed for taking various decisions under the Framework"

6. As per the said Directions, before a loan account of an MSME turns into a Non-Performing Asset (NPA), banks or creditors should identify incipient stress in the account by creating three sub-categories under the Special Mention Account (SMA) category as given in the Framework.

7. The case of the petitioner is that respondent No.4 is entitled for restructuring of the loan facility in terms of Clause 4.8 of the said directions and the respondent Nos.2 and 3 without taking into consideration of the said directions are proceedings under the provisions of the Insolvency and Bankruptcy Code, 2016.

8. Learned Senior Counsel appearing for the petitioner placed reliance on the judgment of the Hon'ble Supreme Court in Special Leave Petition (C) No.7898 of 2024, dated 01.08.2024, wherein at paragraph No.18 it is observed that *"the instructions/directions issued by the Central Government under Section 9 of the Act and by the RBI under Sections 21 and 35A of the Act have statutory force and are binding to all the banking companies."*

9. In view of the above observations made by the Apex Court in S.L.P.(C) No.7898 of 2024 that all the instructions issued by the RBI are binding on all the banks, this Court is of the opinion that the ends of justice would be met, if respondent No.2 is directed to consider the representation, dated 08.08.2024 submitted by the petitioner in terms of the Master Directions of the RBI, dated 21.07.2016 and pass appropriate orders therein in accordance with law within a period of four (4)

weeks from the date of receipt of a copy of this order and communicate the same to the petitioner. Till such time, the respondents are directed not to take coercive steps against the petitioner.

10. With the above observations, the Writ Petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

SD/- MOHD. ISMAIL
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Secretary. Ministry of Finance, Union of India. North Block, Central Secretariat, New Delhi -110001
2. The Canara Bank, (formerly Syndicate Bank) Stressed Assets Management Branch, -104. First Floor, Golden Edifice Complex. Khairatabad, Hyderabad - 500 004.
3. The Assistant General Manager, Stressed Assets Management Branch. -104. First Floor, Golden Edifice Complex. Khairatabad, Hyderabad - 500 004.
4. One CC to Sri Basa Chanakya Advocate [OPUC]
5. One CC to Sri Gadi Praveen Kumar, Deputy Solicitor General of India [OPUC]
6. Two CD Copies

MBC
PSK

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HIGH COURT

DATED: 09/09/2024



ORDER

WP.No.24576 of 2024

DISPOSING OF WRIT PETITION

WITHOUT COSTS

8 Copies

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22/10/24