IN THE DEBTS RECOVERY TRIBUNAL II, KARNATAKA AT BENGALURU

Dated this 30th Day of October, 2024

Present: Sri. Imtiaz Ali
Hon'ble Presiding Officer (I/C)

OA. No.909/2023

BETWEEN:

Canara Bank
Jayalakshmipuram Branch,
Branch at NO.6, Temple Street,
Jayalakshmipuram, Mysore-570012.
Represented by its Chief Manager,
Mrs. Usha K K ...**APPLICANT**

AND:.

M/s. Saipriya Industries
By its Proprietrix,
Mrs. Shanthishekar,
W/o M. Somashekhar,
Aged about 56 years,
No.83, F5A, 5th Main,
3rd cross, SJH Road,
Vidyaranyapuram,
Mysore-570014.

And also at, Sy.No.191/1,
Katha No.412, Gundlupet,
Chamarajnagar-571111.

And also R/at, No.403,
"Sankalpa Basant",
Akkamahadevi Road,
Industrial Suburd,
Mysore-570008. **...DEFENDANT**

Counsel on record/appeared for:

Applicant	: Sri. Prakasha Hedge K
Defendant	: Sri. G. Gangaswamy

FINAL ORDER

The present Original Application (OA) is filed on 01.02.2023 under section 19 of Recovery of Debts and Bankruptcy Act 1993 for recovery of a sum of Rs.1,53,61,926.33 (Rupees one crore fifty three lakh sixty one thousand nine hundred and twenty six and thirty three only) with further interest thereon from the date of filing the Application till realization from the Defendant.

2. The application filed is within the period of limitation as prescribed under Section 24 Recovery of the Debts and Bankruptcy Act 1993 and the subject recovery claim falls within the jurisdiction of this Hon'ble Tribunal.

Brief facts of the case:

3. It is the case of the applicant bank where in the Defendant as Prorietrix of M/s. Saipriya Industries as borrowers had approached the applicant bank seeking for OCC Loan (MSME) of Rs.50,00,000/- (Rupees fifty lakh only) through an application dated 01.08.2019 for purpose of business. After, considering the request of the Defendant, the applicant bank sanctioned an OCC Loan (MSME) of Rs.50,00,000/- (Rupees fifty lakh only) vide sanction letter dated 09.07.2019 in Loan A/c Nos. 0566261010923 along with interest @ 10.75% p.a. in respect of the said loan.

4. Further, the Defendant had approached the applicant bank seeking for Term Loan of Rs.53,00,000/- (Rupees fifty three lakh only) through an application dated 09.07.2019 for purpose of business. After, considering the request of the Defendant, the applicant bank sanctioned an Term Loan

of Rs.53,00,000/- (Rupees fifty three lakh only) vide sanction letter dated 09.07.2019 in Loan A/c Nos. 0566768000255 along with interest @ 11.65% p.a. in respect of the said loan.

5. Further, the Defendant had approached the applicant bank seeking for WCDL Loan of Rs.5,00,000/- (Rupees five lakh only) through an application dated 27.04.2020 for purpose of business. After, considering the request of the Defendant, the applicant bank sanctioned an WCDL Loan of Rs.5,00,000/- (Rupees five lakh only) vide sanction letter dated 27.04.2020 in Loan A/c Nos. 0566753000041 along with interest @ 7.30% p.a. in respect of the said loan.

6. Further, the Defendant had approached the applicant bank seeking for GECL Loan of Rs.14,30,000/- (Rupees fourteen lakh thirty thousand only) through an application dated 11.06.2020 for purpose of business. After, considering the request of the Defendant, the applicant bank sanctioned an GECL Loan of Rs.14,30,000/- (Rupees fourteen lakh thirty thousand only) vide sanction letter dated 11.06.2020 in Loan A/c Nos. 0566755000030 along with interest @ 9.25% p.a. in respect of the said loan.

7. Further, the Defendant had approached the applicant bank seeking for Working Capital Term Loan of Rs.4,00,000/- (Rupees four lakh thirty thousand only) through an application dated 19.06.2021 for purpose of business. After, considering the request of the Defendant, the applicant bank sanctioned an Working Capital Term Loan of Rs.4,00,000/- (Rupees

four lakh thirty thousand only) vide sanction letter dated 19.06.2021 in Loan A/c Nos. 0566717000020 along with interest @ 9.25% p.a. in respect of the said loan.

8. The defendants executed necessary loan documents in favour of the applicant bank as security for the due repayment of the loans, interest, cost and charges, and the Defendants executed Pronote dated 01.08.2019 & 27.04.2020 and Common Hypothecation Agreement dated 01.08.2019 and Supplemental Agreement dated 27.04.2020 and Offer Letter for (GECL) dated 11.06.2020 & 19.06.2021 and Undertaking Letter and Agreement Cum Hypothecation Deed dated 11.06.2020 & 19.06.2021 and Memorandum of Deposit of Title Deed dated 28.06.2019, which was registered as Document No. GUN-1-05272-2019-20, Book No.1, stored in CD No.GUND263 on 30.07.2019 before the Sub-Registrar Gundlupet in respect of all loans in favour of the Applicant Bank.

9. The Applicant Bank submits that the Defendant, after availing the said facilities, failed to repay the loan amount and committed default. The loan account of the Defendant had been classified as a Non Performing Asset (NPA) on 29.09.2021 and the Applicant Bank issue a Legal Notice dated 27.08.2022 calling upon the defendant to repay the entire outstanding loan amount. However, there was no positive response from the Defendant. Hence, this Original Application (OA) has been filed to recover the dues from the Defendant.

10. After the filing of the OA, summons was sent to the Defendant through Registered Post with Acknowledgment Due the same is duly served and entered appearance through counsel Sri. G. Gangadhar by filling Vakalath, but did not file the written statement in spite of opportunity, hence Written Statement of Defendant was closed on 09.08.2024. When OA was taken up on 09.08.2024 even after giving sufficient time, there was no appearance or representation from the Defendant;

Heard the submissions of Applicant Bank and perused the records.

11. To prove the case of the Applicant Bank, Sri. Dayananda N S/o Nanjudaiah G, Senior Manager, has filed Affidavit by way of evidence and same was considered as evidence of AW.1 and marked as Ex.A1, the list of Document came to be marked as Ex.A2 and documents came to be marked as Ex.A3 to A27. As the Defendants remained ex-parte, the OA claim remains unchallenged. There is no contra evidence available on record to repudiate the claim of the Applicant Bank.

12. Having regard to the amount advanced, the interest applied, the conduct and operations in the account and the default committed, this Tribunal comes to the conclusion that the applicant bank is entitled to a final order on the following terms:

: O R D E R:

13. The OA is allowed with costs,

(a) The applicant bank is allowed to recover from Defendant an amount of Rs.1,53,61,926.33 (Rupees one crore fifty three lakh sixty one thousand nine hundred twenty six and thirty three only) consisting of:

i. A sum of Rs.65,64,564.72 (Rupees sixty five lakh sixty four thousand five hundred and sixty four and Paise seventy two only) in Loan A/c No.0566261010923 along with interest @ 12.75% p.a. from 31.12.2022 and till the date of realization.

ii. A sum of Rs.68,60,933.61 (Rupees sixty eight lakh sixty thousand nine hundred and thirty three and Paise sixty one only) in Loan A/c No.0566768000255 along with interest @ 13.65% p.a. from 26.12.2022 and till the date of realization.

iii. A sum of Rs.2,32,785/- (Rupees two lakh thirty two thousand seven hundred and eighty five only) in Loan A/c No.0566753000041 along with interest @ 9.30% p.a. from 28.12.2022 and till the date of realization.

iv. A sum of Rs.15,36,105/- (Rupees fifteen lakh thirty six thousand one hundred and five only) in Loan A/c No.0566755000030 along with interest @ 11.25% p.a. from 18.12.2022 and till the date of realization.

v. A sum of Rs.1,67,538/- (Rupees one lakh sixty seven thousand five hundred and thirty eight only) in Loan A/c No.0566717000020 along with interest @ 11.25% p.a. from 18.12.2022 and till the date of realization.

(b) In the event of failure of the Defendant to pay the aforesaid amount, the bank is at liberty to recover the amount by sale of the schedule mentioned property in the OA;

(c) Schedule mentioned property in the OA shall be appended to this final order;

(d) If the sale proceeds of the schedule mentioned properties are not sufficient to satisfy the dues as ordered above, the applicant bank is at liberty to sell the personal assets of the defendants (both movable and immovable) respectively to recover the balance dues as required under law;

(e) The applicant bank shall file the latest memo of calculation of OA amount together with interest, costs etc., to be paid by the defendants duly considering the amounts, if any, paid by the defendant and/or amount realized by sale of assets etc., during the intervening period after the filing of the OA, enabling the Registry to prepare Recovery Certificate for the amount to be paid by the respective defendants to the applicant bank.

(f) The applicant bank shall file memo of costs within ten days from the date of this final order.

(g) Recovery Certificate shall be drawn up and issued to the Recovery Officer in terms of the final order.

(h) Interim Application pending if any, stands disposed of with this Final Order.

10. A copy of this order be communicated to the parties concerned.

[Dictated to the (CS), transcribed by her, corrected and signed by me on this the 30th Day of October 2024].

(Imtiaz Ali)
PRESIDING OFFICER (I/c)
DRT-II, BENGALURU

ANNEXURES

WITNESSES EXAMINED FOR THE APPLICANT BANK:

AW-1: Sri. Dayananda N S/o Nanjudaiah G, Senior Manager, of Applicant Bank.

Exhibits on the part of the Applicant:

Exhibit Nos.	Particulars of Documents
A1	Applicant Evidence
A2	List of Documents.
A3	Loan Application dated 01.08.2019
A4	Sanction Letter dated 09.07.2019
A5	Pronote dated 01.08.2019
A6	Common Hypothecation Agreement dated 01.08.2019
A7	Loan Application dated 27.04.2020
A8	Sanction Letter dated 27.04.2020
A9	Pronote dated 27.04.2020
A10	Supplemental Agreement dated 27.04.2020
A11	Loan Application dated 11.06.2020
A12	Sanction Letter dated 11.06.2020
A13	Offer Letter for (GECL) dated 11.06.2020

A14	Undertaking Letter dated 11.06.2020
A15	Agreement Cum Hypothecation Deed dated 11.06.2020
A16	Loan Application dated 19.06.2021
A17	Sanction Letter dated 19.06.2021
A18	Offer Letter for (GECL) dated 19.06.2021
A19	Agreement Cum Hypothecation Deed dated 19.06.2021
A20	Memorandum of Deposit of Title Deeds dated 10.07.2019
A21	Statement of Account No.0566261010923
A22	Statement of Account No.0566768000255
A23	Statement of Account No.0566753000041
A24	Statement of Account No.0566755000030
A25	Statement of Account No.0566717000020
A26	Legal Notice dated 27.08.2022
A27	Postal Receipt and Returned Postal Cover and Acknowledgement.

Witness Examined for the Defendant: **-Nil -**

List of Documents Exhibited for the Defendant: **-Nil -**

SCHEDULE PROPERTY

(Property owned by Shanthashekar)

All that piece and parcel of Property in respect of Industrial converted property bearing No.150800201600420010, as per 'Gram Panchayath Records Property No.412', measuring East to West 170.9 meters and North to South 33.68 meters in total 5648.16 sq.ft. situated at Hirikati Village, Horeyala Grama Panchayath Limits, Begur Hobli, Gundlupet Taluk, Chamarajanagara District, Karnataka., bounded on:

East by: N.H. 212 B.N. Road,
West by: Land in Sy.No.190,
North by: Land in Sy.No.192,
South by: Land in Sy.No.191/2.

HYPOTHECATION

Hypothecated of Machinery and Stocks

Automatic fly ash brick and hallow/solid block making machine-15 HP Motor Pump HP Gear Box for conveyer Belt, Pan mixture machine of 500 kg capacity fitted with gear box and 15 HP motor, conveyer system to carry mixture from pan mixture to machine with gear box and Hydrolic pallet trolley, wheel barrows 16x8x6 solid block die, paver block die pallet stacker.

30.10.24

(Imtiaz Ali)
PRESIDING OFFICER (I/c)
DRT-II, BENGALURU