

"C.R"

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRAN

&amp;

THE HONOURABLE MR. JUSTICE BASANT BALAJI

THURSDAY, THE 4<sup>TH</sup> DAY OF JANUARY 2024/14<sup>TH</sup> Pousha, 1945WA NO. 327 OF 2021AGAINST THE JUDGMENT DATED 27.01.2021 IN WP(C).NO.174 OF  
2021 OF HIGH COURT OF KERALAAPPELLANT/1<sup>ST</sup> RESPONDENT:

THE SOUTH INDIAN BANK LTD.  
MARKET ROAD BRANCH, ERNAKULAM PIN-682 011,  
REPRESENTED BY CHIEF MANAGER, DRT CELL, ERNAKULAM,  
MR. PRAMOD KUMAR MENON K.N.

BY ADVS.  
SUNIL SHANKER  
VIDYA GANGADHARAN

RESPONDENT/S:

- 1 PARTHAS TEXTILES  
P.B. NO. 1774, M.G. ROAD, JOSE JUNCTION, ERNAKULAM-682  
016, REPRESENTED BY ITS MANAGING PARTNER, PRAVEEN RAJ  
RAJENDRAN.
- 2 THE RESERVE BANK OF INDIA,  
21<sup>ST</sup> FLOOR, CENTRAL OFFICE, BUILDING, SHAHID BHAGAT  
SINGH ROAD, MUMBAI-400 001, REPRESENTED BY ITS CHIEF  
GENERAL MANAGER.
- 3 UNION OF INDIA,  
MINISTRY OF HOME AFFAIRS, NORTH BLOCK, NEW DELHI-110  
001, REPRESENTED BY ITS SECRETARY.  
BY ADVS.  
GEORGE POONTHOTTAM (SR.) (K/000570/1979) FOR R1  
T.K.VIPINDAS FOR R1  
K.V.SREE VINAYAKAN FOR R1

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 20.10.2023  
AND THE COURT ON 04.01.2024, DELIVERED THE FOLLOWING:

"C.R"**JUDGMENT****Anil K. Narendran, J.**

This appeal is one filed by the 1<sup>st</sup> respondent in W.P.(C)No.174 of 2021, invoking the provisions under Section 5 of the Kerala High Court, Act, 1958 challenging the judgment of the learned Single Judge dated 27.01.2021 in that writ petition, which was filed by the 1<sup>st</sup> respondent herein - Parthas Textiles (borrower), invoking the writ jurisdiction of this Court under Article 226 of the Constitution of India seeking a writ of mandamus commanding the appellant - South Indian Bank Ltd., to consider Exts.P12 and P13 representations 11.12.2020 and 21.12.2020 made by the 1<sup>st</sup> respondent borrower for One-Time Restructuring and Two Years of Moratorium. The further relief sought for was a declaration that in the light of Ext.P3 circular No.RBI/2020-21/16 dated 06.08.2020 and Ext.P4 circular No.RBI/2020-21/34 dated 07.09.2020 on Resolution Framework for Covid-19 related Stress - Financial Parameters issued by the 2<sup>nd</sup> respondent - Reserve Bank of India, the 1<sup>st</sup> respondent borrower is entitled to a resolution framework for Covid-19 related stress and for implementation of a resolution plan, by one-time restructuring and providing two years moratorium, in respect of the various financial facilities enjoyed by it with the appellant Bank.



1.1. On behalf of the appellant Bank, a statement has been filed by the learned Standing Counsel, reiterating the stand taken in Ext.P14 communication dated 01.01.2021, whereby the request made by the 1<sup>st</sup> respondent borrower in Exts.P12 and P13 representations stands rejected. In Ext.P14, the appellant informed the 1<sup>st</sup> respondent borrower that considering the facts stated therein the account cannot be included under the restructuring framework related to Covid-19 stress. In Ext.P14, it was pointed out that, as on that date, there is an overdue of Rs.1,26,02,430.80 in the accounts of the 1<sup>st</sup> respondent, which is to be cleared before 12.01.2020 to avoid slipping of the accounts to NPA. Even prior to the issuance of Ext.P14, based on Exts.P5 and P6 representations dated 12.10.2020 and 22.10.2020 made by the 1<sup>st</sup> respondent, which was followed by Ext.P7 representation dated 23.10.2020, the appellant, vide Ext.P8 communication dated 04.11.2020, informed the 1<sup>st</sup> respondent that, considering the facts the accounts cannot be included under the restructuring policy framework related to Covid-19 stress since the two criteria mentioned therein are not satisfied. Thereafter, the 1<sup>st</sup> respondent submitted Ext.P9 representation dated 12.11.2020 to which the appellant sent Ext.P11 communication dated 18.11.2020 pointing out that stress in the account has been



identified during the credit reviews in the account during the previous three years and hence the same cannot be included in the provisions of the restructuring package. Moreover, the achievement of the other key ratios (ISCR, Total debt to EBDITA ratio) projected by the firm is also not justified.

1.2. Before the learned Single Judge, the appellant Bank reiterated the stand taken in Ext.P14 communication. According to the appellant, Exts.P1 to P4 circulars are issued only towards the resolution framework of Covid-19. Ext.P4 circular lays down the financial parameters with sector-specific benchmark ranges. Such parameters are to be factored in the resolution plans with respect to the borrowers eligible under Part B of the Annexure to the resolution framework. Annexure to Ext.P3 provides that the lending institutions are to ensure that such facility is provided only to the borrowers having stress on account of Covid-19. As per para.3 of Ext.P4 circular, it is mandatory for lending institutions to consider the key ratios detailed therein while finalising the resolution plans. In the case of the 1<sup>st</sup> respondent borrower, there was an inherent stress in its account since the financial year 2017-18 and the stress was not on account of Covid-19. Further, the 1<sup>st</sup> respondent has already been granted a facility of Emergency Credit Line Guarantee Scheme (ECLGS) by extending a loan of



Rs.5.87 Crores and Funded Interest Term Loan for interest under Covid-19 moratorium, rescheduling payment for the year.

1.3. In the impugned judgment, the learned Single Judge noticed that the reason stated by the appellant Bank for denying the benefit of the circulars to the 1<sup>st</sup> respondent borrower is that the stress is not on account of Covid-19 and only two key ratios out of 4 in Ext.P4 are complied with. After considering the provisions in Exts.P3 and P4 circulars, the learned Single Judge found that in the case of the 1<sup>st</sup> respondent, the appellant did not consider whether there is any stress on account of Covid-19. In cases, where Covid-19 impact has aggravated the stress, the diminishing trend in profit coupled with Covid-19 impact can also be a ground for stress on that account. In that view of the matter, the learned Single Judge held that the benefit provided under circulars Exts.P1 to P4 cannot be denied in cases where the impact of Covid-19 is also a reason for stress or when it has aggravated the stress, provided the account continues to be standard as on the relevant date, as the condition that there is stress on account of Covid-19 pandemic would be satisfied. When it is admitted that there is stress and the account continues to be standard as on 01.03.2020, the diminishing trend in the annual financial statement by itself does not exclude the 1<sup>st</sup> respondent from the



definition of an eligible borrower.

1.4. On the contention advanced by the appellant Bank that the 1<sup>st</sup> respondent borrower satisfied only two key criteria out of 4 in Ext.P4 circular, the learned Single Judge found that as per para.8 of Ext.P4 circular all the 4 key ratios need to be attained only by 31.03.2022. The learned Single Judge noticed that the appellant had not taken any steps for a resolution plan, apparently because it excluded the 1<sup>st</sup> respondent from the category of eligible borrower. No Board approved policy has also been put in place, as required in para.4 of Ext.P3 circular and para.3 of its annexure, for the implementation of viable resolution plans. Hence no steps are taken for inter-creditor agreements or any other requirement for implementation of the resolution under the framework.

1.5. Before the learned Single Judge, the appellant Bank contended that the lending institutions are permitted to opt for ratios which are higher and lower than the standards prescribed. The learned Single Judge noticed that as per Para.8 of Ext.P4 circular, the key ratios except Total Outside Liabilities/Adjusted Tangible Net Worth (TOL/ATNW) need to be maintained by 31.03.2022. In the case of the 1<sup>st</sup> respondent borrower, admittedly Total Outside Liabilities/Adjusted Tangible Net Worth is complied



with. However, the case of the 1<sup>st</sup> respondent was not considered because of pre-existed stress even with a standard account. The learned Single Judge noticed that Exts.P1 to P4 circulars are issued by the 2<sup>nd</sup> respondent Reserve Bank of India for facilitating the revival of real sector activities and to ensure the continuity of viable business by mitigating the impact of stress on the borrowers. Therefore, the lending institutions have to take steps for extending the benefits conferred under those schemes in the correct perspective taking note of the intention behind the scheme. Since the appellant has not considered the request of the 1<sup>st</sup> respondent having regard to the purpose for which the circulars are issued, the learned Single Judge, by the impugned judgment dated 27.01.2021, directed the appellant to reconsider the application of the 1<sup>st</sup> respondent and to pass fresh orders, taking note of the observations contained in that judgment, within a period of two weeks. Feeling aggrieved by the judgment of the learned Single Judge, the appellant Bank filed this appeal.

1.6. On 15.02.2021, when this appeal came up for admission, this Court admitted the matter on file. The 1<sup>st</sup> respondent borrower entered appearance through counsel. This Court granted an interim order staying the directions issued in the judgment dated 27.01.2021 in W.P.(C)No.174 of 2021.



1.7. On 10.06.2021, when this writ appeal came up for consideration, it was noticed that the first relief sought for in the writ petition is a writ of mandamus commanding the appellant Bank to consider Exts.P12 and P13 representations submitted by the 1<sup>st</sup> respondent borrower afresh, in the light of Exts.P3 and P4 circulars, within a time frame stipulated by this Court. The request made by the 1<sup>st</sup> respondent in Exts.P12 and P13 has already been declined vide Ext.P14 communication dated 01.01.2021. In the writ petition, Ext.P14 is not under challenge. The learned counsel for the 1<sup>st</sup> respondent sought an adjournment. Accordingly, the matter was adjourned to 15.06.2021, by directing the appellant to take out notice to the 2<sup>nd</sup> respondent Reserve Bank of India by e-mail, returnable by 15.06.2021. On 29.07.2021, when this writ appeal came up for further consideration, this Court passed the following order;

"As per Registry's note, service is not completed on respondents 2 and 3. However, Mr. C. Ajith Kumar, learned Counsel for the 1<sup>st</sup> respondent submitted that interim stay is operating against the interest of the said respondent and therefore, prays for hearing. Mr.Sunil Shankar, learned Counsel for the appellant submitted that, service would be completed within a short period of time. It is made clear that, if service is not completed as submitted, this Court would be constrained to pass appropriate order in the





interim application for stay.”

1.8. On 12.05.2023 the 1<sup>st</sup> respondent borrower has filed I.A.No.2 of 2023, an application to accept Annexures R1(a) to R1(c) as additional documents. The document marked as Annexure R1(a) is a copy of notice dated 01.06.2021 issued by the appellant-Bank under Section 13(2) of the SARFAESI Act, 2002. On 19.09.2023 the 1<sup>st</sup> respondent filed I.A.No.4 of 2023 seeking an order to accept Annexure R1(d) assignment agreement dated 28.09.2021 between South Indian Bank and the Asset Reconstruction Company (India) Ltd. as an additional document.

1.9. Though the matter was heard and reserved for judgment on 26.06.2023, by the order dated 13.09.2023 of the Division Bench headed by the Hon'ble the Chief Justice, it was directed to be listed before the Special Bench consisting of one among us [Basant Balaji, J.]. Accordingly, the matter was listed before us on 19.09.2023. After detailed arguments on 21.09.2023, 09.10.2023 and 20.10.2023 the writ appeal was reserved for judgment.

2. The learned counsel for the appellant Bank contended that the learned Single Judge went wrong in directing the Bank to reconsider the application made by the 1<sup>st</sup> respondent borrower for restructuring policy framework related to Covid-19 stress and



pass fresh orders taking note of the observations contained in that judgment. The circulars issued by the 2<sup>nd</sup> respondent Reserve Bank of India deal with resolution framework for Covid-19 related stress. That resolution framework was announced by the Reserve Bank of India, whereby resolution under that facility was extended to borrowers having stress on account of Covid-19 pandemic, when it was noticed that the economic stress on account of Covid-19 pandemic has led to significant stress for the borrowers, and the resultant stress can potentially impact the long-term viability of many firms, otherwise having a good track record under the existing promoters, due to their debt burden becoming disproportionate to their cash flow generation abilities. In the case of the 1<sup>st</sup> respondent borrower, it was under severe stress even before Covid-19 pandemic period. The significant financial stress faced by the 1<sup>st</sup> respondent had potentially impacted its long-term viability even before Covid-19 pandemic period. Since the financial parameters of the 1<sup>st</sup> respondent [Total Debt/Earnings Before Interest, Taxes, Depreciation, and Amortisation (EBDITA)] did not comply with the norms stipulated by the 2<sup>nd</sup> respondent Reserve Bank of India, the 1<sup>st</sup> respondent is not eligible to be considered for restructuring. As per Ext.P4 circular, the Total Debt/Earnings Before Interest, Taxes, Depreciation, and Amortisation, which was



required at less than or equal to 6, was 8.24 in the case of the 1<sup>st</sup> respondent, as on 31.03.2019, and the interest coverage ratio, which was to be greater or equal to 1.70, was only 1.13 as on that date. The conclusion of the learned Single Judge that those ratios need to be attained only by 31.03.2022 is legally unsustainable. Para.8 of Ext.P4 circular is applicable only upon the resolution plan of the borrower being accepted by the lending institution. The financial parameters to be complied with as per Para.8 are the financial parameters as stipulated in the resolution plan and not contained in the circular which is the minimum parameters to be complied with for consideration of the restructuring proposal. The learned Single Judge failed to consider the claim made by the 1<sup>st</sup> respondent with reference to Paras.3 to 7 of Ext.P4 circular. Para.8 does not state that even if the borrower is ineligible on account of not meeting the key criteria, he becomes eligible for restructuring in case the stress is not Covid-related. Para.9 stipulates that compliance with the agreed ratios is to be monitored as financial covenants on an ongoing basis. The very purpose of the circular is to regulate the financial institutions in the matter of restructuring and by laying down the parameters thereof. The appellant Bank cannot restructure the loans where the borrower's ratios do not comply with the minimum standards in terms of ratios prescribed



by the 2<sup>nd</sup> respondent Reserve Bank of India.

2.1. On the other hand, the learned Senior Counsel for the 1<sup>st</sup> respondent borrower would contend that in cases where Covid-19 impact has aggravated the stress, the diminishing trend in profit coupled with Covid-19 impact can also be a ground for stress on that account. The learned Single Judge rightly found that as per Para.8 of Ext.P4 circular all the 4 key ratios need to be satisfied by the 1<sup>st</sup> respondent only by 31.03.2022. Since the appellant Bank failed to consider the request of the 1<sup>st</sup> respondent, having regard to the purpose for which the circulars were issued by the 2<sup>nd</sup> respondent Reserve Bank of India, the learned Single Judge directed the appellant to reconsider the application of the 1<sup>st</sup> respondent and pass fresh orders, taking note of the observations contained in that judgment, within the time limit stipulated in that judgment. The reasoning of the learned Single Judge in the impugned judgment is neither perverse nor patently illegal warranting an interference in this appeal. The learned Senior Counsel pointed out that, during the pendency of this appeal, the appellant initiated coercive steps against the 1<sup>st</sup> respondent, invoking the provisions under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act).



2.2. The learned Standing Counsel for the appellant Bank pointed out the orders passed by a learned Single Judge of this Court in O.P.(DRT)No.441 of 2022, arising out of the proceedings in S.A.No.519 of 2022, on the file of the Debt Recovery Tribunal, Ernakulam.

3. Exts.P1 to P4 circulars issued by the 2<sup>nd</sup> respondent Reserve Bank of India deal with regulatory measures to mitigate the burden of debt servicing due to disruptions on account of Covid-19 pandemic.

4. Circular DOR.No.BP.BC.47/21.04.048/ 2019-20 dated 27.03.2020:- Ext.P1 circular dated 27.03.2020 issued by the Reserve Bank of India refers to 'Statement on Developmental and Regulatory Policies' released on 27.03.2020 where, *inter alia*, certain regulatory measures were announced to mitigate the burden of debt servicing brought about by disruptions on account of Covid-19 pandemic and to ensure the continuity of viable business. The said Statement sets out various developmental and regulatory policies that directly address the stress in financial conditions caused by Covid-19. The opening paragraph of that press release reads thus;

"This Statement sets out various developmental and regulatory policies that directly address the stress in



financial conditions caused by Covid-19. They consist of: (i) expanding liquidity in the system sizeably to ensure that financial markets and institutions are able to function normally in the face of Covid-related dislocations; (ii) reinforcing monetary transmission so that bank credit flows on easier terms are sustained to those who have been affected by the pandemic; (iii) easing financial stress caused by Covid-19 disruptions by relaxing repayment pressures and improving access to working capital; and (iv) improving the functioning of markets in view of the high volatility experienced with the onset and spread of the pandemic. The policy initiatives in this section should be read in conjunction with the MPC's decision on monetary policy actions and stance in its resolution." (underline supplied)

4.1. Ext.P1 circular dated 27.03.2020 issued by the Reserve Bank of India contains detailed instructions on rescheduling of payments - term loans and working capital facilities; easing of working capital financing; classification as Special Mention Account (SMA) and Non-Performing Asset (NPA); etc. Para.2 of Ext.P1 circular provides that in respect of all term loans (including agricultural term loans, retail and crop loans), all commercial banks (including regional rural banks, small finance banks and local area banks), co-operative banks, all-India financial institutions, and NBFCs (including housing finance companies) ('lending institutions') are permitted to grant a moratorium of three months on payment of all instalments falling due between



01.03.2020 and 31.05.2020. The repayment schedule for such loans as also the residual tenor, will be shifted across the board by three months after the moratorium period. Interest shall continue to accrue on the outstanding portion of the term loans during the moratorium period. As per Para.3 of Ext.P1 circular, in respect of working capital facilities sanctioned in the form of cash credit/overdraft (CC/OD), lending institutions are permitted to defer the recovery of interest applied in respect of all such facilities during the period from 01.03.2020 up to 31.05.2020 ('deferment'). The accumulated accrued interest shall be recovered immediately after the completion of this period.

4.2. Para.4 of Ext.P1 circular provides that, in respect of working capital facilities sanctioned in the form of cash credit/overdraft to borrowers facing stress on account of the economic fallout of the pandemic, lending institutions may recalculate the 'drawing power' by reducing the margins and/or by reassessing the working capital cycle. This relief shall be available in respect of all such changes effected up to 31.05.2020 and shall be contingent on the lending institutions satisfying themselves that the same is necessitated on account of the economic fallout from Covid-19. Further, accounts provided relief under these instructions shall be subject to subsequent supervisory review



with regard to their justifiability on account of the economic fallout from Covid-19.

4.3. Para.5 of Ext.P1 circular dated 27.03.2020 provides that, since the moratorium/deferment/recalculation of the 'drawing power' is being provided specifically to enable the borrowers to tide over economic fallout from Covid-19, the same will not be treated as concession or change in terms and conditions of loan agreements due to financial difficulty of the borrower under Para.2 of the Annexure to the Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions, 2019 dated 07.06.2019 ('Prudential Framework'). Consequently, such a measure, by itself, shall not result in asset classification downgrade. Para.7 of Ext.P1 circular dated 27.03.2020 provides that, the rescheduling of payments, including interest, will not qualify as a default for the purposes of supervisory reporting and reporting to Credit Information Companies (CICs) by the lending institutions. Credit Information Companies shall ensure that the actions taken by lending institutions pursuant to the above announcements do not adversely impact the credit history of the beneficiaries. Para.8 of Ext.P1 circular provides that lending institutions shall frame Board approved policies for providing the abovementioned reliefs to all eligible borrowers, inter alia,





including the objective criteria for considering reliefs under Para.4 above and disclosed in the public domain.

5. Circular DOR.No.BP.BC.63/21.04.048/2019-20 dated 17.04.2020:- Ext.P1 circular dated 27.03.2020 was followed by circular dated 17.04.2020 issued by the Reserve Bank of India, referring to the Governor's statement of 17.04.2020 announcing certain additional regulatory measures aimed at alleviating the lingering impact of Covid-19 pandemic on the businesses and financial institutions in India, consistent with the globally coordinated action committed by the Basel Committee on Banking Supervision. The circular dated 17.04.2020 contains detailed instructions with regard to asset classification under the prudential norms on Income Recognition, Asset Classification (IRAC); and provisioning. Para.2 of the circular dated 17.04.2020 states that in terms of the circular dated 27.03.2020, (Regulatory Package), the lending institutions were permitted to grant a moratorium of three months on payment of all term loan instalments falling due between 01.03.2020 and 31.05.2020 (moratorium period). As such, in line with the clarification provided by the Basel Committee on Banking Supervision, in respect of all accounts classified as standard as on 29.02.2020, even if overdue, the moratorium period, wherever granted, shall



be excluded by the lending institutions from the number of days past-due for the purpose of asset classification under the norms on Income Recognition, Asset Classification.

5.1. Para.3 of the circular dated 17.04.2020 states that, similarly in respect of working capital facilities sanctioned in the form of cash credit/overdraft, the Regulatory Package permitted the recovery of interest applied during the period from 01.03.2020 up to 31.05.2020 to be deferred (deferment period). Such deferment period, wherever granted in respect of all facilities classified as standard, including Special Mention Account, as on 29.02.2020, shall be excluded for the determination of out of order status. Para.5 of the circular dated 17.04.2020 provides that, in respect of accounts in default but standard where provisions of paragraphs (2) and (3) above are applicable, and asset classification benefit is extended, lending institutions shall make general provisions of not less than 10 per cent of the total outstanding of such accounts, to be phased over two quarters as under: (i) quarter ended 31.03.2020 - not less than 5 per cent; (ii) quarter ending 30.06.2020 - not less than 5 per cent.

6. Circular DOR.No.BP.BC.71/21.04.048/2019-20 dated 23.05.2020:- Circular dated 17.04.2020 was followed by Ext.P2



circular dated 23.05.2020 issued by the 2<sup>nd</sup> respondent Reserve Bank of India, referring to the Governor's statement of 22.05.2020 announcing the intensification of Covid-19 disruptions has imparted priority to relaxing repayment pressures and improving access to working capital by mitigating the burden of debt servicing, prevent the transmission of financial stress to the real economy, and ensure the continuity of viable businesses and households. Ext.P2 circular contains detailed instructions regarding rescheduling of payments - term loans and working capital facilities; and easing of working capital financing.

6.1. On rescheduling of payments - term loans and working capital facilities, Para.2 of Ext.P2 circular dated 23.05.2020 states that, in view of the extension of lockdown and continuing disruption on account of Covid-19, all commercial banks (including regional rural banks, small finance banks and local area banks), co-operative banks, all-India financial institutions, and non-banking financial companies (including housing finance companies) ('lending institutions') are permitted to extend the moratorium by another three months, i.e., from 01.06.2020 to 31.08.2020 on payment of all instalments in respect of term loans (including agricultural term loans, retail and crop loans). Accordingly, the repayment schedule for such loans as also the



residual tenor, will be shifted across the board. Interest shall continue to accrue on the outstanding portion of the term loans during the moratorium period. Para.3 of Ext.P2 circular states that, in respect of working capital facilities sanctioned in the form of cash credit/overdraft, lending institutions are permitted to allow a deferment of another three months, from 01.06.2020 to 31.08.2020, on recovery of interest applied in respect of all such facilities. Lending institutions are permitted, at their discretion, to convert the accumulated interest for the deferment period up to 31.08.2020, into a Funded Interest Term Loan (FITL), which shall be repayable not later than 31.03.2021.

6.2. On easing of working capital financing, Para.4 of Ext.P2 circular dated 23.05.2020 states that, in respect of working capital facilities sanctioned in the form of cash credit/overdraft to borrowers facing stress on account of the economic fallout of the pandemic, lending institutions may, as a one-time measure, (i) recalculate the 'drawing power' by reducing the margins till 31.08.2020. However, in all such cases where such a temporary enhancement in drawing power is considered, the margins shall be restored to the original levels by 31.03.2021; and/or (ii) review the working capital sanctioned limits up to 31.03.2021, based on a reassessment of the working capital cycle. Para.5 of Ext.P2



circular states that, the above measures shall be contingent on the lending institutions satisfying themselves that the same is necessitated on account of the economic fallout from Covid-19. Further, accounts provided relief under these instructions shall be subject to subsequent supervisory review with regard to their justifiability on account of the economic fallout from Covid-19.

6.3. Para.7 of Ext.P2 circular dated 23.05.2020 states that, the conversion of accumulated interest into Funded Interest Term Loan, as permitted in terms of Para.3, and the changes in the credit terms permitted to the borrowers to specifically tide over economic fallout from Covid-19 in terms of Para.4, will not be treated as concessions granted due to financial difficulty of the borrower, under Para.2 of the Annexure to the Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions, 2019 dated 07.06.2019 ('Prudential Framework'), and consequently, will not result in asset classification downgrade.

6.4. Para.8 of Ext.P2 circular dated 23.05.2020 states that, in respect of accounts classified as standard as on 29.02.2020, even if overdue, the moratorium period, wherever granted in respect of term loans, shall be excluded by the lending institutions from the number of days past-due for the purpose of asset classification under the norms on Income Recognition, Asset



Classification. The asset classification for such accounts shall be determined on the basis of revised due dates and the revised repayment schedule. Para.9 of Ext.P2 circular states that, similarly, in respect of working capital facilities sanctioned in the form of cash credit/overdraft, where the account is classified as standard, including Special Mention Account, as on 29.02.2020, the deferment period, wherever granted in terms of Para.3 shall be excluded for the determination of out of order status. Para.10 of Ext.P2 circular states that, all other provisions of Ext.P1 circular dated 27.03.2020 and the circular dated 17.04.2020 shall remain applicable mutatis mutandis.

7. Circular DOR.No.BP.BC/3/21.04.048/2020-21 dated 06.08.2020:- The 2<sup>nd</sup> respondent Reserve Bank of India issued Ext.P3 dated 06.08.2020 on resolution framework for Covid-19 related stress. Para.2 of Ext.P3 circular states that the economic fallout on account of the Covid-19 pandemic has led to significant financial stress for borrowers across the board. The resultant stress can potentially impact the long-term viability of many firms, otherwise having a good track record under the existing promoters, due to their debt burden becoming disproportionate relative to their cash flow generation abilities. Such a widespread impact could impair the entire recovery process, posing significant



financial stability risks. Para.3 of Ext.P3 circular states that, considering the above, with the intent to facilitate the revival of real sector activities and mitigate the impact on the ultimate borrowers, it has been decided to provide a window under the 'Prudential Framework' to enable the lenders to implement a resolution plan in respect of eligible corporate exposures without change in ownership and personal loans, while classifying such exposures as standard, subject to specified conditions. The details of the facility are given in the Annexure to Ext.P3 circular.

7.1. It is made clear in Para.4 of Ext.P3 circular dated 06.08.2020 that, the lending institutions shall ensure that the resolution under this facility is extended only to borrowers having stress on account of Covid-19. Further, the lending institutions will be required to assess the viability of the resolution plan, subject to the prudential boundaries laid out in the Annexure. Towards this end, each lending institution shall put in place a Board approved policy detailing the manner in which such evaluation may be done and the objective criteria that may be applied while considering the resolution plan in each case.

7.2. Para.5 of Ext.P3 circular states that, accounts which do not fulfill the required eligibility conditions to be considered for resolution under this framework may continue to be considered



for resolution under the 'Prudential Framework' or the relevant instructions as applicable to a specific category of lending institutions where the 'Prudential Framework' is not applicable. Para.6 of Ext.P3 Circular states that, while the 'Prudential Framework' is otherwise not applicable to certain categories of lending institutions to which this circular is addressed, exposures of these lending institutions shall also be included for any resolution under this facility. Consequently, without prejudice to the specific conditions applicable to this facility, all the norms applicable to the implementation of a resolution plan, including the mandatory requirement of Inter-Creditor Agreements (ICA) and specific implementation conditions, as laid out in the 'Prudential Framework' shall be applicable to all lending institutions for any resolution plan implemented under this facility. Terms used in this document, to the extent not defined herein, shall have the same meaning assigned to them in the 'Prudential Framework'.

7.3. The Annexure to Ext.P3 circular dated 06.08.2020 contains the conditions for the 'Resolution Framework' for Covid-related stress. Para.1 of the Annexure states that the framework shall be applicable to eligible borrowers - corporate persons or otherwise - subject to the conditions specified therein. Part A of





the Annexure pertains to requirements specific to the resolution of personal loans and Part B to the resolution of other eligible borrowers. Part C prescribes the prudential treatment of exposures in respect of which resolution plans are implemented under this facility, while Part D lists the disclosure requirements for the lending institutions with respect to the resolution plans implemented under the framework. For this purpose, lending institution shall mean the entities to which the covering circular is addressed.

7.4. Para.3 of the Annexure to Ext.P3 circular dated 06.08.2020 provides that the lending institutions shall frame Board approved policies pertaining to the implementation of viable resolution plans for eligible borrowers under this framework, ensuring that the resolution under this facility is provided only to the borrowers having stress on account of Covid-19. The Board approved policy shall, *inter alia*, detail the eligibility of borrowers in respect of whom the lending institutions may be willing to consider the resolution, and shall lay down the due diligence considerations to be followed by the lending institutions to establish the necessity of implementing a resolution plan in respect of the concerned borrower.

7.5. Para.12 of the Annexure to Ext.P3 circular dated



06.08.2020 states that, Part 'B' shall be applicable to all other eligible exposures of lending institutions not covered in Part 'A' (resolution of stress in personal loans). Para.13 of the Annexure provides that only those borrower accounts shall be eligible for resolution under this framework, which were classified as standard but not in default for more than 30 days with any lending institution as on 01.03.2020. Further, the accounts should continue to remain standard till the date of invocation. Para.16 of the Annexure provides that resolution under this framework may be invoked not later than 31.12.2020 and must be implemented within 180 days from the date of invocation.

7.6. Para.23 of the Annexure to Ext.P3 circular dated 06.08.2020 provides that, the Reserve Bank shall constitute a Committee which shall recommend a list of financial parameters which, in their opinion would be required to be factored into the assumptions that go into each resolution plan, and the sector-specific benchmark ranges for such parameters. The parameters shall *inter alia* cover aspects related to leverage, liquidity, debt serviceability, etc. The Committee shall be called the Expert Committee. Para.24 of the Annexure provides that the Expert Committee shall submit such a list of financial parameters and the sector-specific desirable ranges for such parameters to the



Reserve Bank, which, in turn, will notify the same, along with modifications, if any, within 30 days.

7.7. Para.27 of the Annexure to Ext.P3 circular dated 06.08.2020 provides that, the resolution plan may involve any action as provided in Para.13 of the 'Prudential Framework', except compromise settlements which shall continue to be governed by the provisions of the 'Prudential Framework' or the relevant instructions, if any, applicable to a specific category of lending institutions where the Prudential Framework is not applicable. The resolution plan may also include sanctioning of additional credit facilities to address the financial stress of the borrower on account of Covid-19 even if there is no renegotiation of existing debt.

8. Circular DOR.No.BP.BC/13/21.04.048/2020-21 dated 07.09.2020:- In terms of Paras.23 and 24 of the Annexure to Ext.P3 circular dated 06.08.2020, the Reserve Bank of India set up an Expert Committee, which submitted its recommendations on 04.09.2020, which were broadly accepted by the Reserve Bank. Accordingly, the 2<sup>nd</sup> respondent Reserve Bank of India issued Ext.P4 circular dated 07.09.2020, whereby it was directed that all lending institutions shall mandatorily consider the key ratios in Ext.P4 circular while finalising the resolution plans in respect of eligible borrowers under Part B of the Annexure to the 'Resolution



Framework'. Para.3 of Ext.P4 circular reads thus;

3. Accordingly, all lending institutions shall mandatorily consider the following key ratios while finalizing the resolution plans in respect of eligible borrowers under Part B of the Annex to the Resolution Framework:

Key Ratio	Definition
Total Outside Liabilities / Adjusted Tangible Net Worth (TOL/ATNW)	Addition of long-term debt, short-term debt, current liabilities and provisions along with deferred tax liability divided by tangible net worth net of the investments and loans in the group and outside entities.
Total Debt / EBITDA	Addition of short-term and long-term debt divided by addition of profit before tax, interest and finance charges along with depreciation and amortisation.
Current Ratio	Current assets divided by current liabilities
Debt Service Coverage Ratio (DSCR)	For the relevant year addition of net cash accruals along with interest and finance charges divided by addition of current portion of long-term debt with interest and finance charges.
Average Debt Service Coverage Ratio (ADSCR)	Over the period of the loan addition of net cash accruals along with interest and finance charges divided by addition of current portion of long-term debt with interest and finance charges.

8.1. Para.4 of Ext.P4 circular states that the sector-specific thresholds (ceilings or floors, as the case may be) for each of the above key ratios that should be considered by the lending institutions in the resolution assumptions with respect to an eligible borrower, are given in the Annexure. In respect of those sectors where the sector-specific thresholds have not been specified, lending institutions shall make their own internal



assessments regarding TOL/ATNW and Total Debt/EBITDA. However, the current ratio and DSCR in all cases shall be 1.0 and above, and ADSCR shall be 1.2 and above. Annexure to Ext.P4 circular, which deals with the sector-specific thresholds in respect of the Textiles sector, reads thus;

#### Annexure

Sector-specific thresholds (ceilings or floors, as applicable) of key ratios for 26 sectors

Sectors	TOL / ATNW	Total Debt/ EBITDA	Current Ratio	Average DSCR	DSCR
xxx	xx	xx	xx	xx	xx
Textiles	<=3.50	<=5.50	>=1.00	>=1.20	>=1.00
xxx	xx	xx	xx	xx	xx

8.2. Para.5 of Ext.P4 circular states that lending institutions are free to consider other financial parameters as well while finalising the resolution assumptions in respect of eligible borrowers apart from the above mandatory key ratios and the sector-specific thresholds that have been prescribed. The above requirements are applicable even in cases when there is only one lending institution with exposure to an eligible borrower. Para.6 of Ext.P4 circular provides that the ratios prescribed in Para.4 are intended as floors or ceilings, as the case may be, but the resolution plans shall take into account the pre-Covid-19 operating and financial performance of the borrower and the impact of



Covid-19 on its operating and financial performance at the time of finalising the resolution plan, to assess the cashflows in subsequent years, while stipulating appropriate ratios in each case.

8.3. Para.7 of Ext.P4 circular states that, given the differential impact of the pandemic on various sectors/entities, the lending institutions may, at their discretion, adopt a graded approach depending on the severity of the impact on the borrowers, while preparing or implementing the resolution plan. Such a graded approach may also entail the classification of the impact on the borrowers into mild, moderate and severe, as recommended by the Committee.

8.4. Para.8 of Ext.P4 circular provides that, lending institutions are expected to ensure compliance to Total Outside Liabilities/Adjusted Tangible Net Worth (TOL/ATNW) agreed as per the resolution plan at the time of implementation itself. Nevertheless, in all cases, this ratio shall have to be maintained as per the resolution plan by 31.03.2022 and on an ongoing basis thereafter. However, wherever the resolution plan envisages equity infusion, the same may be suitably phased-in over this period. All other key ratios shall have to be maintained as per the resolution plan by 31.03.2022 and on an ongoing basis thereafter.



Para.9 of Ext.P4 circular states that, the compliance in regard to meeting the agreed ratios must be monitored as financial covenants on an ongoing basis, and during subsequent credit reviews. Any such breach not rectified within a reasonable period, in terms of the loan contract, will be considered as financial difficulty.

9. As already noticed hereinbefore, Ext.P1 circular dated 27.03.2020 issued by the 2<sup>nd</sup> respondent Reserve Bank of India refers to 'Statement on Developmental and Regulatory Policies' released on 27.03.2020, which, *inter alia*, deals with regulatory measures which were announced to mitigate the burden of debt servicing brought about by disruptions on account of Covid-19 pandemic and to ensure the continuity of viable business. The said statement sets out various developmental and regulatory policies that directly address the stress in financial conditions caused by Covid-19, which consists of the matters enumerated in clauses (i) to (iv) of the opening paragraph of the press release made on 27.03.2020.

10. Para.2 of Ext.P1 circular dated 27.03.2020 provides for the grant of a moratorium of three months on payment of all instalments falling due between 01.03.2020 and 31.05.2020, in respect of all term loans. Para.3 of the said circular permits lending



institutions to defer the recovery of interest applied in respect of working capital facilities sanctioned in the form of cash credit/overdraft during the period from 01.03.2020 up to 31.05.2020. Para.4 of the said circular provides for recalculation of 'drawing power' by the lending institutions, by reducing the margins and/or by reassessing the working capital cycle, in respect of working capital facilities sanctioned in the form of cash credit/overdraft, to borrowers facing stress on account of the economic fallout of the pandemic. Para.4 makes it explicitly clear that while extending the relief, lending institutions shall satisfy themselves that the same is necessitated on account of the economic fallout from Covid-19. Further, such a relief extended shall be subject to subsequent supervisory review with regard to its justifiability on account of the economic fallout from Covid-19.

11. The Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions, 2019 dated 07.06.2019 ('Prudential Framework') provides a principle-based resolution framework for addressing borrower defaults under a normal scenario. Any resolution plan implemented under the guidelines of 'Prudential Framework' which involves granting of any concession on account of the financial difficulty of the borrower entails an asset classification downgrade, except when it is accompanied by





a change in ownership, which allows the asset classification to be retained as or upgraded to Standard, subject to the prescribed conditions.

12. However, Para.5 of Ext.P1 circular dated 27.03.2020 provides that, since the moratorium/deferment/recalculation of the 'drawing power' is being provided specifically to enable the borrowers to tide over economic fallout from Covid-19, the same will not be treated as concession or change in terms and conditions of loan agreements due to financial difficulty of the borrower under Para.2 of the Annexure to the Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions, 2019 dated 07.06.2019. Consequently, such a measure, by itself, shall not result in asset classification downgrade.

13. Further, Para.7 of Ext.P1 circular dated 27.03.2020 provides that, the rescheduling of payments, including interest, will not qualify as a default for the purposes of supervisory reporting and reporting to Credit Information Companies by the lending institutions. As per Para.8 of Ext.P1 circular, lending institutions shall frame Board approved policies for providing the above-mentioned reliefs to all eligible borrowers [i.e., to borrowers facing stress on account of the economic fallout of Covid-19 pandemic], *inter alia*, including the objective criteria for



considering reliefs under Para.4 and disclose in the public domain.

14. Ext.P1 circular dated 27.03.2020 was followed by circular dated 17.04.2020 issued by the 2<sup>nd</sup> respondent Reserve Bank of India, referring to the Governor's statement of 17.04.2020 announcing certain additional regulatory measures aimed at alleviating the lingering impact of Covid-19 pandemic on the businesses and financial institutions in India, consistent with the globally coordinated action committed by the Basel Committee on Banking Supervision, which contains detailed instructions with regard to asset classification under the prudential norms on Income Recognition, Asset Classification; and provisioning.

15. The circular dated 17.04.2020 was followed by Ext.P2 circular dated 23.05.2020. Para.3 of Ext.P2 circular provides for the conversion of accumulated interest into Funded Interest Term Loan and Para.4 provides for changes in the credit terms. Para.4 of Ext.P2 circular makes it explicitly clear that the recalculation of the 'drawing power' and the review of sanctioned working capital provided in the said para is applicable only to borrowers facing stress on account of the economic fallout of the pandemic. While extending the relief, lending institutions shall satisfy themselves that the same is necessitated on account of the economic fallout from Covid-19. Further, such a relief extended shall be subject to



subsequent supervisory review with regard to its justifiability on account of the economic fallout from Covid-19.

16. Para.7 of Ext.P2 circular dated 23.05.2020 provides that, the conversion of accumulated interest into Funded Interest Term Loan, as permitted in terms of Para.3, and the changes in the credit terms permitted to the borrowers to specifically tide over economic fallout from Covid-19 in terms of Para.4, will not be treated as concessions granted due to financial difficulty of the borrower, under Para.2 of the Annexure to the Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions, 2019 dated 07.06.2019 ('Prudential Framework'), and consequently, will not result in asset classification downgrade.

17. Ext.P2 circular dated 23.05.2020 was followed by Ext.P3 circular dated 06.08.2020. In Para.2 of Ext.P3 circular, it is stated that the economic fallout on account of the Covid-19 pandemic has led to significant financial stress for borrowers across the board. The resultant stress can potentially impact the long-term viability of many firms, otherwise having a good track record under the existing promoters, due to their debt burden becoming disproportionate relative to their cash flow generation abilities. Para.3 of Ext.P3 circular provides a window under the 'Prudential Framework' to enable the lenders to implement a



resolution plan in respect of eligible corporate exposures without change in ownership and personal loans, while classifying such exposures as standard, subject to specified conditions.

18. Annexure to Ext.P3 circular contains the conditions for the 'Resolution Framework' for Covid-related stress. Para.4 of Ext.P3 circular makes it explicitly clear that the lending institutions shall ensure that the resolution under this facility is extended only to borrowers having stress on account of Covid-19. Further, the lending institutions will be required to assess the viability of the resolution plan, subject to the prudential boundaries laid out in the Annexure. As per Para.1 of the Annexure, the framework shall be applicable to eligible borrowers - corporate persons or otherwise - subject to the conditions specified therein. As per Para.3 of the Annexure, the lending institutions shall frame Board approved policies pertaining to the implementation of viable resolution plans for eligible borrowers under this framework, ensuring that the resolution under this facility is provided only to the borrowers having stress on account of Covid-19. Para.3 makes it explicitly clear that the Board approved policy shall, *inter alia*, detail the eligibility of borrowers in respect of whom the lending institutions may be willing to consider the resolution, and shall lay down the due diligence considerations to be followed by the



lending institutions to establish the necessity of implementing a resolution plan in respect of the concerned borrower.

19. As per Para.13 of the Annexure to Ext.P3 circular, only those borrower accounts shall be eligible for resolution under this framework, which were classified as standard but not in default for more than 30 days with any lending institution as on 01.03.2020. Further, the accounts should continue to remain standard till the date of invocation. As per Para.16, resolution under this framework may be invoked not later than 31.12.2020 and must be implemented within 180 days from the date of invocation.

20. In terms of Para.23 of the Annexure to Ext.P3 circular, the 2<sup>nd</sup> respondent Reserve Bank of India constituted an Expert Committee to recommend a list of financial parameters, which would be required to be factored into the assumptions that go into each resolution plan, and the sector-specific benchmark ranges for such parameters, inter alia covering aspects related to leverage, liquidity, debt serviceability, etc. As provided under Para.24, the Expert Committee submitted a list of financial parameters and the sector-specific desirable ranges for such parameters to the Reserve Bank of India, which was broadly accepted by the Reserve Bank. Accordingly, the Reserve Bank issued Ext.P4 circular dated



07.09.2020, whereby it was directed that all lending institutions shall mandatorily consider the key ratios in Para.3 of that circular while finalising the resolution plans in respect of eligible borrowers under Part B of the Annexure to the 'Resolution Framework'. As per Para.4 of that circular, the sector-specific thresholds (ceilings or floors, as the case may be) for each of the key ratios in Para.3 that should be considered by the lending institutions in the resolution assumptions with respect to an eligible borrower, are given in the Annexure. Sector-specific thresholds of key ratios for the Textiles sector are as follows;

TOL / ATNW	Total Debt/ EBITDA	Current Ratio	Average DSCR	DSCR
<=3.50	<=5.50	>=1.00	>=1.20	>=1.00

21. In the instant case, the 1<sup>st</sup> respondent borrower was under severe stress even before Covid-19 pandemic period. There was an inherent stress in the account of the 1<sup>st</sup> respondent since the year 2017-18, which was not on account of Covid-19 pandemic. The 1<sup>st</sup> respondent has already been granted facility under Emergency Credit Line Guarantee Scheme, by extending a loan of Rs.5.87 Crores and Funded Interest Term Loan for interest under Covid moratorium, rescheduling payment for the year. The 1<sup>st</sup> Respondent had an estimated sales of Rs.37.00 Crores and a



profit of Rs.0.79 Crores for the financial year 2019-20, during last renewal against which the Cash Credit facility of Rs.14.00 Crores was allowed. As against this, as per the audited financials submitted by the 1<sup>st</sup> respondent, the actual sales achieved during the financial year 2019-20, (i.e., before the Covid-19 pandemic period) is only Rs.22.43 Crores. The 1<sup>st</sup> respondent has incurred losses as per audited figures for the financial year 2019-20. Therefore, the significant financial stress faced by the 1<sup>st</sup> respondent had potentially impacted its long-term viability even before Covid-19 pandemic period.

22. Para.4 of Ext.P3 circular makes it explicitly clear that the lending institutions will be required to assess the viability of the resolution plan, subject to the prudential boundaries laid out in the Annexure. Based on the recommendation of the Expert Committee, on the sector-specific benchmark ranges for financial parameters, which would be required to be factored into the assumptions that go into each resolution plan, the 2<sup>nd</sup> respondent Reserve Bank of India issued Ext.P4 circular dated 07.09.2020, whereby it was directed that all lending institutions shall mandatorily consider the key ratios in Para.3 of that circular while finalising the resolution plans in respect of eligible borrowers [i.e., borrowers facing stress on account of the economic fallout of



Covid-19 pandemic] under Part B of the Annexure to the 'Resolution Framework'.

23. Exts.P1 to P4 circulars issued by the 2<sup>nd</sup> respondent Reserve Bank of India deal with resolution framework for Covid-19 related stress. That resolution framework was announced by the Reserve Bank of India, whereby resolution under that facility was extended to borrowers having stress on account of Covid-19 pandemic, when it was noticed that the economic stress on account of Covid-19 pandemic has led to significant stress for the borrowers, and the resultant stress can potentially impact the long-term viability of many firms, otherwise having a good track record under the existing promoters, due to their debt burden becoming disproportionate to their cash flow generation abilities.

24. A reading of the provisions contained in the aforesaid circulars would make it explicitly clear that the reliefs provided thereunder are intended to borrowers facing stress on account of the economic fallout of Covid-19 pandemic. While extending the reliefs, the lending institutions shall satisfy themselves that the same is necessitated on account of the economic fallout from Covid-19. Further such reliefs extended shall be subject to subsequent supervisory review with regard to its justifiability on account of the economic fallout from Covid-19. A plain reading of





the provisions in the aforesaid circulars would not support the case of the 1<sup>st</sup> respondent borrower that the reliefs provided thereunder can be extended to a borrower with pre-existing stress in the account, which has been aggravated on account of the economic fallout from Covid-19.

25. As per the provisions contained in the Reserve Bank of India (Prudential Framework for Resolution of Stressed Asst) Directions, 2019 any resolution plan implemented under the guidelines of 'Prudential Framework' which involves granting of any concession on account of financial difficulty of the borrower entails an asset classification downgrade, except when it is accompanied by a change in ownership, which allows the asset classification to be retained as or upgraded to standard, subject to the prescribed conditions. The reliefs in Exts.P1 to P3 circulars are provided specifically to enable the borrowers to tide over the economic fallout from Covid-19. Therefore, it is provided in Exts.P1 to P3 circulars that the reliefs granted in terms of those circulars will not be treated as concession or change in terms and conditions of loan agreements due to financial difficulty of the borrower under Para.2 of the Annexure to Reserve Bank of India (Prudential Framework for Resolution of Stressed Asst) Directions, 2019. Consequently, such a measure, by itself, shall not result in



asset classification downgrade. Such a provision has been made in the resolution framework announced in Exts.P1 to P3 circulars, when the Reserve Bank of India noticed that the economic stress on account of Covid-19 pandemic has led to significant stress for the borrowers, and the resultant stress can potentially impact the long-term viability of many firms, otherwise having a good track record under the existing promoters, due to their debt burden becoming disproportionate to their cash flow generation abilities. Such a benefit cannot be extended to a borrower like the 1<sup>st</sup> respondent, as it was under severe stress even before Covid-19 pandemic period, which had potentially impacted its long-term viability even before Covid-19 pandemic period.

26. In the absence of any specific provision in the resolution framework announced in Exts.P1 to P4 circulars, the learned Single Judge went wrong in holding that the benefit provided in those circulars cannot be denied in cases where the impact of Covid-19 pandemic is also a reason for stress or when it has aggravated the stress, provided the account continues to be standard as on the relevant date. Since the 1<sup>st</sup> respondent was under severe stress even before Covid-19 pandemic period, which had potentially impacted its long-term viability even before Covid-19 pandemic period, the said respondent is not entitled to the



reliefs provided in the resolution framework announced in Exts.P1 to P4 circulars, which are provided specifically to enable the borrowers to tide over the economic fallout from Covid-19 pandemic. Therefore, the learned Single Judge ought to have declined the reliefs sought for in W.P.(C)No.174 of 2021.

27. In the above circumstances, we find no reason to sustain the impugned judgment dated 27.01.2021 of the learned Single Judge in W.P.(C)No.174 of 2021.

In the result, the writ appeal is allowed, by setting aside the impugned judgment dated 27.01.2021 of the learned Single Judge. Consequently, W.P.(C)No.174 of 2021 filed by the 1<sup>st</sup> respondent will stand dismissed.

Sd/-

**ANIL K. NARENDRAN, JUDGE**

Sd/-

**BASANT BALAJI, JUDGE**



APPENDIX OF WA 327/2021

**RESPONDENT ANNEXURES**

- Annexure R1 (a)** . TRUE COPY OF THE DEMAND NOTICE UNDER SECTION 13(2) OF THE SARFAESI ACT DATED 01-06-2021 ISSUED TO THE PETITIONER BY THE SOUTH INDIAN BANK LTD
- Annexure R1 (b)** TRUE COPY OF THE REPLY NOTICE DATED 09-08-2021 ISSUED BY THE PETITIONER
- Annexure R1 (c)** TRUE COPY OF THE REPLY DATED 16-08-2021 ISSUED TO THE PETITIONER BY THE SOUTH INDIAN BANK
- Annexure R1 (d)** TRUE COPY OF THE ASSIGNMENT AGREEMENT BETWEEN SOUTH INDIAN BANK AND ASSET RECONSTRUCTION COMPANY (INDIA) LTD DATED 28-09-2021