BEFORE THE ADDITIONAL MASTER-II

HIGH COURT, MADRAS

C.S.No. 829 OF 2016

Date : 23.03.2026
Time : 11.28 A.M

Name : Mr.V. Saravanan (DW1)

DW1 Cross examined by Learned counsel for the Plaintiff Mr.V.Vargees Amal Raja

Solemnly affirmed:

Q1:That the basic issue in this suit is that upon on a loan agreement your bank sanctioned the loan of Rs.8.06 crores to the plaintiff company as export credit package loan. Since the export documents were not submitted to the bank within 360 days, the bank charged higher rate of interest and penal interest upon the loan amount, on the realization of the loan amount from the foreign buyer. Now the plaintiff company is contenting that you cannot charge the higher rate of interest and penal interest in their loan amount, since the loan was further extended for another 360 days by appropriate authorities and hence they are claiming the refund of the alleged deducted higher rate of interest and penal interest. What do you say?

A: Yes.

Q2: (Ex.P2 is shown to the witness) This is the agreement executed by your bank and plaintiff company on 02.02.2011 for sanctioning Rs.15 Crores to the plaintiff company. Is it correct?

A:Yes, correct.

Q3: In Ex.P2 Page No.2 there is a Para No.2 says that the borrower shall pay the loan on advances with quarterly rests raising and falling therewith calculated respectively on daily balance or the amount due at 2% above the base rate of the bank and it is stated totally 10.5%. Is it correct?

A:Yes.

Q4:In the very same page last paragraph says overdue interest of 2 % may be prescribed by the bank in case of non-payment of principal amount. Is it correct?

A:Yes.

Q5:(Ex.P2 is shown to the witness) In the last page of Para No.27 says the credit facilities granted to the borrowers shall be for a period of 12 months but the bank shall have the fullest liberty and discretion to extend it for such periods as the bank may deem fit. Is it correct?

A:Yes.

Q6:So, the bank has power in appropriate cases to extend the duration of this contract for any further period at the discretion of the bank. Is it correct?

A:Yes, correct.

Q7:(Written statement is shown to the witness) Kindly go through the written statement filed by your bank. Kindly read last sentence in paragraph 16 of the written statement "Thus, the plaintiff cannot make and unjustifiable claim against the defendant bank for the simple reason that the plaintiff had obtained through the 2nd defendant bank for the extension of coverage from ECGC for another 360 days". Is it correct?

A: Yes, it is stated as such.

Q8: I put it to you that since the bank has admitted for the extension another 360 days, the bank is not is entitled to charge higher rate of interest and penal interest from the plaintiff company for the alleged loan. Therefore the 2nd defendant bank is obligated to refund the entire higher rate of interest and penal interest collected from the plaintiff company in this regard.
A: I deny.
Q9: (Ex.D4 is shown to the witness) Ex.D4 document is your bank's letter dated 27.03.2013 to the Export Credit Guarantee Corporation of India Ltd (ECGC). Is it correct?
A:Yes, correct.
Q10:In that letter in the last paragraph you have been requesting the ECGC to consider the case of the plaintiff company based upon its track record and credentials to treat the issued of the plaintiff company as a special case. Is it correct?
A:Yes, correct.
Q11: In this letter in para 1 it is stated that the ECGC was kind enough to extend the validity of PCL period?
A:Yes.
Q12:It is also stated the export has taken place in February 2013 and part of the export proceeds covered under the Sight LC is already realized and the remaining tenure bills are expected to be realized on due date. Is it correct?
A:Yes.
Q13:So, you admit that the payments were according to this paragraph made in foreign currency?
A:Yes.

Q14:In para 2 the interest subvention the corporation was kind enough to provide to this borrower are also ceased once the period of PCLs to crossed 270 days. Is it correct?
A:Yes.
Q15:So, you admit that interest subvention has been received by the bank from ECGC for a considerable period. Is it correct?
A:Yes.
Q16:A list of PCLs and the number of days it was outstanding is appended for your easy reference. Is it correct?
A:Yes.
Q17:Over the page you have given a list of PCLs. Is it correct?
A:Yes.
Q18:Is it correct the plaintiff's company has mortgaged Rs.25 Crores worth immovable properties?
A:Yes.
Q19:Is it correct that the plaintiff's company has marked Rs.3.25 Crores worth FD receipts as lien and allowed you to keep in your custody as against this loan?
A:Yes.
Q20: Can you count how many PCLs in this list which is annexed with Ex.D4?
A:As per the list the number is 32.
Q21: But the real number was 31. Is it correct?
A:I am not sure.

Q22:In this list there are erroneous entries and contradictory dates. Is it correct?

A:I am not sure.

Q23: I put it to you that your bank is dealing this plaintiff company's account issues in a very casual and cavalier manner consistently making mistakes.

A:I deny.

Q24:(Statement prepared by plaintiff company is shown to the witness) This is the correct statement prepared by plaintiff company. Is it correct?

A:I have to verify and I will tell tomorrow.

Q25: (proof affidavit is shown to the witness) In Para 5 of your proof affidavit you have stated that as “ECGC requested the defendant bank to re-visit the non-payment of interest subvention to the plaintiff company for the extended period beyond 270 days” Is it correct?

A:Yes, correct.

Q26:Is the fact stated therein is correct?

A: Yes.

Q27:(Ex.D4 is shown to the witness) Who has written Ex.D4?

A: It has been written by our Bank.

Q28: I put it to you that you bank is again consistently committing mistakes and it is even submitting false statements under oath before this Hon'ble Court.

A:I deny.

Q29: (Written statement and Proof affidavit are shown to the witness) In written statement para 11 you have stated that the dues were cleared and liabilities were closed on 27.01.2015. Is it correct?

A:Yes, correct.

Q30: (proof affidavit is shown to the witness) In Para 4 of your proof affidavit you have stated that finally the shipment was done by the plaintiff with the long delay on 19.02.2013 resulting in the credit of Rs.10.80 Crores thereby clearing the overdue PCLs. Is it correct?

A:Yes, correct.

Q31: I put it to you that your bank is again and again making consistent mistakes in presenting statements before the Hon'ble Court.

A: I deny.

Q32: You have earlier stated that the PCLs over due were cleared out of foreign currency realized from foreign buyer. Is it correct?

A:Yes.

Q33:(Written statement is shown to the witness) In Para 11 of the written statement filed by your bank you have stated totally opposite statement as "The plaintiff could not make the payment in foreign currency as required in the case of PCLs facilities". Is it correct?

A: Yes.

Q34: I put it to you that your bank is again and again making consistent mistakes by submitting contradictory and false statements in the pleadings as well as in the sworn statements before the Hon'ble Court.

A: I deny.

Q35: (Ex.D4 is shown to the witness) Ex.D4 is the letter you have sent to ECGC on 27.03.2013 requesting the ECGC to consider the case of the plaintiff company as a special case and requested further interest subvention. Is it correct?

A:Yes.

Q36:Was there any reply from the ECGC to this letter?

A:I am not sure. I will check it up and answer this question tomorrow.

Q37: (Written statement is shown to the witness) In para 9 of the written statement there is a terminology “ECNOS” (Export Credit Not Otherwise Specified). Is it correct?

A:Yes.

Q38:According to this statement if export documents are not submitted to the bank within 360 days, the cases of all PCLs was to be treated as ECNOS. Is it correct?

A:Yes.

Q39:(Ex.D7 is shown to the witness) This is the letter written by the plaintiff company to the Managing Director of your bank on 25.08.2015. Is it correct?

A:Yes.

Q40:In page No.1 the plaintiff company has given a column informing from 1997 onwards till 2011 they have done export business upto the tune of Rs.27.3 Crores. Is it correct?

A:Yes.

Q41:Over the page the plaintiff company has given the details of excellent awards to the plaintiff company from 2002 till 2004 is it correct?

A:Yes.

Q42:They have also added in that page that they have given appreciation letter by the Queen of England for the Granite work done in a Memorial building in Buckingham Palace. Is it correct?

A:Yes, correct.

Q43:They have further stated that there was a Global Meltdown and it affected the buyers and there was a slackening in demand. Is it correct?
A: Yes, correct.
Q44:Over the page No.3 they have stated that finally the bulk shipment of export of Rs.10.80 Crores was done on 14.02.2013 and the entire amount was credited to PCLs and thereby the credit was fully closed. Is it correct?
A:Yes, correct
Q45:Was there any reply from your bank to this letter (Ex.D7) denying the above stated claims and assertion?
A: I do not know.
Q46: (Ex.D11 is shown to the witness) Ex.D11 is the Master Circular dated 01.07.2011 marked by you. Is it correct?
A: Yes.
Q47:In page No.28 of Ex.D11 under heading 4.2.3 there is an Item V which says If exports do not materialized at all, bank should charge on relative packing credit domestic lending rate plus penal rate of interest, if any, to be decided by the bank on the basis of a transparent policy approved by their Board. Is it correct?
A: Yes, correct.
Q48:(Proof affidavit is shown to the witness) Have you produced the transparent policy approved by the Board stated above before this Hon'ble Court?
A: No.

Q49:In page No.26 Last Paragraph has stated about ECNOS as ECNOS means Export Credit Not Otherwise Specified in the interest rate structure for which banks are free to decide the rate of interest keeping in view the BPLR and spread guidelines. Bank should not charge penal interest in respect of ECNOS". Is it correct?

A:Yes, correct.

Q50:In the above statements it has been made clear that banks should not charge penal interest in respect of ECNOS. Is it correct?

A:Yes.

Q51: I put it to you that therefore according to your own documents and statements the penal interest collected from the plaintiff company in respect of the PCLs is against your own rules and erroneous.

A:I deny.

Q52:(Ex.D11 is shown to the witness) In Ex.D11 in page No.30 under 4.2.6 there is an Item b which reads "in a case where interest has been charged at commercial rate or "ECNOS", if export proceeds are realized in an approved manner subsequently, the bank may refund to the borrower the excess amount representing difference between the quantum of interest already charged interest that is chargeable taking into account the said realization after ensuring the fact of such realization with satisfactory evidence" Is it correct?

A: Yes.

Q53: I put it to you that therefore in the case of the plaintiff company since the loan amount was realized in a manner approved subsequently your bank has to refund the entire higher interest collected and the entire penal interest collected as prayed for in this suit to the tune of Rs.2,21,74,920/- with further interest. What do you say?

A: I deny.

Q54: I put it to you that going by Ex.P2 document, para 16 of your written statement admitting extension of 360 days your bank should not charge more than 10.50% of interest as mutually agreed in Ex.P2 whereas violating all the terms of the Ex.P2 agreement and violating the stipulations specified in the Ex.D11 Master Circular your bank has in a malafied profiteering motive has dishonestly charged and appropriated higher rate of interest and penal interest to the tune of Rs.2,21,74,920/-

A: I deny.

Q55:Can you produce all the correspondences between the bank and the ECGC covering the whole period of 02.02.2001 ending 14.02.2013, the corresponding period of the plaintiff company's PCLs in your account tomorrow?

A: I will try.

Q56: (Ex.D12 is shown to the witness) Ex.D12 is the statement of account for the period 07.11.2011 to 07.09.2019. Is it correct?

A: Yes.

Q57: Take date 16.11.2012 in Ex.D12 on 16.11.2012 and 18.11.2012 there were realization of interest subvention by your bank. Is it correct?

A:Yes.

Q58:Take date 18.01.2012 in Ex.D12 on 18.01.2012 there were realization of interest subvention by your bank. Is it correct?

A:Yes.

Q59:Take Page No.8 on 20.04.2012 there were realization of interest subvention by your bank. Is it correct?

A: Yes.

Q60: On 20.07.2012 there were realization of interest subvention by your bank. Is it correct?

A:Yes.

Q61: I put it to you that according to your own banking arrangement with competent authorities the PCLs period has been extended atleast upto 27.02.2012 as per your records though the plaintiff company's is not admitting this.

A: I deny.

Time :01:40 PM

Taken down in open Court, read over and explained to the witness and the same is admitted by the witness to be correct and signed before me.

ADDITIONAL MASTER-II