BEFORE THE ADDITIONAL MASTER-II

HIGH COURT, MADRAS

C.S.No. 829 OF 2016

Date : 24.03.2026
Time : 10.40 A.M

Name : Mr.V. Saravanan (DW1)

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

Solemnly affirmed:

Q62: I put it to you that according to your own banking arrangement with competent authorities, the PCLs period has been extended atleast upto 20.07.2012 as per your records though the plaintiff company is not admitting that stand.

A:I deny.

Q63:(Ex.P6 is shown to the witness) This is the letter from ECGC to your bank on 20.03.2012. Is it correct?

A:Yes, correct.

Q64:Over the page it is written that "we here by extend the due date for repaying the following advances". Is it correct?

A:Yes, correct.

Q65:The extended date for all the PCLs is 30.06.2012. Is it correct?

A:Yes, correct. It is for ECGC cover only.

Q66:What do you mean by ECGC cover?

A:It is insurance cover. If anything happens at the buyer side the Government of India will give the guarantee for export liability.

Q67:What is the duration of ECGC coverage?

A:We can take up with the ECGC authorities till the export process is completed.

Q68:So, you admit that export PCLs have been covered by ECGC insurance till the date of realization of the export amount. Is it correct?

A:Yes, correct.

Q69:According to your bank the export bills have been submitted after due date of 360 days. Is it correct?

A:Yes, correct.

Q70:So, the bank was put in a weak situation that there is a chance that the plaintiff company would not realize the PCLs amount within 360 days. Is it correct?

A:Yes, correct.

Q71:Then why you did not apply to the ECGC to grand the coverage and reimburse the amount as per the ECGC terms?

A:I do not know.

Q72: I put it to you that the bank ought to have realize the entire due amount as soon as the expiry of 360 days, demanding ECGC to credit the due amount to the bank as per terms. But your bank failed to do so. If that had been done, the plaintiff company would have been saved from paying exorbitant interest and penal interest.

A:No. I deny, actually export has to be done within 360 days. In this case they have not exported within 360 days. Moreover that ECGC cover is a risk cover only when any risk arise from the buyer side. So, in this case it is not applicable bank has to take up ECGC for claiming any cover.

Q73:So, the bank was pretty sure that the plaintiff company would certainly complete the export process and clear the dues. Is it correct?

A:Yes, correct.

Q74: That is why you have return to ECGC for extension of the coverage. Is it correct?

A:Yes, correct.

Q75: I put it to you that as long as the coverage period is extended, the PCLs are valid and alive under Ex.P2 agreement and therefore till the clearance of the amount, the bank should have charged only 10.50% interest and not more.

A: I deny.

Q76:According to your own document, you have realized Rs.2.25 Crores and Rs.10.80 Crores in foreign currency, after the buyer made the payment in foreign currency?

A:Partly correct. Because at the time of closure of entire limits or credit facility, the client had brought remittances in INR.

Q77:I am again asking you that the export amount was realized in foreign currency. Is it correct?

A:Part of the payment made in foreign currency. Remaining part also made in INR.

Q78: You are confusing. My question is very specific that the export order was for more than Rs.12 crores. The supply was to the tune of Rs.8.06 Crores. Upon this supply, Rs.10.80 Crores has been recovered by foreign currency. Therefore the export order and the PCLs requirement that the credit should be realized only through Foreign currency was fully satisfied. The INR payment was against the higher rate of interest and penal interest the bank has charged and in order to close the deals with your bank, the plaintiff company did not make any INR payment but allowed you to appropriate Rs.1.12 Crores from their FD receipts. This situation will not disqualify the plaintiff company from the entitlement of concessional rate of interest and also the mutually agreed rate of interest 10.50% as per Ex.P2 loan agreement.

A: I deny.

Q79:As about the 31 PCLs account, you have already given a wrong calculation. Therefore the plaintiff company has submitted a correct table for your observance. Have you gone through and agree this is the correct statement?

A:I gone through the statement submitted by the plaintiff company. But we are not sure whether it is correct. We have taken up with higher authority whether the statement has to be acceptable or not. But I affirm the statement provided by the bank is correct.

Q80: Who is the competent authority to answer whether the statement shown to you is correct or not?

A: We have to get the concurrence from the respective FOREX department of Federal Bank. Any of the bank representative is a qualified person to answer whether the statement shown to me is correct or not.

Q81:If the competent authority in this respect does not come before this Hon'ble court to give evidence, adverse inference will be applied against your bank and the Ex.D4 statement filed by you will be called into question and the present statement shown by the plaintiff company will sought to be marked will take full credence in future?

A:I deny.

Q82:(Ex.D7 is shown to the witness) This is the letter submitted by the plaintiff company to the Managing director of the Federal Bank. In this letter the plaintiff company has stated elaborately their track record, their accreditation their Genuineness in business, the slackening in export due to economic down turn in USA and Natural Disaster in the Coastal area of USA, they have further stated that the interest subvention has been received subsequently for a long period and ECGC cover was subsequently extended for long period and requesting that they are therefore eligible for the concessional rate of interest and mutually agreed rate of 10.50% as per Ex.P2. You have admitted yesterday that there was no reply to this letter. Hence the principle of adverse inference will be applied against the bank in this case.

A:I deny.

Q83: (Ex.D4 is shown to the witness) This is the letter sent by your bank to ECGC on 27.03.2013, wherein you have requested the ECGC to consider the case of the plaintiff company as a very special case considering track record and credentials to grand interest subvention. Have you produced reply for this letter from ECGC before this Hon'ble Court?

A:No.

Q84:So the principle of adverse inference will be applied against the bank. What do you say?

A:I deny.

Q85: (Ex.D11 is shown to the witness) In Ex.D11 under point 4.2.3 under item v it is stated that the interest rate has to be charged based on the basis of a transparent policy approved by their Board. You have not produced the approval of the Board so far. Therefore principle of adverse inference will be applicable against the bank in this case?

A: I deny.

Q86: (Ex.D12 is shown to the witness) It is the statement of account for the period of 07.11.2011 to 07.09.2019 as per the 1st sheet. Is it correct?

A:Yes.

Q87:Take entry on 26.12.2012 on the 2nd page, do you find the entry ECGC premium has been paid. Is it correct?

A:Yes, correct.

Q88:On page 5 date 22.02.2012 again ECGC premium was paid. Is it correct?

A:Yes, correct.

Q89:Likewise upto 19.11.2012, you have remitted ECGC premium for the coverage of the loan amount. Is it correct?

A:Yes, correct.

Q90:(Ex.P2 is shown to the witness) In the entire loan agreement there is no mention about obtaining interest subvention. What do you say?

A:I do not know.

Q91:Take para 20, in page No.5 of Ex.P2 this para mentions about ECGC coverage. Is it correct?

A:Yes, correct.

Q92:But there is no mention about the coverage period, the extension of the coverage period under varied circumstances. Is it correct?

A:I do not know.

Q93: I put it to you that the Ex.P2 loan agreement terms are not applicable to the loan packages for export. Therefore the bank cannot vary from the terms and conditions stated in the Ex.P2 Mutual loan agreement. The bank has no right to charge higher rate of interest more than 10.50% of interest as mentioned in Ex.P2. The bank has charged higher interest blatantly violating the provisions of Ex.P2 agreement.

A: I deny.

Q94: I put it to you that as per Ex.D12 document interest subvention was received upto 20.07.2012 and ECGC premium was paid upto 19.11.2012. Therefore according to your document the PCLs are kept alive and legally valid under Ex.P2 agreement upto 19.11.2012. Going by this document the bank should not charge anything more than 10.50% after 19.11.2012.

A:I deny.

Q95: I put it to you that pointing out the mistakes of the bank and the unreasonable inconsiderate violative behavior of the bank, we proposed compromise to the bank through their counsel for via media settlement on many occasions. But each time the bank kept on changing their counsel. This is an unfair and high handed behavior of your bank.

A:I deny.

Q96: I put it to you that according to your own document, the plaintiff company had good track record, no malpractice, no diversion of funds, plaintiff company has mortgaged Rs.25 Crores worth immovable property and marked lien of Rs.3.25 Crores of FD receipts. Besides this ECGC premium was paid till September 2012 and interest subvention was allowed upto July 2012. For the above said reason as recommended by you the case of the plaintiff company is a very special case and you ought to have charged only 10.50% of interest as per Ex.P2. You have collected unduly higher rate of interest to the tune of Rs.2, 21,74,920/- from the plaintiff company, which is against your own rules.

A:I deny.

Q97: I put it to you that according to your own pleadings and sworn affidavit and Ex.P2 document the loan period has been extended further period of 360 days. Therefore the bank is not entitled to charge anything more than 10.50% as per Ex.P2.

A:I deny.

Q98: I put it to you that as per your own document Ex.D11 under heading 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", the plaintiff company is entitle for full refund of the excess interest and penal interest charged.

A: I deny.

Q99:Therefore the defenses taken by the bank in their pleadings and documents are not valid and acceptable. Same time the claim made by the plaintiff company is absolutely legal and valid. Therefore the plaintiff company is entitled to get the refund as prayed for.

A:I deny.

Q100:Therefore the plaintiff company is entitled for the interest upon the claim amount of Rs.2,21,74,920/-?

A: I deny.

Q101: Yesterday you said you try to produce the correspondences between the bank and ECGC covering the whole period of 02.02.2011 ending 14.02.2013, which you have not produced so far. Therefore adverse inference will be applied against the bank in this case.

A: I deny. I have tried to bring those documents but it could not be retrieved within a day.

Time:12:00 PM

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

ADDITIONAL MASTER-II