IN THE DEBTS RECOVERY TRIBUNAL
VISAKHAPATNAM
Present :- SHRI KRISHNA GOPAL DWIVEDI,
PRESIDING OFFICER

Dated 22nd July, 2026

S.A. No. 317 of 2024

Between

1. SBS Paper Mills, Rep. by its partner Sajja Krishna Prasad & S. Srinivasa Chowdary, Kanavaram Village, Rajanagaram Mandal, East Godavari District- 533 294

2. Sajja Krishna Prasad, S/o. Sajja Sai Baba, D.No. 89-51-181/19, Plot No. 305, All Bank Colony, Putta Primavera Apartment, Model Colony, Rajahmundry (Urban), East Godavari District- 533 106

3. Sajja Srinivasa Chowdary, S/o. Sajja Sai Baba, D.No. 80-30-17/1, Jayasri Gardens, 3rd Street, Prudhvi Aparment, J.N. Road, Rajahmundry (Urban) East Godavari District-533 101

......Applicants

And

1. The Authorised Officer, HDFC Bank Ltd, Department for Special Operations Bank House, H. No. 6-3-246 & 244/A, 3rd Floor, Roxana Palladium, Road No. 1, Banjara Hills (Besides Virinchi Hospital) Hyderabad- 500 034, Telangana State

2. The Regional Manager, HDFC Bank Limited, # 46-17-20, Kilari Enclave, 4th Floor, Danavaipet, Rajahmundry- 533 103, East Godavari District.

......Respondents

Ld Counsel for Applicants - Shri J. Ravi & J. Vijay Mohan Gandhi
Ld Counsel for Respondents - Shri GVDV Bhaskara Reddy

ORDER

1. The applicants have filed the present SA under Section 17(1) of SARFAESI Act 2002 on 27.06.2024.

2. As per neat copy of SA dt. 08.01.2026. Applicants are in the field of paper packaging industry since 1999. The Applicants has established a craft paper mill by name M/s SBS Paper Boards Private Limited in the year 2006. Applicants submitted their project. The Applicants have established the present unit M/s SBS Paper Mills and purchased the machinery for 150 MT but the bank has extended the finance only for

75 MT project and promised to extend the Term Loan and Working Capital limits to for the 150 MT project. The unit came into Commercial production. In the meantime Covid-19 spread and that covid gave effect on the applicants unit. The Respondent bank did not fulfill the promise. As per Balance sheet the investment amounts on the plant and machinery was Rs. 26,34,46,658/- but the bank has sanctioned only Rs. 8 Crores.

As per SA the applicants are not the willful defaulters but the victims of COVID-19. Applicants Company are MSME units. The Respondent bank did not implead the RBI guide lines in favour of the applicant. The applicants requested for restructure of the loan account but the respondent bank did not consider the request. The Respondent bank issued demand notice under Sec. 13(2) of the SARFAESI Act on 16-05-2023 and also issued possession notice dt. 03.06.2024. The account of the applicants was classified as NPA on 22.02.2023. Demand Notice was published in Indian Express on 07.07.2023. The Respondent bank has given the particulars of the loan accounts. Hence the outstanding amount as on 30.04.2023 was Rs. 59,55,412.04ps.

As per demand notice over due amount is Rs. 14,51,34,004.75ps only but the Respondent bank authorities did not send the Recall notice prior to the classification of NPA. As per applicant Government value of the property is Rs. 10.24 Crores. As per Respondent bank the valuer the value of the schedule property is Rs. 60 Crores. The Respondent bank has not considered the track record and repayment of substantial amounts towards interest and principal repayment. As per applicant sanctioned loan amount is Rs. 18.94 crores and the principle outstanding as on 30.04.2023 is Rs. 14.51 Crores. The overdue amount is more than 20%. Hence the Respondent bank has no authority to start SARFAESI proceedings on the above amount against the applicant. The SARFAESI proceedings is illegal and un authorized under Sec. 31(j).

As per applicant the Respondent bank failed to give reply to the objections received by the applicants. The applicant furnished their replied on 05.09.2023 by raising the objections against the Demand Notice but the bank furnished their reply on

04-10-2023. The bank has not complied the guidelines of RBI. The Respondent bank has initiated Sec. 14 proceedings before the Hon'ble Principal Civil Judge leading to the appointment of an Advocate Commissioner to take physical possession of the scheduled properties. This action is illegal and contrary to law.

3. The applicants have prayed for the following relief:

(i) Declare that the very issuance of the Demand Notice and Possession Notice under Securitization Act without considering the procedure as contemplated under the Act, without considering the ground realities for the sickness of the unit and without extending the needed support to the unit on par with the guidelines issued by the RBI under Resolution Frame Work 2.0 by the Respondent Bank as illegal, not valid, arbitrary and against the principles of natural justice by directing the bank to initiate steps for implementation of the RBI Circular issued under Resolution of Frame Work- 2.0 in true spirit to enable the unit to re-organise their activities.

(ii) Issue an order by setting aside the entire proceedings initiated by the Respondent bank invoking the provisions of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002

(iii) Set aside the Section 14 proceedings in Crl. MP. No. 50 of 2025 and Crl.MP no. 51 of 2025 as they violated statutory mandates with costs.

4. The applicants have filed the following documents with SA:

(a) Letter of communication of sanction by the Bank dt. 14.02.2018

(b) Email letter to Bank for enhancement of working Capital limits dt. 14.06.2021

© Renewal sanction letter by bank dt. 07.04.2022

(d) Letter for sanction of Addl. Financial Limits dt. 25.03.2023

(e) Remainder to the letter dt. 25.03.2023

(f) Reply by the bank to the request dt. 25.03.2024

(g) Letter to bank for providing need based financial support to the unit dt. 11.05.2023

(h) Lr by the General Manager – District Industries Centre- Rajahmundry to Bank for need based support to the borrower dt. 14.07.2023

(i) Bank's Reply to the GM's letter dt 01.08.2023

(j) Demand Notice under Section 13(2) of the SARFASI Act dt. 16.05.2023

(k) Paper publication of Demand Notice published in the Indian Express dt. 07.07.2023

(l) Reply/Objections to the Demand Notice with postal receipts dt. 05.09.2023

(m) Banks reply to the objections under Sec. 13-3A

(n) Possession Notice u/s 13(4) dt. 03.06.2024

(o) Letter of request for withdrawal of SARFAESI proceedings dt. 20.06.2024

(p) Valuation Certificate by Registration And Stamp Dept. for Survey No. 173/1 dt. 21.06.2024

(q) Valuation Certificate by Registration And Stamp Dept. for Survey No. 172/1 dt. 21.06.2024

® Valuation Certificate by Registration And Stamp Dept. for Survey No. 172/2 dt. 21.06.2024

(s) Valuation Certificate by Registration And & 172/4 Stamp Dept. for Survey No. 178/1 dt. 21.06.2024

(t) Valuation Certificate by Registration And Stamp Dept. for Survey No. 172/3&4 dt. 21.06.2024

(u) Valuation Certificate by Registration And Stamp Dept. for Survey No. 172/2dt. 21.06.2024

(v) Valuation Certificate by Registration And Stamp Dept. for Survey No. 172/1dt. 21.06.2024

(w) Balance Sheet information as at 31.03.2022: Fixed Assets dt. 31.03.2021

(x) Indian Mirror Magazine Report Capital required for construction of 50 MT- Rs. 160 Crores

(y) RBI Circular on Resolution of Framework 2.0 dt. 05.05.2021

(z) Value of the Plant & Machinery by Sri K.S. Chiranjeevi- Rajahmundry Authorized & Registered valuer dt. 24.04.2023

(aa) Valuation Report of Land and Building by M/s. Sphurthi Enterprises & Technocrats- Rajahmundry dt25.07.2023

(ab) Statement of Account which shows the transfer Rs. 34 Laksh of GECL loan to FD DT. 18.07.2020

(ac) Statement of Account which shows the transfer of Rs. 40 Lakhs of GECL Extn. To loan accounts dt. 23.03.2022

4. The applicants have filed the following documents with memo dt. 13.04.2026:-

(a) MSME UDHYAM Registration Certificate dt. 06.01.2021

(b) Raw Material Invoice of 2020- 2022

© Valuation of Plant & Machinery by K.S Chiranjeevi dt. 24.04.2023

(d) Valuation of Securities by Sphurthi Entrepreneurs & Technocrats, along with M/s SBS Paper Mills Securities value dt. 25.07.2025

(e) MSME Gazette Notification issued by Government of India dt. 29.05.2015

(f) RBI's Frame Work for Revival & Rehabilitation of MSMEs dt. 17.03.2016

(g) RBI's Resolution Frame Work- 2.0 Resolution of Covid-19 related stress of Business dt. 05.05.2021

(h) Supreme Court Judgment- Pro Knits Vs. Canara Bank [2024 INSC 565] dt. 01.08.2024

(i) NCLT Order in CP(IB) 55/7/ARM/2024 (HDFC Vs. M/s SBS Paper Boards Pvt Ltd) dt. 09.05.2025

5. The applicants have also filed written arguments, which are on record.

6. The Respondent bank has filed counter on 07.04.2025. The Respondent has prayed to dismiss the IA 1014/2024 with costs. The respondent has denied all the allegations alleged by the applicants. AS per reply the Respondent bank complied all the provisions of SARFAESI Act and rules made there under. The Respondent bank has granted GECL facility and its extension to the petitioner during the Covid-19 and supported their business to come out of financial situation. As per counter prior to becoming NPA, the petitioners have issued an email to the Respondent bank on 01.09.2022 indicating their willingness to foreclose their account. As per clause 14 of MSME Circular. It is stated that though restricting proposal is under consideration asset classification can still continue.

As per respondent bank, bank has responded to all the letters addressed by the petitioner. In fact, the petitioner has issued a letter dt. 03.06.2024 stating that a potential buyer has shown interest in purchasing their entity and that the deal was expected to closed soon. Applicants have further requested 10 days extension from the bank, during which time they would deposit Rs. 2.5 crores failing which the Respondent bank can exercise due course of law under SARFAESI ct. The petitioner actions clearly demonstrate a deceptive intention to evade the lawful debts to the Respondent bank. The Respondent bank has responded vide its letter dt. 26.12.2024. The petitioner never gave any concern proposal to the Respondent bank. Respondent bank has initiated SARFAESI proceedings under Sec. 14 and filed a Crl.MP.Nos 50 & 51 of 2025 before he Hon'ble Chief Judicial Magistrate, Rajahmundry and obtained order to take physical possession of the SA schedule property.

7. The Respondent bank has filed the following documents with counter in IA 1014/2025 dt 07.04.2025.

(a) Copy of Board Resolution dt. 22.11.2023

(b) Copy of the sanction letter dt. 16.03.2022 for GECL Facility

© Copy of the email issued by the petitioners dt. 01.09.2022

(d) Copy of the letter dt. 03.06.2024

(e) Copy of the reply letter dt. 26.12.2024 issued by the Respondent bank

(f) Copy of recent letter dt. 25.03.2025

8. Vide order dt. 11.02.2026, R1 and R2 are debarred from filing counter and reply.

9. The Ld. Counsel of the applicant referred the Judgment of Hon'ble Supreme Court of India passed in M/s. Pro Knits Vs. The Board of Directors of Canara Bank in which Hon'ble Supreme Court in para 18 have held as follows:

> *"The instructions/Directions issued by the Central Government under Sec. 9 of the MSMED Act and by the RBI under Sec. 21 and Sec. 35A have statutory force and are binding to all the Banking companies."*

The Ld. Counsel of the applicant also referred the Judgment of Hon,ble NCTL, Amaravathi Bench passed in the case of HDFC Bank Limited Vs. SBS Paper Boards Private Limited in which Hon'ble NCLT in para (xv) have held as follows:

> "(XV) *Therefore, considering the aforementioned RBI guidelines dt. 17.03.2016 and the Judgment of the Hon'ble Supreme Court in M/s. Pro Knits (supra). It is evidence that the Financial Creditor was mandatorily required to follow the prescribed procedure before classifying the Corporate Debtor's account as NPA. Specifically, in terms of the RBI Guidelines dt. 17.03.2016 the Financial Creditor was obligated to initiate the Corrective Action Plant independently, without waiting for any request of application from the Corporate Debtor. This obligation is reinforced by paragraph 2.3 of the said guidelines, which provides that while an MSME borrower may voluntarily initiate proceedings, the onus is not solely on the borrower."*

In this regard I would also like to refer the Judgment of Hon,ble Supreme Court of India, passed in ***Shri Shri Swami Samarth Construction and Finance Solution and Another Vs. Board of Directors of NKGSB, Co-op. Bank Ltd and Others***

reported in (2025) SSC Online SC 1566. *In the above case I would like to refer para 7 & 8, which are as follows:*

> *"7. As has been noted above, the petitioning enterprise does not seem to have ever claimed the benefit of the terms of the FRAMEWORK after the demand notice under Section 13(2) of the SARFAESI Act was issued. It is at the stage of compliance with an order passed by the relevant Magistrate under Section 14 of the SARFAESI Act that this writ petition has been presented before this Court claiming benefits of the FRAMEWORK to restrain the respondent no.2 and its officers from proceeding further under the SARFAESI Act and other enactments except in the manner contemplated under the said Notification. We find the bona fides of the petitioning enterprise to be suspect.*
>
> 8. *Pro-Knits (supra) is a decision of a coordinate Bench of this Court holding, inter alia, that the Notification is binding on the lending banks/secured creditors. Finding to the contrary by the High Court of Bombay in the judgment and order under challenge in the appeal was, thus, quashed. Though while stressing that the terms of the FRAMEWORK need to be followed by the lending banks/secured creditors before the account of an MSME is classified as NPA, this decision also lays stress on the obligation of the MSMEs by holding that "it would be equally incumbent on the part of the MSMEs concerned to be vigilant enough to follow the process laid down under the said Framework, and bring to the notice of the Banks concerned, by producing authenticated and verifiable documents/material to show its eligibility to get the benefit of the said Framework". It was cautioned that "if such an Enterprise allows the entire process for enforcement of security interest under the SARFAESI Act to be over, or it having challenged such action of the bank/creditor concerned in the court of law/tribunal and having failed, such an Enterprise could not be permitted to misuse the process of law for thwarting the actions taken under the SARFAESI Act by raising the plea of being an MSME at a belated stage". This decision, however, left unsaid something which we have explained hereinabove while construing the terms consistently to prevent undermining of rights that one central enactment confers by another."*

10. Perused the record. After perusal of the record I find that the applicants have raised objections that applicants company is MSME company and the Respondent bank has not followed the guidelines of RBI and classified the account of the applicants as NPA. But after perusal of the counter I find that the applicant has raised this objection only after classification of account as NPA. The applicants have not filed any documents regarding demonstrating their eligibility for benefits under the framework but in the present case, the petitioner has failed to provide any document regarding restructuring of the unit. As per Sec. 14 of MSME Circular the asset classification can still continue.

After scanning the record I find that the Respondent bank classified the account as NPA and issued demand notice, possession notice and obtained the order of Ld. CJM.

One allegation against the Respondent bank by the applicants is the bank not responded and not send reply as per provision of SARFAESI Act within 15 days. In this regard after perusal of the counter I find that the petitioner has issued letter dt. 03.06.2024 stating that a potential buyer has shown interest in purchasing their entity and that the deal was expected to closed soon. The applicants have further extended 10 day time and promised to pay Rs. 2.5 crores failing which the Respondent Bank can exercise due course of law. The Respondent bank has also send letter dt. 26.12.2024 hence it reveals that borrower was trying to resettle the matter and he has promised to pay Rs. 2.50 crores but did not pay amount. Due to this reason reply of bank was pending for that delay borrower is liable. The Respondent bank has filed copy of letter dt. 03.06.2024 and 26.12.2024 and its postal receipts and acknowledgments. The Respondent bank has also send letter dt. 25.03.2025, its postal receipts also. Vide letter dt. 15.04.2023 the applicant company had demanded support from the Respondent Bank. The Respondent has also filed copy of letter dt. 16.05.2023, demand notice, reply on objection, letter dt. 05.09.2023 and response to physical meeting on 20.09.2023.

As per this letter the respondent has heard the applicant on representation on 20.09.2023. As per this reply the Respondent has not considered the petition in favour of the applicant and close the demand of the applicant and withdrawn notice under Sec. 13(2) of SARFAESI Act. The Respondent bank has filed copy of postal receipts, acknowledgment of this notice.

11. As per SA this proceedings is banned by Section 31(j) of SARFAESI Act but after perusal of the papers filed by both the parties I find that amount due against the applicant was more than twenty percent of he principle amount and interest thereon. Hence the applicant is not entitled for benefit of Section 31(j) of SARFAESI Act.

12. After scanning the facts, evidence presented by the applicant and counter filed by the Respondent bank, I find that the borrower was not vigilant enough to follow the process laid down under the said Framework for revival and Rehabilitation of Micro, Small and Medium Enterprises. Applicant has not produced authenticated and verifiable framework. In this cases the enterprises of the applicant could not permitted to misuse the process of law against the action taken under SARFAESI and Security Interest (Enforcement) Rules, 2002.

On the basis of above discussion I find that the Respondent bank has not committed any illegality in the present SARFAESI proceedings at this stage.

Accordingly SA 317/2024 is hereby dismissed without costs. All connected IAs if any are also closed.

[Dictated to the Steno, transcribed by her, corrected and pronounced by me in the open court 22nd July, 2026]

22.07.2026

PRESIDING OFFICER
DEBTS RECOVERY TRIBUNAL
VISAKHAPATNAM