



ಕರ್ನಾಟಕ ರಾಜ್ಯ ಹಣಕಾಸು ಸಂಸ್ಥೆ

1951ರ ರಾಜ್ಯ ಹಣಕಾಸು ಸಂಸ್ಥೆಗಳ ಕಾಯಿದೆ ಅನ್ವಯ ಸ್ಥಾಪಿತ

KARNATAKA STATE FINANCIAL CORPORATION

Established under the State Financial Corporations' Act, 1951



ಸಂಖ್ಯೆ : ಕ.ರಾ.ಹ.ಸಂ./ಪ್ರ.ಕ./

Ref. No. KSFC/H.O. ED-I/AGM(Legal)/ 03 /16-17

ದಿನಾಂಕ :

Date: 16/4/2016

INTER OFFICE NOTE

Sub: W.P. No.28182/2013 (GM-DRT) – M/s. Deepak Apparels Pvt Ltd., and others V/s. City Union Bank and others.

Action taken under the provisions of SARFAESI Act were being challenged under Article 226 and 227 of the Constitution by filing writ petitions although SARFAESI Act provided for an appeal before the DRT.

The Hon'ble High Court of Karnataka in W.A. No. 6368/2011 decided on 21/11/2011 and W.A. No. 635/2013 decided on 18/3/2013 have given divergent views on maintainability of such writ proceedings. Hence, the matter was referred to a full Bench of the Hon'ble High Court of Karnataka. In the reference the full Bench of the High Court of Karnataka in the subject writ petition was to decide as to the accurate jurisdiction if the High Court in writ proceedings when appeal before DRT was provided under SARFAESI Act.

While disposing of the reference, the Court has observed relying on the judgment of the Supreme Court that when extraordinary writ remedy is invoked, despite the availability of an alternative remedy, the Court should at the threshold, examine, whether the petition can be entertained having regard to the pleading in the petition, more particularly, the reason(s) stated for bypassing of the alternative remedy. In a catena of decisions, it has been held by the Apex Court, that writ petition under Article 226 of the Constitution should not be entertained when the alternate remedy is available under the Act, unless exceptional circumstances are made out. Unless the Court is convinced that the case falls under the exceptional categories, the writ petition filed against the order of the Tribunal, passed in exercise of the jurisdiction under S. 17 of the SARFAESI Act, on account of the legislative intent behind the enactment of the SARFAESI Act and RDDB Act and the ratio of law laid down

ಪ್ರಧಾನ ಕಛೇರಿ : ಕೆ.ಎಸ್.ಎಫ್.ಸಿ. ಭವನ, ನಂ. 1/1, ತಿಮ್ಮಯ್ಯ ರಸ್ತೆ, ಕಂಟೋನ್‌ಮೆಂಟ್ ರೈಲ್ವೆ ನಿಲ್ದಾಣದ ಹತ್ತಿರ, ಬೆಂಗಳೂರು-560 052

ದೂರವಾಣಿ ಸಂಖ್ಯೆ ಸಾಮಾನ್ಯ : 22263322 ಫ್ಯಾಕ್ಸ್ : 080-22250126 ಇ-ಮೇಲ್ : info@ksfc.in ವೆಬ್ : www.ksfc.in

HEAD OFFICE : KSFC Bhavan, No. 1/1, Thimmaiah Road, Near Cantonment Railway Station, Bangalore-560 052.

Telephone : Gen : 22263322, Fax : 080-22250126, e-mail : info@ksfc.in Website : www.ksfc.in

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by the Apex Court in the cases of (1) Kanaialal Lalchand Sachdev (2) Satyawati Tondon and (3) Sri Siddeshwara Co Op Bank Ltd., cannot be entertained, as the approach of the High Court should be consistent with the provisions of the statutes and also the law laid down by the Apex Court, mandated by Article 141 of the Constitution.

In view of the finding of the Hon'ble High Court of Karnataka (Full Bench) referred above, the Departments/BOs wherever necessary may take up such cases where action under SARFAESI Act has been challenged by filing writ petitions before the High Court and to get the same disposed of in the light of the above.



Executive Director - I

To :

All the Principal Officers/Section Heads in HO
All the DGMs/AGMs/BMs of Branches

CC to :

ED - II
All General Managers
EA to CMD