Date of reserved for orders : 05.08.2026
Date of pronouncement : 03.09.2026
Date of uploading : 03.09.2026

APHC010431112024

**IN THE HIGH COURT OF ANDHRA PRADESH**
**AT AMARAVATI [3332]**
**(Special Original Jurisdiction)**

THURSDAY, THE 3RD DAY OF SEPTEMBER 2026

**PRESENT**

**THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI**

**Writ Petition No: 21975/2024 along with W.P.No.21976/2024**

**Writ Petition No: 21975/2024**

**Between:**

Pujitha Industries and Others **...PETITIONER(S)**

**AND**

The Reserve Bank Of India and Others **...RESPONDENT(S)**

**Counsel for the Petitioner(S):**

1. PATANJALI PAMIDIGHANTAM

**Counsel for the Respondent(S):**

1. S SATYANARAYANA MOORTHY
2. V DYUMANI

**W.P.No.21976/2024:**

**Between:**

M/s Pavithra Foam Products and Others **...PETITIONER(S)**

**AND**

The Reserve Bank Of India and Others **...RESPONDENT(S)**

**Counsel for the Petitioner(S):**

1. PATANJALI PAMIDIGHANTAM

**Counsel for the Respondent(S):**

1. S SATYANARAYANA MOORTHY
2. V DYUMANI

**The Court made the following <u>COMMON ORDER:</u>**

Inasmuch as the subject issue involved in both the writ petitions and the respondents are one and the same, they are heard together and disposed of under this common order.

2. The case of the petitioners in both the writ petitions is that, petitioner no.1 in both the writ petitions are the registered firms under Micro, Small and Medium Enterprises (MSME) for their respective businesses while petitioner no.2 is a managing partner. The petitioners firm have availed loan from the 2nd respondent bank and have been promptly paying all the monthly installments without any default. Due to spread of Covid-19 pandemic and the national wide lock-down imposed by the Central Government, the businesses were adversely affected and the petitioners faced severe liquidity crisis, demonetization problems, GST problems, as such they could not pay the amounts due to the bank, however, they paid substantial amounts even during lock-down period. The petitioner firms have made several requests to the 2nd respondent-bank to re-structure the loan amount and requested time for repayment of total loan amount but the bank has not responded to any of the requests and resorted to take coercive steps against the another loan account

of the petitioners, as such the petitioner firms filed W.P.No.19201/2021 before this court which was disposed of directing the petitioner firms to make a representation to the 2nd respondent seeking restructure of the loan. As per the direction of this court, the petitioners have made representations but the respondent bank did not restructure the loan and issued impugned proceedings declaring the petitioner firms accounts as Non-Performing Asset (NPA) without issuing any caution notice, contrary to guidelines of MSMED Act, 2006 and RBI guidelines and initiated proceedings under SARFEASI Act, 2002. Questioning the said action of the 2nd respondent bank, the present writ petitions came to be filed.

3. Heard Sri Patanjali Pamidigantam, learned counsel for the petitioners, Sri Satya Narayana Moorthy, learned counsel for the 1st respondent and Smt V.Dyumani, learned Standing Counsel for respondent no.2, in both the writ petitions.

4. Learned counsel for the petitioners in elaboration to what has been stated in both the writ affidavits contended that, the RBI had issued Master Direction-Reserve Bank of India [Lending to Micro, Small & Medium Enterprises(MSME) sector]-Directions, 2016 notifying Framework for revival and rehabilitation of MSME to provide a simpler and faster mechanism to address the stress in the accounts of MSMEs and to facilitate the promotion and development of MSMEs and advised to issue necessary instructions to banks for effective implementation and monitoring of the said Framework. He further submitted that, as per the said directions, before declaring an account

as NPA, a committee has to be appointed and restructure mechanism has to be adopted but in the present cases, despite making requests to re-structure the loan amount and to grant time for repayment of total loan amount, without adhering to the above said directions, the petitioners accounts have been declared as NPA without issuing any caution notice, contrary to guidelines of MSMED Act, 2006, RBI guidelines and notification issued by the Ministry of MSME dated 29.05.2015 and further initiated proceedings under SARFEASI Act, 2002 and already sold certain properties under recovery of the debts. He further submitted that, if such action of declaring the petitioners accounts as NPA is allowed to subsists, the rights of the petitioners will be affected, as such prayed to pass appropriate orders. In support of his contentions, learned counsel for the petitioners relied upon the judgment of the Division Bench of this Court in ***Vardhaman Marketing Company & others Vs. Union of India and others***[1] *and* the judgment passed by the Apex Court in ***Pro Knits Vs. Board of Directors of Canara Bank***[2]***.***

5. On the other hand, learned counsel for both the respondents in elaboration to what has been stated in the counter affidavit contended in one voice that it is very clear that the petitioners have to approach concerned authority for re-structuring of their accounts before their accounts were declared as NPA, however, in the present case, the petitioners have submitted their representations only after their accounts had been declared as NPA, therefore, no indulgence need be shown on them. They further

[1] MANU/AP/0070/2025
[2] MANU/SC/0814/2024

submitted that, the judgment relied by the petitioners are not applicable to the facts on hand and certain substantial amounts have already been recovered by invoking SARFEASI Act, 2002 and that third-party interests have also intervened in the matter. They further placed reliance on the judgment passed by the Apex court in ***Shri Shri Swami Samarth Construction & Finance solution & others Vs The Board of Directors of NKGSB Co-op, Bank Ltd and Ors***[3] in support of their contentions and prayed to pass appropriate orders accordingly.

6. Perused the record and considered the submissions of learned counsel for the respective parties.

7. The prime grievance of the petitioners in both the writ petitions is that, despite making requests, their accounts were declared as NPA without issuing any caution notice, contrary to guidelines of MSMED Act, 2006, RBI guidelines and the notification issued by the Ministry of MSME dated 29.05.2015 and proceedings under SARFEASI Act, 2002 were initiated against them.

8. Undoubtedly, the notification dated 29.05.2015 is binding on the lending banks/secured creditors. At this juncture, it would be apt to refer the relevant guidelines (4.8) in Master Direction-Reserve Bank of India [Lending to Micro, Small & Medium Enterprises (MSME) Sector]-Directions, 2016 which reads thus:

[3] MANU/SC/0997/2025 or 2025 INSC 908

"*4.8 Framework for Revival and Rehabilitation of MSMEs:*

*The Ministry of Micro, Small and Medium Enterprises, Government of India, vide their Gazette Notification dated May 29, 2015 had notified a 'Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises' to provide a simpler and faster mechanism to address the stress in the accounts of MSMEs and to facilitate the promotion and development of MSMEs. The Reserve Bank was advised to issue necessary instructions to banks for effective implementation and monitoring of the said Framework. After carrying out certain changes in the captioned Framework in consultation with the Government of India, Ministry of MSME so as to make it compatible with the existing regulatory guidelines on 'Income Recognition, Asset Classification and provisioning pertaining to Advances' issued to banks by RBI, the guidelines on the captioned Framework along with operating instructions were issued to banks on March 17, 2016. The revival and rehabilitation of MSME units having loan limits up to Rs.25 crore would be undertaken under this Framework. Banks were required to put in place their own Board approved policy to operationalize the Framework not later than June 30, 2016. The revised Framework supersedes our earlier Guidelines on Rehabilitation of Sick Micro and Small Enterprises issued vide our circular RPCD. CO. MSME & NFS.BC.40/06.02.31/2012-2013 dated November 1, 2012, except those relating to Reliefs and Concessions for Rehabilitation of Potentially Viable Units and One Time Settlement, mentioned in the said circular.*

*The salient features of the Framework are as under:*

*i) Before a loan account of an MSME turns into a Non-Performing Asset (NPA), banks or creditors should identify incipient stress in the account by creating three sub- categories under the Special Mention Account (SMA) category as given in the Framework.*

*ii) Any MSME borrower may also voluntarily initiate proceedings under this Framework.*

*iii) Committee approach to be adopted for deciding corrective action plan.*

*iv) Time lines have been fixed for taking various decisions under the Framework."*

9. In view of the above, it is absolutely clear that the instructions for the Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises as notified by the Central Government vide the Notification dated 29.05.2015 in exercise of the powers conferred under Section 9 of the

MSMED Act, 2006 as revised by the RBI Notification dated 17th March, 2016, and the Master Directions i.e. the Reserve Bank of India (Lending to Micro, Small and Medium Enterprises Sector) Directions, 2016, issued by the Reserve Bank of India in exercise of the powers conferred by Section 21 and 35(A) of the Banking Regulation Act, 1949 having statutory force, are binding to all Scheduled Commercial Banks, licensed to operate in India by the Reserve Bank of India, as stated in the said Directions. It cannot be gain said that the Banking Regulation Act, 1949 basically seeks to regulate banking business and mandates a statutory comprehensive and formal structure of banking regulation and supervision in India. Section 21 and Section 35A of the said Act empower the Reserve Bank of India to frame the policy and give directions to the banking companies in relation to the advances to be followed by the banking companies. Such directions have got to be read as supplement to the provisions of the Banking Regulation Act, 1949 and accordingly are required to be construed as having statutory force and mandatory.

10. In **M/s Pro Knits (supra 2)** the Apex court has held thus:

> "*17.It is also pertinent to note that sufficient safeguards have been provided under the said Chapter for safeguarding the interest of the Defaulters-Borrowers for giving them opportunities to discharge their debt. However, if at the stage of classification of the loan account of the borrower as NPA, the borrower does not bring to the notice of the concerned bank/creditor that it is a Micro, Small or Medium Enterprise under the MSMED Act and if such an Enterprise allows the entire process for enforcement of security interest under the to be over, or it having challenged such action of the concerned bank/creditor 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 by raising the plea of being an MSME at a belated stage. Suffice it to say, when it is mandatory or obligatory on the part of the Banks to follow the Instructions/Directions issued by the Central Government and the Reserve Bank of India with regard to the Framework for Revival and Rehabilitation of MSMEs, it would be equally incumbent on the part of the concerned MSMEs to be vigilant enough to follow the process laid down under the said Framework, and bring to the notice of the concerned Banks, by producing authenticated and verifiable documents/material to show its eligibility to get the benefit of the said Framework."*

11. As per the judgment referred supra, if a borrower does not bring to the notice of the concerned bank/creditor that it is a MSME registered under the MSME Act, at the stage of classification of the loan account of the borrower as NPA and allows the entire process for enforcement of security interest under SARFAESI Act to be completed or having failed in challenging such action of the concerned bank/creditor in the court of law/tribunal, such an enterprise could not be permitted to misuse the process of law for thwarting the actions taken under SARFAESI Act by raising the plea of being an MSME, at a belated stage.

12. This court is not satisfied that the petitioner had made an attempt to invoke the above rules and regulations referred supra for restructuring of accounts in time. The Judgment of the Apex Court is very clear that when MSME units failed to bring to the notice of the banks for restructuring of their accounts before they are declared as NPA and more particularly when the banks proceeded and invoked SARFAESI Act, it cannot be considered. Admittedly, in the present case certain properties were already sold and third party interest came into play. In view of the same, the contentions adverted

by the petitioners are not sustainable and the judgment relied on by them is of no vail.

13. As could be culled out from the facts and circumstances of the case, the petitioners have not approached the concerned bank, before their accounts being declared as NPA and they have questioned the same at the belated stage which cannot be entertained as per the aforesaid judgment of the Apex court. For the foregoing reasons, this court did not find any merit in the present writ petitions; as such they are liable to be dismissed.

Accordingly, both the writ petitions are ***dismissed***. No costs.

Miscellaneous applications, pending if any, shall stand closed.

**JUSTICE RAVI CHEEMALAPATI**

*BRS*