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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 367/2016

RATUL PURI ..... Petitioner

Through: Dr. A.M. Singhvi, Sr. Adv. with Mr. Rishi Agarwala & Ms. Misha Rohatgi, Advs.

Versus

STATE BANK OF BIKANER & JAIPUR ..... Respondent

Through: Ms. Kittu Baja & Ms. Shagun Bhargava, Advs.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

O R D E R

% **15.01.2016**

CMs No.1545-46/2016 (both for exemptions)

1. Allowed, subject to just exceptions.

2. The applications are disposed of.

W.P.(C) 367/2016 & CM No.1544/2016 (for stay)

3. The petition impugns the letter dated 31st December, 2015 of the respondent to the petitioner intimating to the petitioner that the appropriate Committee of the respondent Bank has approved the proposal for inclusion of the name of the petitioner in his capacity as the guarantor of its borrower Moser Baer India Ltd. in the list of Wilful Defaulters of the Reserve Bank of India (RBI) / Credit Information Companies (CICs) (Credit Information Bureau of India Ltd. (CIBIL), M/s Highmark Credit Information Services Pvt. Ltd., M/s Experian Credit Information Company of India Pvt. Ltd. and M/s Equifax Credit Information Services Pvt. Ltd.) as per the Guidelines of the RBI and giving an opportunity to the petitioner to represent thereagainst

and to be heard by The Identification Committee On Wilful Defaulters of the respondent.

4. It is *inter alia* the contention of the senior counsel for the petitioner that the said decision of the Committee is without jurisdiction inasmuch as the Corporate Debt Restructuring Cell has vide communication dated 16th April, 2013 at page 119 of the paper book already informed the petitioner of the decision for release of personal guarantee of the petitioner.

5. I have put it to the senior counsel for the petitioner that since the petitioner has been given an opportunity of making representation against and being heard and which opportunity has vide judgment of the Division Bench in ***Punjab National Bank Vs. Kingfisher Airlines Ltd.*** (2015) SCC Online Del 14128 been held to be a complete opportunity of representation through advocate, why this Court should interfere at this stage.

6. The senior counsel has drawn attention to para 31 of ***Union of India Vs. Vicco Laboratories*** (2007) 13 SCC 270 laying down that abstinence from interference at the stage of issuance of show cause notice in order to relegate the parties to the proceedings before the authorities concerned is though a normal rule but is not without exceptions. He contends that if the Identification Committee On Wilful Defaulters of the respondent Bank, inspite of representations / submissions of petitioner, recommends the name of the petitioner to RBI / Credit Information Companies, irreparable injury would be caused to the petitioner including in the business in which he is now engaged, even before has had a chance to challenge the said decision of the Identification Committee On Wilful Defaulters. He thus states that if time of two weeks is given to the petitioner in the event of the decision of The

Identification Committee On Wilful Defaulters being against the petitioner, the petitioner would confine the relief in this petition to the said extent only.

7. The counsel for the respondent Bank appearing on advance notice has been heard on the aforesaid aspect.

8. The petition is disposed of relegating the petitioner to make a representation / objection against the proposal contained in the letter dated 31st December, 2015 and the hearing before The Identification Committee On Wilful Defaulters but by directing that in the event of The Identification Committee On Wilful Defaulters rejecting the objections / representation of the petitioner and finding a case of recommending the inclusion of the name of the petitioner in the list of wilful defaulters, the said decision would be communicated to the petitioner and would not be made public and the recommendation will not be sent to the RBI / Credit Information Companies for a period of two weeks of so notifying the petitioner. It is further clarified that all contentions as contained herein shall remain open to the petitioner before The Identification Committee On Wilful Defaulters as well as in the challenge if any to decision thereof.

9. The senior counsel for the petitioner states that the petitioner be allowed to appear before the Committee through lawyer / chartered accountant.

10. It has already been held by the Division Bench of this Court in ***Kingfisher Airlines Ltd.*** supra and the respondent is expected to abide by thereto and the need for such a direction does not arise.

No costs.

RAJIV SAHAI ENDLAW, J

JANUARY 15, 2016/'gsr'..