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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 13.07.2016

W.P.(C) 5917/2016

MOSER BAER INDIA LTD.

..... Petitioner

Through: Mr. Arun Bhardwaj, Sr. Advocate
with Ms. Maneesha Dhir, Mr.
Apoorv Kasal, Mr. Aseem
Swaroop and Mr. Vaibhav Tyagi,
Advocates

Versus

STATE BANK OF INDIA & ANR

..... Respondents

Through: Mr. Ankur Mittal, Advocate with
Mr. Amrik Ram, Chief Manager,
SBI, SAMB, Delhi

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

CM 24366/2016 (Exemption)

Exemption granted subject to all just exceptions.

The application is disposed of accordingly.

W.P.(C) 5917/2016 & CM 24365/2016 (Stay)

1. The present petition under Article 226 of the Constitution of India
assails Show Cause Notice No.SAMB/CL-1/2016-17/439 dated

30.05.2016, issued by respondent No.1 to the petitioner herein, asking the latter to show cause why their name be not included in the list of Willful Defaulters, as per the extant RBI Guidelines.

2. Notice.

3. Mr. Ankur Mittal, learned counsel accepts notice on behalf of the official respondent-State Bank of India.

4. With the consent of counsel appearing on behalf of the parties, the petition has been heard and is being disposed of with the following order.

5. In the present case, it is observed that in terms of the extant RBI Guidelines, in the event the Competent Committee constituted thereunder, after examining the evidence/material available before it, comes to a conclusion that an event of willful default has occurred, it is required by law to issue a Show Cause Notice to the concerned borrower.

6. It is an admitted position that such a Show Cause Notice was issued by the Competent Committee to the petitioners on 30.05.2016, as aforesaid. It is also an admitted position that the petitioners received a copy of the said Show Cause Notice on 04.06.2016 and have responded thereto by way of their reply dated 04.07.2016. A plain reading of the said reply clearly demonstrates that apart from questioning the legality of the Show Cause Notice and the veracity of the material, based upon which the same has been issued, the petitioners have clearly and unequivocally asked the official respondents to provide them with copies of the relevant material/documents, based on which the Show Cause Notice impugned herein has been issued, as well as, sought an

opportunity of being heard, before a determination thereon is made by the Competent Committee, in accordance with law.

7. Mr. Mittal, learned counsel appearing on behalf of the official respondents unambiguously states that a) they are not averse to providing the petitioners with clear and legible copies of all the material/evidence, which forms the basis of the impugned Show Cause Notice; and b) that they shall issue a notice to the petitioners, affording the latter an opportunity of being heard, before taking a final decision, in accordance with law. Further, it is stated on behalf of the official respondents that the decision arrived at by the Competent Committee, after affording the petitioners an adequate opportunity of representing against the impugned Show Cause Notice, will be communicated to them as soon as possible, after the determination in relation to the impugned Show Cause Notice is arrived at, in accordance with law.

8. Directed accordingly.

9. There is no gainsaying the legal position that the official respondents shall be bound to comply with the directions issued by this Court, as enshrined in LPA No.589/2014, **Punjab National Bank vs. Kingfisher Airlines Limited**, decided on 17.12.2015, reported as **2015 SCC OnLine Del 14128** and in particular paragraph 19 of the report. It is relevant to point out that Mr. Mittal, learned counsel appearing on behalf of the official respondents has invited my attention to the circumstance that a Special Leave Petition No.8591/2016, has been instituted by the State Bank of India, assailing the aforesaid judgment and order dated 17.12.2015. However, in this behalf, it would be pertinent to

observe that although the Hon'ble Supreme Court has issued notice in the said Special Leave Petition as well as the prayer for interim relief, the operation of the said judgment and order assailed therein has not been stayed.

10. With the above directions, the writ petition is partly allowed and disposed of accordingly. Pending application also stands disposed of.

JULY 13, 2016
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SIDDHARTH MRIDUL, J

