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

\+ W.P.(C) 3158/2017

M/S MOSERBAER INDIA LIMITED ..... Petitioner
Through: Ms. Maneesha Dhir, Adv.

versus

CENTRAL BANK OF INDIA ..... Respondent
Through: Ms. Reema Khorana, Adv.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

<u>O R D E R</u>

% **12.04.2017**

<u>CM Nos. 13747-13748/2017 (for exemptions)</u>

Exemptions allowed subject to all just exceptions.

Applications stand disposed of.

<u>W.P.(C) 3158/2017</u>

The present petition has been filed with the following prayers:

" In view of the facts and circumstances of the present case and the submissions made herein above, the petitioners, most respectfully prays that this Hon'ble Court may graciously be pleased to:

a) Allow the present Petition;

b) Pass a Writ of certiorari or mandamus or a writ, order or direction in the nature of certiorari and / or mandamus and / or any other appropriate writ setting aside / quashing the impugned Show Cause Notice dated 07.02.2017 as well as the letter dated 16.03.2017 issued by the Respondent Bank which are in clear contravention of the Guidelines issued by the Reserve Bank of India qua Wilful Defaulters;

c) *Pass such other and further orders and / or directions as this Hon'ble Court may deem fit, just and proper."*

It is the submission of Ms. Manisha Dhir, learned counsel for the petitioner that the limited grievance of the petitioner in the writ petition is with regard to a stand taken by the respondent Bank in its letter dated 16th March, 2017 at Page 115 of the paper book to the extent that the representation dated 3rd March, 2017 shall be treated as final representation before taking a decision. She would submit that the contents of the show-cause notice issued by the respondent are vague and they have not given any documents in support of the show-cause notice. That apart the show-cause notice is contrary to the judgments passed by this Court including ***LPA no. 589/2014*** titled as ***Punjab National Bank v. Kingfisher Airlines Limited and Ors. (2015 SCC Online Delhi 14128)*** decided by the Division Bench of this Court on 17th December, 2015.

In the end, it is the submission of learned counsel for the petitioner that the Committee which is referred to at Page 116 of the paperbook is the Grievance Redressal Committee and the said Committee must allow the petitioner to be represented by an Advocate. In this regard, she relies on Para 19 (SS) of the aforesaid Judgment, wherein the Division Bench has held as under:

> *"Para 19 (SS). We therefore conclude that the GRC of the appellant banks erred in denying representation through the advocates to the respondent. We further hold that the borrowers or the Banks / FIs who are proposed to be classified / declared as wilful defaulters and are given an opportunity of hearing before the GRC are entitled to be represented therein through advocates. We however hasten to clarify that the GRC would be fully*

> *empowered to control including as to the duration and guide the hearing and if finds dilatory and vexatious tactics being adopted, to take suitable consequential actions."*

On the other hand, Ms. Reema Khorana, learned counsel appearing for the respondent Bank states the present petition is pre-mature inasmuch as no final decision on the show-cause notice has been taken. In this regard she refers to the penultimate and the last Paras of the letter dated 16th March, 2017 which reads as under:

> *"However the representation made by you vide letter dated 03.03.2017 shall be considered by the Committee and if the committee feels appropriate then an opportunity for personal hearing may be given to you.*
> *In view of the forging premise, you have failed to give any cogent explanation qua the bank's decision to declare you as Wilful defaulters in accordance with law."*

She also states the decision has been taken to grant personal hearing to the petitioner. She also states that the petitioner shall be at liberty to submit during the course of personal hearing all the documents, which the petitioner would like to rely on along with the submission / explanation in relation to those documents.

In view of the aforesaid submissions of the learned counsel for the respondent Bank, Ms. Dhir, states no further grievance subsists and the petition can be disposed of.

It is made clear, in so far as the plea of Ms. Dhir, that the petitioner should be allowed to be represented by an Advocate before the Committee, the respondent shall comply with the position of law. The petition is disposed of.

CM No. 13746/2017

Dismissed as infructuous.

V. KAMESWAR RAO, J

APRIL 12, 2017/*jg*