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

\+ W.P.(C) 10193/2016

RATUL PURI ..... Petitioner

Through : Ms. Manisha Dhir with Mr. Rishi Agrawala, Advocates

versus

STATE BANK OF BIKANER AND JAIPUR ..... Respondent

Through : Ms. Kittu Bajaj, Advocate

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI

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

% 12.01.2017

1. This is the second affidavit that the respondent/Bank has filed pursuant to the order dated 26.10.2016 whereunder, having regard to the casual manner in which the respondent/Bank had proceeded to issue two sets of notices to the same person in two different capacities, in relation to the same company, resulting in two sets of legal proceedings, it was deemed appropriate to direct the head of the Legal Department of the respondent/Bank to file an affidavit giving an explanation therefor.

2. On 23.11.2016, the Chief General Manager of the respondent/Bank had filed an affidavit stating *inter alia* that the Legal Department of the respondent/Bank does not vet any notice issued by the Identification Committee constituted by the Bank as per RBI Guidelines and the said orders are issued by the said Committee on independent application of mind.

In view of the averments made in the said affidavit, it was deemed appropriate to direct the Chief General Manager of the respondent/Bank, who is the Chairperson of the Identification Committee, to furnish an explanation.

3. Pursuant thereto, an affidavit dated 3.1.2017 has been filed by Mr. A.C. Rout, Chief General Manager (Corporate Banking) of the respondent/Bank stating *inter alia* that the first notice was issued erroneously to the petitioner as a guarantor in the loan account, but during the personal hearing, the Identification Committee had specifically asked the petitioner whether he denies the fact that he was the Director of the company for a substantial period and there was default on the part of the company during his term as Director. It has been stated that in the course of the said proceedings, the petitioner had replied that he had been served with the notice in the capacity as a guarantor and therefore he wished to confine his arguments in his status as a guarantor in the loan account and that only when he would be furnished a notice in the capacity as a Director, would he be able to reply to the queries on that aspect. It is further averred that the Identification Committee had endeavoured to avoid any second show cause notice to the petitioner, but the petitioner had himself invited the same.

4. Though no document has been filed in support of the said affidavit, counsel for the respondent/Bank hands over the minutes of the meeting dated 29.3.2016, prepared by the Identification Committee to substantiate the averments made in para 3 of the affidavit. This however does not explain the error committed by the Identification Committee in the first instance by issuing a notice to the petitioner only in his capacity of a guarantor of the

loan account, when the respondent/Bank was all along aware of the fact that he was also a Director during the period when the Company had allegedly, committed a default.

5. Counsel for the respondent/Bank tenders an apology on behalf of the respondent/Bank stating that the said error in issuing the said notice had occurred due to the incomplete information furnished by the lower staff.

6. The aforesaid explanation does not exonerate the higher staff, particularly when the officers concerned are of the rank of Chief General Manager (Corporate Affairs).

7. While cautioning the respondent/Bank to be more careful in future, it is deemed appropriate to let the matter rest here.

8. The affidavit is taken on record. The matter is closed.

HIMA KOHLI, J

JANUARY 12, 2017
sk/ap