

\$~90

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

+ W.P.(C) 5286/2019 & CM. Nos. 23416/2019, 23417/2019 and
23418/2019

RANGOLI INTERNATIONAL PVT. LTD. Petitioner
Through: Mr. Saurabh Kirpal and Mr. Manohar
Malik, Advs.

versus

BANK OF BARODA Respondent
Through: Mr. Vipin Jai, Adv. with Ms. Shubhra
Saxena, Manager (Law)

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

ORDER
% **15.05.2019**

CM No. 23418/2019 (for exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 5286/2019

1. The present petition has been filed by the petitioner with the following
prayers:

“In the light of above stated facts and circumstances, it is most respectfully prayed that this Hon’ble Court may be pleased to:-

a) issue a writ, order or direction in the nature of Certiorari quashing and set aside the letter dated 03.03.2017 and the impugned action of Respondent declaring and classifying the Petitioner as “Wilful Defaulter” for being unconstitutional, arbitrary and against the principles of natural justice and in violation of RBI Master Circular dated 01.07.2015.

b) pass any other or further order (s) as this Hon’ble Court deems fit and proper in the interest of justice.

2. In substance, the challenge in this appeal is to a communication dated

March 3, 2017 whereby it has been decided by the respondent Bank to declare the petitioner company and its Directors as a “wilful defaulters”.

3. It is the submission of Mr. Saurabh Kripal, learned counsel for the petitioner that the impugned order has been passed pursuant to a show cause notice dated March 29, 2016. According to him, the process contemplated in the Master Circular dated July 1, 2015 of the RBI has not been followed inasmuch as the case of the petitioner has not been considered by the Review Committee.

4. The submission of Mr. Kripal is controverted by the learned counsel for the respondent by stating that despite, notice petitioner did not represent itself for hearing before the First Committee. According to him, the First Committee gave its recommendations, which were placed before the Review Committee and the Review Committee has passed an order which resulted in the impugned communication dated March 3, 2017.

5. At this stage, Mr. Kripal states, as per the procedure / law laid down by the Supreme Court, the petitioner was required to be given copy of the order passed by the First Committee to enable the petitioner make a representation within fifteen days to the Review Committee for the Review Committee to consider the representation and pass appropriate orders. He refers to the judgment of the Supreme Court in the case of ***State Bank of India v. M/s. Jah Developers Pvt. Ltd. and Ors. Civil Appeal No. 4776/2019*** and connected appeals. The relevant portion of the said judgment is reproduced as under:

“xxx

xxx

xxx

xxx

This being so, and given the fact that paragraph 3 of the Master Circular dated 01.07.2013 permitted the borrower to make a representation within 15 days of the preliminary decision of the First Committee, we are of the view that first and foremost, the Committee comprising of the Executive Director and two other senior officials, being the First Committee, after following paragraph 3(b) of the Revised Circular dated 01.07.2015, must give its order to the borrower as soon as it is made. The borrower can then represent against such order within a period of 15 days to the Review Committee. Such written representation can be a full representation on facts and law (if any). The Review Committee must then pass a reasoned order on such representation which must then be served on the borrower. Given the fact that the earlier Master Circular dated 01.07.2013 itself considered such steps to be reasonable, we incorporate all these steps into the Revised Circular dated 01.07.2015. The impugned judgment is, therefore, set aside, and the appeals are allowed in terms of our judgment. We thank the learned Amicus Curiae, Shri Parag Tripathi, for his valuable assistance to this Court.”

6. This submission of Mr. Kripal is conceded by the learned counsel for the respondent, who states, respondent shall hand over the copy of the order passed by the First Committee to the petitioner to enable it to make a representation before the Review Committee within 15 days from the receipt of the copy of the order. According to him, by considering the said representation, the Review Committee shall pass appropriate orders. He also states, till such time, the Review Committee pass orders, the impugned communication dated Marcy 3, 2017 shall not be given effect to.

7. If that be so, the copy of the order passed by the First Committee shall be handed over by the respondent to the petitioner within two days. The

petitioner shall make a representation on the said order before the Review Committee within fifteen days thereafter. It is expected that the Review Committee shall consider the representation and pass appropriate order which shall be communicated to the petitioner. Till such time, the Review Committee passes order, and serve the same on the petitioner, the communication dated March 3, 2017 shall not be given effect to.

With the above, the petition stands disposed of.

CM. Nos. 23416/2019 and 23417/2019

Dismissed as infructuous.

V. KAMESWAR RAO, J

MAY 15, 2019/jg