IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-25192-2018
Date of decision : 24.2.2020

Tara Corporation Limited .... Petitioner (s)

Versus

Bank of India and another .... Respondent (s)

CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present:- Mr. Anand Chhibbar, Senior Advocate with
Ms. Shreya Bhakoo, Advocate
for petitioner.
Mr. G.S. Anand, Advocate
for respondent No. 1.

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<u>RAJIV SHARMA, J (ORAL)</u>

The attention of the Court has been drawn to Master Circular on Wilful Defaulters dated 1.7.2015 (Annexure-P-2), fragment portions thereof read as under :

'3. Mechanism for identification of Wilful Defaulters

The mechanism referred to in paragraph 2.5 above should generally include the following :

(a) The evidence of willful default on the part of the borrowing company and its promoter/whole-time director at the relevant time should be examined by a Committee headed by an Executive Director or equivalent and consisting of two other senior officers of the rank of GM/DGM.

(b) If the Committee concludes that an event of wilful default has occurred, it shall issue a Show Cause Notice to the concerned borrower and the promoter/whole-time director and call for their submissions and after considering their submissions issue an order recording the fact of wilful default and the reasons for the same. An opportunity should be given to the borrower and the promoter/whole-time director for a personal hearing if he Committee feels such an opportunity is necessary.

(c) The Order of the Committee should be reviewed by another Committee headed by the Chairman/Chairman and Managing Director or the Managing Director and Chief Executive Officer/CEOs and consisting, in addition, to two independent directors/non-executive directors of the bank and the Order shall become final only after it is confirmed by the said Review Committee. However, if the Identification Committee does not pass an Order declaring a borrower as a wilful defaulter, then the Review Committee need not be set up to review such decisions.'

Petitioner was served with show cause notice dated 25.6.2018 (Annexure-P-12). Petitioner filed a detailed reply thereof on 13.7.2018. The impugned order was passed on 15.9.2018. Though, petitioner has filed detailed reply to show cause notice dated 25.6.2018, but there is no discussion on the grounds taken by petitioner in reply dated 13.7.2018 to the show cause notice dated 25.6.2018.

The purpose of issuing show cause notice is to enable the party to project his/her case before the competent authority. Thus, there is violation of principles of natural justice. The impugned order dated 15.9.2018 (Annexure-P 1) is quashed and set aside. The liberty is reserved to respondent bank to pass fresh orders strictly in accordance with Master Circular dated 1.7.2015 (Annexure-P-2) after taking into consideration the reply furnished by petitioner dated 13.7.2018.

We have not discussed any other issue.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

24.2.2020
sjks

Whether speaking order : Yes / No
Whether reportable : Yes / No