

AD-05
Ct No.09
19.10.2023
TN

WPA No. 22968 of 2023

Jainco Automotive Pvt. Ltd.

Vs.

The Regional Manager, Central Bank of India, Kolkata
(North) Regional Office and another

Mr. Anubhav Sinha,
Mr. R.S. Tiwari

.... for the petitioner

Ms. Usha Doshi,
Ms. Priyanka Gope

.... for the respondent-Bank

- 1.** Learned counsel for the petitioner contends that the petitioner is a corporate guarantor. Since the guarantee was given for the borrowing company prior to cut off date of September 09, 2014 as contemplated in Clause 2.6 of the RBI Master Circular dated July 01, 2015, it is contended that the impugned proceeding for declaration of the petitioner as a willful defaulter is itself without authority and vitiated by the Circular itself.
- 2.** Learned counsel for the respondent-Bank controverts such submissions and argues that the petitioner has been given ample hearing before the willful defaulter committee and, as such, the premature writ petition ought to be

dismissed, since no final decision has been taken on such count.

- 3.** A perusal of Clause 2.6 of the updated Circular dated July 01, 2015 indicates that the treatment envisaged therein of non-group corporate and individual guarantors was made applicable with effect from September 09, 2014 and not to cases where guarantees were taken prior to this date.
- 4.** The said issue raises an arguable question which is also required to be decided by the willful defaulter committee.
- 5.** Although the petitioner was given ample opportunity to give a reply and this point was not taken specifically in its reply, for the ends of justice, the willful defaulter committee ought to look into such issue as well while considering the declaration of the petitioner as willful defaulter or otherwise.
- 6.** Hence, for the ends of justice, the petitioner is given another opportunity to file a further rejoinder/reply to the previous reply filed by the petitioner in answer to the show-cause. Such rejoinder shall be submitted before the committee positively within one week from date. If the same is filed within the said timeline, the willful defaulter committee shall consider the same and

take its decision on the proposed declaration of the petitioner as willful defaulter thereafter.

- 7.** It is, however, made clear that such rejoinder shall be confined to the point as indicated above as to whether the petitioner factually falls within the exception contemplated in Clause 2.6 pertaining to individual and non-group corporate guarantors prior to September 09, 2014.
- 8.** No further interference is called for at this stage.
- 9.** WPA No. 22968 of 2023 is disposed of in the light of the above observations.
- 10.** It is made clear that the merits of the questions raised by the parties against each other have not been gone into and it is deemed that none of the allegations made in the writ petition are admitted by the respondents.
- 11.** There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)