

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH.**

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**CWP-13238-2017 (O&M).
Date of Decision: 15.04.2024.**

M/S S.L.D.R. FASHIONS AND OTHERS

... Petitioner(s)

Versus

**SCREENING COMMITTEE ON WILFUL DEFAULTER, INDIAN
BANK AND OTHERS**

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Naresh Jain, Advocate, for the petitioner.

Defence of the respondents struck off vide order dated
16.05.2023.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present writ petition is to the order dated 03.04.2017 (Annexure P-10) issued by respondent No.2 i.e. the Zonal Manager, Indian Bank, Zonal Office, Ludhiana as well as against the proceedings conducted by the Screening Committee vide which the petitioner has been labeled as wilful defaulter without granting an opportunity of hearing to the petitioner.

2 Learned counsel for the petitioner contends that the Unit of the petitioner has been declared as defaulter Unit without complying with the procedure as prescribed under the Reserve Bank of India (RBI) Guidelines

dated 02.07.2012. He contends that the respondents had initially issued a show-cause notice dated 19.04.2016 to which a detailed reply was furnished by the petitioner. It is contended that vide Communication dated 06.05.2016, an opportunity of personal hearing was extended to the petitioner whereby the petitioner was called upon to appear before the authority at Chennai. However, a request was made by the petitioner that it was not feasible and possible for the petitioner to go to Chennai and therefore, a provision for video conferencing ought to be made available. The petitioner was then conveyed to appear in the Branch of respondent Bank concerned on 17.05.2016 at 3:00 P.M. However, on the said date, when the representative of the petitioner appeared in the Branch, he was informed that no facility of video conferencing was available. An Email in this regard was sent by the petitioner on 19.05.2016 requesting for some time, however, notwithstanding the pendency of the said request, the impugned award was passed. It is contended that in the said order it is mentioned that another opportunity was afforded to the petitioner to appear through the video conference on 13.06.2016, however, no such opportunity was ever extended or communicated. He further takes this Court to the impugned order to contend that the said order has been passed without even considering the reply filed by the petitioner to the show-cause notice. He submits that even though an application had been moved on behalf of the respondents that M/s CFM Asset Reconstruction Pvt. Ltd. may be replaced as respondents creditors to which the reply was filed by the petitioner and the same was allowed vide order date 18.10.2019, however, the said respondent chose to remain absent in the proceedings. The said application

was allowed by this Court vide order dated 18.10.2019 and time was granted to the CFM Asset Reconstruction Pvt. Ltd. to file its reply. Last opportunity was granted to the CFM Asset Reconstruction Pvt. Ltd. to file its reply vide order dated 16.01.2020. The matter was taken up on as many as four occasions thereafter, however, counsel for respondent-M/s CFM Asset Reconstruction Pvt. Ltd. chose not to participate in the proceedings. Hence, the defence of the respondent was struck off by this Court vide order dated 16.05.2023 and in the interest of justice, the case was adjourned to enable the respondents to move an appropriate application. Despite two opportunities thereafter, the respondent chose not to move any application or made any attempt to file its reply. It seems that the said respondent is not interested in filing any reply.

3 In view of the above, the factual arguments raised by the petitioner remain uncontroverted and undisputed.

4 A pointed query was raised to the petitioner as to whether any statutory remedy of appeal under the RBI guidelines has been prescribed or not. He fairly informs this Court that as per Regulation 3, a Grievance Redressal Mechanism has been provided under the RBI Guidelines and that instead of approaching the said appellate Forum, he has approached this Court since the principles of natural justice had not been followed at the time of passing of the impugned order. He also fairly submits that even the aspect as regards violation of principles of natural justice can be agitated before the appellate Forum i.e. the Grievances Redressal Mechanism.

5 Taking into consideration that an efficacious remedy in the form of Grievance Redressal Mechanism was available to the petitioner as

per the RBI Guidelines, it would thus be expedient that at the first instance the issues espoused by the petitioner herein before this Court are raised before the Grievance Redressal Forum as provided under the RBI Guidelines.

6 The present writ petition is accordingly disposed of as not pressed at this juncture with liberty to the petitioner to prefer an appropriate appeal before the Grievance Redressal Mechanism as provided under Clause 3 of the RBI Guidelines.

7 Needless to mention that in the event of the petitioner preferring such an appeal, the period during which the proceedings remained pending before this Court shall be taken into consideration while computing limitation and an appropriate order shall be passed after affording an opportunity of hearing to the petitioner as per law.

8 Pending, misc. application(s), if any shall also stand(s) disposed of accordingly.

April 15, 2024.
raj arora

(VINOD S. BHARDWAJ
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*