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

\+ W.P.(C) 5770/2024 & CM APPL. 23914/2024, CM APPL. 23915/2024

YMR NUTS PRIVATE LIMITED & ORS. ..... Petitioners

Through: Mr. Anand Aggarwal, Advocate
Mob: 9811144331
Email: anandaggarwal@yahoo.co.in

versus

STATE BANK OF INDIA STRESSES ASSETS MANAGEMENT BRANCH II ..... Respondent

Through: Mr. Rajiv Kapur, Mr. Akshit Kapur and Mr. Aditya Saxena, Advocate for SBI.
Mob: 9716076533

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

% **25.04.2024**

CM APPL. 23915/2024 (For Exemption)

1. Exemption allowed, subject to just exceptions.

2. Application is disposed of.

W.P.(C) 5770/2024 & CM APPL. 23914/2024

3. The present petition has been filed seeking prayer for recalling the notice dated 6th April, 2024 issued by the respondent-State Bank of India ("SBI"), by which the petitioner is sought to be declared as a willful defaulter.

4. Learned counsel appearing for the petitioner submits that he was earlier issued a notice dated 4th August, 2023 by the Forensic Auditor.

5. Pursuant thereto, the petitioner had filed his reply dated 12th August, 2023, whereafter, no further action was taken against the petitioner for declaring the account of the petitioner as 'fraud'. He submits that subsequently another notice dated 22nd December, 2023 was issued by the respondent-SBI, wherein again the petitioner was granted opportunity to file a reply to the Show Cause Notice as to why the account of the petitioner should not be categorised and reported as 'fraud' as per the Reserve Bank of India ("RBI") Guidelines.

6. It is submitted that reply dated 5th January, 2024 was submitted by the petitioner. Thus, he submits that after the submission of the aforesaid replies, no further communication has been received by the petitioner in this regard and that the account of the petitioner had not been declared as 'fraud'.

7. Learned counsel appearing for the petitioner submits that despite the fact that no action was taken against the petitioner for declaration of the account of the petitioner as 'fraud', the petitioner has now received the notice dated 6th April, 2024, wherein the respondent-SBI has issued notice seeking reply from the petitioner as to why the petitioner may not be declared as a willful defaulter.

8. Thus, he submits that the action by the respondent-SBI is patently illegal.

9. Per contra, learned counsel appearing for the respondent-SBI submits that the present petition is premature, as only a Show Cause Notice has been issued by the respondent-SBI. He further submits that the petitioner has tried

to mix the two proceedings with respect to 'fraud' and willful default, as the two proceedings are totally separate and independent of each other, in terms of the Master Directions issued by the RBI.

10. He further submits that after receipt of reply from the petitioner pursuant to the aforesaid Show Cause Notice, opportunity of hearing shall be granted to the petitioner by the Identification Committee of Willful Defaulters.

11. He further submits that the finding of the Identification Committee shall be provided to the petitioner, whereafter the petitioner shall have the opportunity of filing a representation before the Review Committee of Willful Defaulters, in case the report of the Identification Committee is against the petitioner.

12. Thus, he submits that the aforesaid stages are to be followed in terms of the judgment of the Supreme Court in the case of ***State Bank of India vs. Jah Developers Private Limited and Ors., (2019) 6 SCC 787.***

13. Thus, he submits that the present petition is totally misplaced.

14. Having heard learned counsel for the parties, this Court holds that when Show Cause Notices are issued, it is for the concerned party to file reply to the said Show Cause Notices in accordance with law.

15. This Court also takes note of the submission made by learned counsel appearing for the respondent that after receipt of the reply of the petitioner, the petitioner shall be granted opportunity of personal hearing by the Identification Committee of the Willful Defaulters. Further, the petitioner shall also be granted opportunity to file representation before the Review Committee of Willful Defaulters, in case the petitioner is aggrieved by any finding of the Identification Committee.

16. Thus, this Court is of the view that the petitioner ought to file reply to the Show Cause Notice dated 6th April, 2024 issued by the respondent-SBI and no orders can be passed in favour of the petitioner at this stage.

17. Learned counsel appearing for the petitioner submits that the petitioner may be granted a period of four weeks to file reply to the Show Cause Notice dated 6th April, 2024.

18. Accordingly, it is directed that the petitioner is at liberty to file reply to the Show Cause Notice dated 6th April, 2024 within a period of four weeks from today. Upon receipt of reply of the petitioner, the respondent shall follow all the requisite procedures in terms of the RBI circular and provide adequate opportunity to the petitioner in terms of Principles of Natural Justice.

19. With the aforesaid directions, the present petition is disposed of.

MINI PUSHKARNA, J

APRIL 25, 2024
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