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

\+ W.P.(C) 5771/2024, CM APPL. 23917/2024 & CM APPL. 23918/2024

MR. RAMCHANDRA PUROHIT ..... Petitioner

Through: Mr. J. Sai Deepak, Adv. with Mr. Varun Garg, Mr. Prashant Jain & Mr. Luv Virmani, Advs.
M: 9999829477

versus

PUNJAB NATIONAL BANK & ANR. ..... Respondents

Through: Mr. Santosh Kumar Rout, SC with Ms. Dharna Veragi, Adv. for R-1.
M: 9990432878
Email: skrlawfirms@gmail.com

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

O R D E R

% **25.04.2024**

CM APPL. 23918/2024 (For Exemption)

1. Exemption allowed, subject to just exceptions.

2. Application is disposed of.

W.P.(C) 5771/2024 & CM APPL. 23917/2024

3. The present petition has been filed challenging the action of the respondent no.1-bank in classifying the account of the M/s Radiant Bizcom Pvt. Ltd. and M/s Matrix Bizcom Services Pvt. Ltd. (Collectively called "The companies") along with their Directors, as *"Fraud"* in furtherance of the Master Directions on Frauds-Classification and Reporting dated 01st July, 2016.

4. Learned counsel appearing for the petitioner has drawn the attention of this Court to the letter dated 12th April, 2024 written by the companies, wherein information was sought with respect to any action that may have been taken against the companies. Further, the aforesaid letter also requested for furnishing the Forensic Auditor Report.

5. However, no reply was issued by the respondent-bank pursuant to the aforesaid letter dated 12th April, 2024 issued by the companies.

6. Learned counsel appearing for the petitioner has also drawn the attention of this Court to the letter dated 20th April, 2024 issued subsequently to the respondent-bank, wherein it was stated as follows:

> *"xxx xxx xxx*
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> *4. In the interregnum, our Client had gained knowledge of the fact that the Bank has already proceeded to classify the Loan accounts of Radiant and Matrix as "Fraud" under the Master Directions on Frauds - Classification and Reporting dated 01.07.2016 bearing number DBS.CO.CFMC.BC.No. 1/23.04.001/ 2016-2017 issued by the Reserve Bank of India ("RBI"). Our client has further gained knowledge that the Bank has also reported such classification with the RBI.*
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> *5. It is most respectfully stated that such classification as fraud is wholly untenable and is liable to be set aside in as much as the same has been taken in complete disregard to the principles of Natural Justice. No opportunity has been provided to show cause as to why such extreme action should not be taken against the Company. Furthermore, no post decisional intimation or hearing was accorded to our client. In fact, our client has not even been informed of the actions taken against him, even though such actions will gravely prejudice him. Pertinently, the Hon'ble Supreme Court of India in judgment of "State Bank of India vs. Rajesh Aggarwal' and various other judgments, has held that the principles of natural justice should be followed if Banks take any coercive action against the Borrower. In the said judgments the borrower's right of audi alteram partem has been upheld under which it has the right to get the copies of the Forensic Audit Report along with a Show Cause notice providing it with a full opportunity of representation, before any coercive action is initiated by the Bank.*

6. It will be appreciated, that in the absence of even being informed about the coercive actions being taken by the Bank, grave and severe prejudice would be caused to our client. Furthermore, our client would also be deprived of his invaluable right to challenge such actions in accordance with law. It is therefore of utmost importance that our client be apprised about the actions taken by the Bank in relation to the said Companies i.e. Radiant and Matrix.

7. Accordingly, by means of the present notice, you are requested to confirn as to whether the account of the Companies, i.e. Radiant Bizcom Pvt. Ltd. and Matrix Bizcom Pvt. Ltd. have been declared/ classified as a "Fraud" by Punjab National Bank and reported as such with the RBI. It is further requested that the basis on which the said action has been taken be also informed along with details of all coercive actions taken against the Company and or its management, directors and guarantors including our client in furtherance to such classification, be kindly provided to our client on expeditious basis.

xxx xxx xxx"

7. By reference to the aforesaid letter, it is submitted that any action taken by the respondent-bank for declaration of the accounts of the petitioners as *"Fraud"*, is non-est, as no prior Show Cause Notice was issued to the petitioner or to the companies, in this regard.

8. Issue notice. Notice is accepted by learned counsel appearing for the respondent no.1-bank.

9. Learned counsel appearing for the respondent no. 1-bank confirms the fact that no Show Cause Notice was issued to the petitioners before declaring the account of the companies and the erstwhile Directors of the companies as *"Fraud"*.

10. He submits that declaration of the accounts of the companies and the Directors of the companies as *"Fraud"* was done in December, 2021, much prior to the passing of the judgment in the case of ***State Bank of India Versus Rajesh Aggarwal, (2023) 6 SCC 1***.

11. He further submits that the respondent no. 1- bank is ready to follow the procedure and Principles of Natural Justice, as envisaged in the aforesaid judgment.

12. Accordingly, the declaration of *"Fraud"* of the accounts of the aforesaid companies and the Ex-Directors of the aforesaid companies, is set aside on account of not following the procedure, as envisaged by the Supreme Court in the judgment of *Rajesh Aggarwal (Supra).*

13. It is directed that the respondent no.1-bank shall issue Show Cause Notice and grant opportunity of representation to the companies and the Ex-Directors, in case any action is sought to be taken by the respondent no.1-bank in this regard.

14. Consequently, any other ancillary proceedings, which have been initiated by the respondent no.1- bank shall also stand quashed, except the proceedings, which can continue in accordance with law independently.

15. With the aforesaid directions, the present writ petition is disposed of along with the pending applications.

MINI PUSHKARNA, J

APRIL 25, 2024/kr