IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2635 OF 2025

Suhail Noorani **… Petitioner**

V/s.

The State Bank of India through Branch Manager of Industrial Finance Branch (IFB) and Anr. **… Respondents**

WITH
WRIT PETITION NO. 2882 OF 2025

Platinum Blue Estates LLP **… Petitioner**

V/s.

The State Bank of India and Anr **… Respondents**

Mr. Karl Tamboly with Mr. Anuj Desai, Mr. Ativ Patel and Harshad Vyas i/b. AVP Partners for the Petitioners
Ms. Fatima Lakdawala with Ms. Asma Batatawala for the Respondents in WP 2635/2025
Ms. Fatima Lakdawala with Mr. Rahul Gupta for the Respondent in WP 2882/2025
Mr. Dinesh Kshirsagar, Chief Manager of Respondent present

CORAM : R.I. CHAGLA AND
FARHAN P. DUBASH, JJ.

DATE : 24th SEPTEMBER 2025

P.C. :

1. At the outset Mr. Karl Tamboly, learned Counsel appearing for the Petitioner has tendered the Draft Amendment in both the above Writ Petitions which Draft Amendments are taken on record and marked ‘X ’ Colly for identification.

2. The Petitioners are permitted to carry out amendments in the Writ Petitions in terms of the Draft Amendments marked 'X' colly. The amendments shall be carried out forthwith. Re-verification is dispensed with.

3. Both the Writ Petitions are heard together as they have impugned the order dated 2nd June 2023 passed by the Wilful Defaulters Identification Committee (WDIC) and order dated 17th October 2023 passed by the Review Committee pursuant to the Show Cause Notice dated 10th June 2022 issued by the Respondents.

4. The Petitioners have been declared as wilful defaulters at a personal hearing held on 2nd June 2023. The impugned order bearing that date had been communicated to the Petitioners vide communication dated 28th August 2023 of the WDIC. The Petitioners have pursuant to the hearing on 2nd June 2023, addressed a letter dated 19th June 2023 to the Respondent No. 2 - Assistant General Manager, Asset Management Branch – II wherein reference is made to the personal hearing of the Petitioner – Suhail Noorani in his personal capacity and on behalf of the Petitioner in Writ Petition No. 2882 of 2024 – M/s. Platinum Blue Estates LLP. In the said correspondence, the Petitioner has referred to the WIDC being appraised at the said hearing on 2nd June, 2023 of the manner in which Sanjiv Ved Malik and his accomplice Rahul Ruia had stage managed the entire operation. The

members of the WIDC had accordingly requested the Petitioner to provide documents evidencing the entire scam of forgery and siphoning of funds, which has thereafter been enclosed with the said correspondence dated 19th June 2023.

5. The impugned order dated 2nd June 2023 which declared the Petitioners as wilful defaulters has not considered these documents inspite of the WIDC having called for the same. Further, the said impugned order had been reviewed before the Review Committee. However, the impugned order dated 17th October 2023 of the Review Committee had not been made available to the Petitioners as stated by them in the Writ Petition and which is annexed to the affidavit-in-reply filed by the Respondents at paragraph 24 of the Petition. This has necessitated the amendment to the Writ Petition.

6. From a perusal of the impugned order dated 17th October 2023, it is evident that the Review Committee has merely referred to the correspondence dated 19th June 2023 which had been received by them on 28th June 2023. The points in the said correspondence are stated to have been discussed. However, the Review Committee has not considered the documents evidencing the entire scam of forgery and siphoning of funds which had been enclosed in the said correspondence. The grounds for rejection of the Petitioner's contention backed by the documents viz. of the funds having been siphoned by Sanjiv Malik, Rahul Ruia, Shruti Ruia in

collusion with bank officials of the IFB Branch, Malad (West), Mumbai, is that there is no direction from any Court of law in that context and that this is an internal dispute between the partners. Reference is made in the impugned order of the account having already been declared as a Fraud and CBI complaint having been filed on 8th February 2022.

7. Mr. Karl Tamboly, learned Counsel appearing for the Petitioners has referred to the material documents which had been annexed to the said correspondence dated 19th June 2023 and which includes letters dated 26th February 2018 addressed by Sanjiv Ved Malik and Rahul Ruia to the Petitioner – Suhail Noorani wherein, they have stated that they had systematically siphoned money from the bank accounts of M/s. Darshan Sagar Developers, M/s. Waterfront Buildcon LLP amongst others. Sanjiv Ved Malik has stated that this money was transferred to the accounts of his Company – Panacia Conbuild Private Limited. There is thus, an admission of guilt on their part that they have tampered with the books of account and bank statements and concealed the amounts and forged the signature of Suhail Noorani which is a serious criminal offence. Both the said persons are being proceeded against by the CBI. This material ought to have been considered by the Respondents whilst passing the impugned orders declaring the Petitioners as wilful defaulters.

8. Ms. Fatima Lakdawala, learned Counsel for the Respondents has referred to the procedure followed prior to the passing of the impugned orders including the issuance of the Show Cause Notice dated 10th June 2022, notice of personal hearing dated 2nd March 2023 and further personal hearing notice dated 23rd May 2023 before the WDIC. She has submitted that full opportunity had been given to the Petitioners to present their case. She has submitted that the Respondents in declaring the Petitioners as wilful defaulters and which declaration had also been considered by the Review Committee had considered all the material available on record including that appended to the letter dated 19th June 2023. She has submitted that this is in consonance with the guidelines of the Respondents in matters involving wilful defaulters.

9. We have considered the submissions. This Court in ***Ankit Bhuwalka v/s. IDBI Bank Limited and Another***[1] ***– Writ Petition No. 12 of 2025, order dated 16th January 2025*** has in paragraphs 19,20,21 and 23 held as under :-

> *"19) As discussed earlier, the object of the Master Circular is salutary. The Master Circular aims to protect the country's banks and financial institutions from unscrupulous entities and individuals. It is intended to identify and punish those entities and individuals who have diverted or siphoned off borrowed funds for purposes other than for which the loan facility was availed leading to default in the repayment obligations. Such individuals and entities must be identified and their names be*

1 W.P. No. 12/2025 dtd. 16/01/2025

published in public domain so that they are barred from availing any further loan facility from any other bank. If such an exercise is not undertaken, the cycle of diversion/siphoning of borrowed funds; default and re- borrowing, leading to same situation may continue. Such a scenario may adversely affect the liquidity of the banking system and affect the overall financial health of the country. There is, thus, no doubt that the Master Circular aims to achieve a very laudable object. Notably, the scheme of the Master Circular indicates that it is both a punitive and preventive measure.

20) However, it needs to be acknowledged that the consequences for an individual or an entity who is declared as wilful defaulter are also drastic. As discussed earlier, such an individual or entity is barred from availing any loan facility in the future; is proscribed from floating new venture; and may face criminal proceedings. Additionally, being labelled as wilful defaulter in public domain also affects the reputation of such individual and entity. Business entities would hesitate to do any business or dealing with someone who is declared as wilful defaulter. The availability of loans from financial institutions is the backbone of doing business. It is not only a mode of raising finance but it is also an indicator of the creditworthiness of the business entity. Hence, the deprivation to avail such facility virtually knocks a financial death knell on such individual or entity.

21) The Supreme Court in the case of Jah Developers (Supra), had an occasion to examine the consequences of a person being declared as wilful defaulter under the Master Circular. The Supreme Court held that a person declared as wilful defaulter affects the fundamental right of a person under Article 19(1)(g) of the Constitution as it directly affects the right to do business and thus, the Master Circular must be construed reasonably. The relevant paragraph of the said decision reads as under:-

> *"24. Given the above conspectus of case law, we are of the view that there is no right to be represented by a lawyer in the in-house proceedings contained in Para 3 of the Revised Circular dated 1-7- 2015, as it is clear that the events of wilful default as mentioned in Para 2.1.3 would only relate to the individual facts of each case. What has typically to be discovered is whether a unit has defaulted in making its payment obligations even when*

it has the capacity to honour the said obligations; or that it has borrowed funds which are diverted for other purposes, or siphoned off funds so that the funds have not been utilised for the specific purpose for which the finance was made available. Whether a default is intentional, deliberate, and calculated is again a question of fact which the lender may put to the borrower in a show-cause notice to elicit the borrower's submissions on the same. However, we are of the view that Article 19(1)(g) is attracted in the facts of the present case as the moment a person is declared to be a wilful defaulter, the impact on its fundamental right to carry on business is direct and immediate. This is for the reason that no additional facilities can be granted by any bank/financial institutions, and entrepreneurs/promoters would be barred from institutional finance for five years. Banks/financial institutions can even change the management of the wilful defaulter, and a promoter/director of a wilful defaulter cannot be made promoter or director of any other borrower company. Equally, under Section 29-A of the Insolvency and Bankruptcy Code, 2016, a wilful defaulter cannot even apply to be a resolution applicant. Given these drastic consequences, it is clear that the Revised Circular, being in public interest, must be construed reasonably. This being so, and given the fact that Para 3 of the Master Circular dated 1-7-2013 permitted the borrower to make a representation within 15 days of the preliminary decision of the First Committee, we are of the view that first and foremost, the Committee comprising of the Executive Director and two other senior officials, being the First Committee, after following Para 3(b) of the Revised Circular dated 1-7-2015, must give its order to the borrower as soon as it is made. The borrower can then represent against such order within a period of 15 days to the Review Committee. Such written representation can be a full representation on facts and law (if any). The Review Committee must then pass a reasoned order on such representation which must then be served on the borrower. Given the fact that the earlier Master Circular dated 1-7-2013 itself considered such steps to be reasonable, we incorporate all these steps into the

Revised Circular dated 1-7-2015....."

23) Thus, classification of a borrower's account as fraud has the effect of preventing the borrower from accessing institutional finance for the purpose of business. It also entails significant civil consequences as it jeopardises the future of the business of the borrower. Therefore, the principles of natural justice necessitate giving an opportunity of a hearing before debarring the borrower from accessing institutional finance. The action of classifying an account as 'wilful' or 'fraud' not only affects the business and goodwill of the borrower, but also the right to reputation. A decision taken by any authority affecting the right to reputation of an individual has civil consequences. Therefore, in such situations the principles of natural justice would come into play. Any order or decision of the authority adversely affecting the personal reputation of an individual must be taken after following the principles of natural justice. In case any authority in discharge of its duties fastened upon it under the law, travels into the realm of personal reputation adversely affecting him, it must provide a chance to him to have his say in the matter. In such circumstances, right of an individual to have the safeguard of the principles of natural justice before being adversely commented upon is statutorily recognised and violation of the same will have to bear the scrutiny of judicial review."

10. This Court is of the view that the classification of the borrower's account as fraud has the effect of preventing the borrower from accessing institutional finance for the purpose of business. It has significant civil consequence as it jeopardizes the future of the business of the borrower. Therefore, the principles of natural justice necessitate giving an opportunity of a hearing before debarring the borrower from accessing institutional finance. Further, the action of classifying an account as 'wilful' or 'fraud' not only affects the business and goodwill of the borrower, but also the right to reputation. The decision taken by any authority affecting the right to

reputation of an individual has civil consequences. Therefore, in such situations, the principles of natural justice would come into play. In such circumstances, the right of an individual to have the safeguard of the principles of natural justice being adversely commented upon is statutorily recognized and violation of the same will have to bear the scrutiny of judicial review.

11. We have considered the impugned orders which have been passed in the present case declaring the Petitioners as wilful defaulters. Although the Respondents had issued Show Cause Notice and granted personal hearing to the Petitioners, it is pertinent to note that at the hearing held on 2nd June 2023, the Petitioners had sought for an opportunity to place on record material documents evidencing the entire scam of forgery and siphoning of funds including, by forging the signature of the Petitioner – Suhail Noorani by Sanjiv Ved Malik and his accomplice Rahul Ruia. An opportunity had been given by the Respondent No.2 - Committee (WDIC) as recorded in the correspondence dated 19th June 2023 to place these material documents on record. By the said correspondence dated 19th June 2023, the Petitioners had enclosed the material documents including the admissions of guilt on the part of Sanjiv Ved Malik and Rahul Ruia which admissions are in the aforementioned correspondence dated 26th February 2018. Without consideration of the material brought on record, the Petitioners were

informed that they had been declared as wilful defaulters vide order dated 2nd June 2023 enclosed in the communication dated 20th August 2023, issued by the Respondents.

12. Further, in the impugned order of the Review Committee there is a mere reference to the correspondence dated 19th June 2023, but there is non-consideration of any of the material documents which were enclosed in the said correspondence. Inspite of which there is a finding of complicity on the part of the Petitioners in the siphoning of funds on the premise that there is no order of the Court to suggest otherwise. Further, there is a finding that this is an internal dispute between the partners and hence, the Review Committee cannot take countenance of the same.

13. We find these reasons for non-acceptance of the Petitioners' contentions on the funds having been siphoned by Sanjiv Malik and Rahul Ruia as well as Shruti Ruia to be unacceptable. There is an inherent violation of the principles of natural justice in not considering the material documents which have been relied upon by the Petitioners and which would clearly support the Petitioners' contention that they are not complicit in the siphoning of funds or the fraud which the Respondents allege that they were complicit of.

14. It has been held in ***Ankit Bhuwalka*** (supra) that the Petitioners

by being declared as wilful defaulters will have the effect of them being prevented from accessing institutional finance for the purpose of their business and jeopardizing the future of their business. In view thereof, the impugned orders are required to be set aside.

15. Accordingly, we pass the following order :-

(i) The impugned order dated 17th October 2023 passed by the Review Committee and the impugned order dated 2nd June 2023 passed by the Wilful Defaulters Identification Committee (WDIC) and Show Cause Notice dated 10th June 2023 are quashed and set aside.

(ii) The Respondents are directed to intimate the Credit Information Bureau (India) Limited (CIBIL) of this order for them to update the CIBIL Report of the Petitioners from wilful defaulters to normal account.

(iii) The Respondents shall carry out the exercise of de-novo hearing preceded with fresh Show Cause Notice issued and pass a fresh order within a period of eight weeks from today by considering all the materials on record which the Petitioners have relied upon including the material documents enclosed in the communication dated 19th June 2023.

16. It is made clear that any observation in this order with regard to the lack of complicity of the Petitioners in the subject transaction shall not come in the way of the Respondents taking independent decision in the

matter upon remand by this Court.

17. The Writ Petitions are accordingly disposed of. There shall be no order as to costs.

(FARHAN P. DUBASH, J.) **(R.I. CHAGLA J.)**