IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2025

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.19877 of 2022
and
W.M.P. No.19187 of 2022

1. Rajiv Rai
2, Ritesh Rai .. Petitioners

vs.

1. Bank of Baroda,
Stressed Assets Management Branch,
Rep. by its Assistant General Manager,
JBAS Building,
4th Floor,
No.45, Moore Street,
Chennai – 600 001.

2. The Reserve Bank of India,
Rep. by its Regional Director,
Fort Glacis,
16, Rajaji Salai,
Chennai – 600 001. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus, calling for the records of the impugned declaration of the fraudulent account dated 18.02.2021 as per the communication of the first respondent in BOB:SAMB/SQB/WFD/03/2022 dated 21.03.2022 and quash the same and further forbear the respondents from taking any coercive action pursuance to the said impugned declaration.

For Petitioners	:	Mr.Omprakash Senior Advocate for Mr.K. Moorthy
For Respondents	:	Mr.M.L. Ganesh for R1 No appearance for R2

ORDER

This writ petition has been filed to call for the records of the impugned declaration of the fraudulent account dated 18.02.2021 as per the communication of the 1st respondent in BOB:SAMB/SQB/WFD/03/2022 dated 21.03.2022 and quash the same and further forbear the respondents from taking any coercive action pursuant to the said impugned declaration.

2. It is stated that the petitioners are the erstwhile Directors of M/s.SBQ Steels Ltd. (hereinafter referred to as "the Company"), which was engaged in the manufacture of high-grade steel and in power generation. The Company had availed a term loan from the respondent bank. During the year 2011, owing to financial crisis, the Company was brought under Corporate Debt Restructuring (CDR) and the said Company was classified as a Non-Performing Asset (NPA) in the year 2012. Subsequently, CIRP proceedings had been issued by the National Company Law Tribunal. After a decade from the declaration of the

said Company as NPA, the 1st respondent issued a show cause notice dated 2607.2021 to the petitioners declaring them as wilful defaulters, based on an Audit, that too without following any procedures contemplated by the 2nd respondent. It is the case of the petitioners that the other Consortium Bankers, being satisfied with the explanation submitted by the petitioners have dropped such proceedings viz., to declare the petitioners as wilful defaulters. Against the vindictive show cause notice dated 26.07.2021, the petitioners submitted their explanation to the 1st respondent on 10.08.2021, which was not considered by the 1st respondent and the petitioners were declared as "Wilful Defaulters". Aggrieved over the said declaration dated 11.08.2021, the petitioners filed a writ petition viz., W.P. No.14640 of 2021. It is the contention of the petitioners that though detailed explanation and proof against the unilateral action of the 1st respondent in respect of the said declaration was submitted by them on 04.03.2022, the 1st respondent vide proceedings dated 21.03.2022 declared the accounts of the Company and the petitioners as 'fraudulent account' as on 18.02.2021, which is impugned herein. As, no other efficacious remedy is available to them, they approached this Court by filing the present writ petition.

3. Learned Senior Counsel appearing for the petitioners submit that without any prior notice and without affording any opportunity to the petitioners, they were declared as fraudulent account holders and thus the

impugned declaration amounts to clear violation of principles of natural justice. He further submitted that based on the forensic audit conducted by the 1st respondent without following any procedures contemplated by the RBI and without furnishing copy of the audit report, the impugned order was passed.

4. Placing reliance upon the judgment of the Hon'ble Supreme Court in the case of ***Rajesh Agarwal vs. Reserve Bank of India reported in 2020 SCC Online TS 2021***, he submitted that the vital requirement of *audi alteram partem* is violated. In support of his contention, he drew the attention of this Court to the operative portion of the said judgment and vehemently argued that the impugned declaration of fraudulent account dated 18.02.2021, vide communication dated 21.03.2022 of the 1st respondent is illegal per se and untenable in the eyes of law as the same is contrary to RBI Master circular. He further submitted that due to vindictive mind, the impugned communication dated 21.03.2022 was issued by the 1st respondent and thus, the same has to be quashed. Accordingly, he prays for allowing this writ petition.

5. Per contra, Mr. M.L. Ganesh, learned counsel for the 1st respondent submitted that there is no provision which mandates that an opportunity has to be afforded to the petitioners before declaring their accounts as Fraudulent

accounts as per Master Circular issued by the RBI. He submitted that prior to declaring the petitioners as wilful defaulters, the 1st respondent issued show cause notice dated 26.07.2021 and 11.08.2021, wherein explanation was called for with regard to siphoning of funds. He further submitted that the 1st respondent has followed the due procedure and that the classification was done based on the audit report and there is no statutory requirement for notice before declaring accounts as fraudulent accounts.. Hence, he prays for dismissal of this writ petition.

6. This Court gave its anxious consideration to the submissions advanced by the learned counsel on either side and perused the materials placed on record.

7. It is not in dispute that the Company was classified as a Non-Performing Asset (NPA) in the year 2012. It is also not in dispute that while declaring the petitioners as willful defaulters, show cause notices were served on the petitioners i.e., on 26.07.2021 and 11.08.2021. From a bare perusal, it reveals that subsequently explanations were submitted by the petitioners. Now, the issue that requires consideration is that before declaring the petitioners accounts as fraudulent accounts whether notice was served and opportunity was granted. Normally, before declaring the account of an individual as a fraudulent account, an opportunity has to be provided to him / her. It is one of the basic

tenets of law that non-grant of opportunity is nothing but violation of principles of natural justice and declaring the account as fraudulent account locks the account prohibiting the account holder from accessing his account, which affects his stature in the Society and also affects him/her monetarily which would be nothing but a civil death.

8. From the arguments advanced by the learned counsel for the 1st respondent, it is evident that even though it is stated that due procedures were followed, before declaring the petitioners account as fraudulent accounts, no proof has been filed to show that notice was served and opportunity was granted to the petitioners to defend themselves.

9. On a reading of the decision of the Hon'ble Apex Court in ***Rajesh Agarwal's*** case (supra), it is clearly seen that the principles of *audi alteram partem* is *sine qua non* for the conduct of a proper enquiry. Though it is submitted on behalf of the 1st respondent that RBI Master Circular does not mandate grant of opportunity, however, the said circular has not been placed before this Court to establish the same. It is to be specifically noted that declaration of the account of a person as a fraudulent account would affect the reputation of the petitioners in the Society and when such being the position, they would be unable to avail credit facilities and transact monetarily as a result of which the petitioners would be gravely prejudiced. Thus, without any prior

notice or without serving a copy of the audit report, and affording an opportunity of hearing, declaring the petitioners as Fraud and issuing the impugned declaration dated 21.03.2022 is untenable and therefore, the impugned declaration dated 21.03.2022 has to be necessarily quashed and the matter requires to be remanded to the 1st respondent for fresh consideration.

10. For the aforesaid reasons, the impugned communication / proceedings dated 21.03.2022 issued by the 1st respondent is hereby quashed and the matter is remanded to the 1st respondent for fresh consideration, by providing an opportunity of hearing and by following the guidelines in the Master Circular prescribed by the RBI and in the light of the principles laid down in ***Rajesh Agarwal's*** case. Accordingly, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

16.09.2025

Index : Yes / No
Internet: Yes/No
Speaking Order/Non-Speaking Order
vsi2

M. DHANDAPANI, J.

vsi2

To
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