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

\+ W.P.(C) 2908/2025 & CM APPL. 13822/2025

BALLARPUR INTERNATIONAL HOLDINGS B.V. .....Petitioner

Through: Mr. Gautam Narayan, Sr,.Adv. with Mr. Kaustubh Prakash, Ms. Mita Sharma, Ms. Tanya Singh, Ms. Asmita Singh, Ms. Disha Joshi and Mr. Punishk Handa, Advs.

versus

RESERVE BANK OF INDIA & ORS. .....Respondents

Through: Mr. Ramesh Babu, Ms. Manisha Singh, Ms. Tanya Chowdhary, Ms. Jagriti Bharti and Mr. Rohan Srivastava, Advs. for R-1/RBI.
Mr. Akash Mohan Srivastav, Adv. for IDBI.

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

O R D E R

% 28.05.2025

1. The present petition has been filed by petitioner assailing the impugned order dated 22.11.2024 passed by the respondent no.2/IDBI classifying petitioner's account as fraud under the Fraud Master Directions, 2024.

2. Mr. Gautam Narayan, learned Senior Counsel for the petitioner submits that earlier also, the competent authority had passed an order dated 25.01.2021 classifying petitioner as fraud. The petitioner had filed W.P. (C)

1826/2024 titled as ***Ballarpur International Holdings B.V. vs. Reserve Bank of India & Anr.,*** *inter alia* on the ground that there was no compliance of principles of natural justice.

3. He invites attention of the Court to judgment dated 08.02.2024, more particularly to para 10, as well as, para 13 of the said judgment, to contend that the said writ petition was allowed by this Court and the order classifying petitioner as fraud was set aside with liberty to the respondent bank to initiate fresh proceedings against the petitioner in accordance with law as laid down by the Hon'ble Supreme Court in case of ***State Bank of India & Ors. vs. Rajesh Agarwal and Ors., (2023) 6 SCC 1.***

4. He further invites attention of Court to the counter-affidavit filed by the respondent no.2 bank to contend *inter alia* that even after setting aside of the first order classifying petitioner's account as 'fraud' no personal hearing has been afforded to the petitioner before passing the order, which is impugned in the present petition.

5. To buttress his contention, he contends that para 10 of the counter affidavit clearly suggests that after reply was submitted by petitioner to the show cause notice, respondent bank has straightaway passed the impugned order classifying petitioner as fraud. Paragraph 10 of the counter-affidavit reads thus:

> *"10. Further, pursuant to the setting aside of the order dated 25.01.2021, the Respondent Bank issued a fresh Show Cause Notice ("SCN") dated 06.06.2024 to the Petitioner, in relation to the classification of the Petitioner as fraud. The SCN provided the Petitioner with 15 days' time to respond. The Petitioner issued a response dated 23.08.2024. Thereafter, on 22.11.2024, after due consideration of the available material and the Petitioner's response dated 23.08.2024, the*

Respondent Bank passed the order dated 22.11.2024 classifying the Petitioner as fraud in terms of the RBI Master Directions on Frauds Risk Management in Commercial Banks (Including Regional Rural Bank) and All India Financial Institutions dated July 15, 2024 (the RBI Master Direction) and in accordance with regulatory guidelines."

6. He submits that it is not the case of respondent in the counter-affidavit that any personal hearing has been afforded to petitioner.

7. This Court finds that even perusal of the impugned order dated 22.11.2024 does not indicate that any personal hearing has been afforded to the petitioner by respondent.

8. At this stage, reference could be profitably made to the Hon'ble Supreme Court in ***Rajesh Agarwal*** (supra) wherein the Hon'ble Supreme Court *inter alia* laid down as under:

> *"55. Classification of the borrower's account as fraud under the Master Directions on Frauds virtually leads to a credit freeze for the borrower, who is debarred from raising finance from financial markets and capital markets. The bar from raising finances could be fatal for the borrower leading to its "civil death" in addition to the infraction of their rights under Article 19(1)(g) of the Constitution. Since debarring disentitles a person or entity from exercising their rights and/or privileges, it is elementary that the principles of natural justice should be made applicable and the person against whom an action of debarment is sought should be given an opportunity of being heard.*
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> *xxx xxx xxx*
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> *67. The Master Directions on Frauds do not expressly exclude a right of hearing to the borrowers before action to class their account as frauds is initiated. The principles of natural justice can be read into a statute or a notification where it is silent on granting an opportunity of a hearing to a party whose rights*

and interests are likely to be affected by the orders that may be passed.

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98. The conclusions are summarised below:

98.1. No opportunity of being heard is required before an FIR is lodged and registered.

98.2. Classification of an account as fraud not only results in reporting the crime to the investigating agencies, but also has other penal and civil consequences against the borrowers.

98.3. Debarring the borrowers from accessing institutional finance under Clause 8.12.1 of the Master Directions on Frauds results in serious civil consequences for the borrower.

98.4. Such a debarment under Clause 8.12.1 of the Master Directions on Frauds is akin to blacklisting the borrowers for being untrustworthy and unworthy of credit by banks. This Court has consistently held that an opportunity of hearing ought to be provided before a person is blacklisted.

98.5. The application of audi alteram partem cannot be impliedly excluded under the Master Directions on Frauds. In view of the time-frame contemplated under the Master Directions on Frauds as well as the nature of the procedure adopted, it is reasonably practicable for the lender banks to provide an opportunity of a hearing to the borrowers before classifying their account as fraud.

98.6. ***The principles of natural justice demand that the borrowers must be served a notice, given an opportunity to explain the conclusions of the forensic audit report, and be allowed to represent by the banks/JLF before their account is classified as fraud under the Master Directions on Frauds.*** *In addition, the decision classifying the borrower's account as fraudulent must be made by a reasoned order.*

98.7. Since the Master Directions on Frauds do not expressly provide an opportunity of hearing to the borrowers before classifying their account as fraud, audi alteram partem has to be read into the provisions of the directions to save them from the vice of arbitrariness.

*99. **In the result, the judgment of the Division Bench of the High Court of Telangana dated 10-12-2020 [Rajesh Agarwal v. RBI, 2020 SCC OnLine TS 2021] is upheld.** The judgments of the High Court of Telangana dated 22-12-2021 [Shree Saraiwwalaa Agrr Refineries Ltd. v. Union of India, 2021 SCC OnLine TS 1816] and 31-12-2021 [Yashdeep Sharma v. RBI, 2021 SCC OnLine TS 1852] , and of the High Court of Gujarat dated 23-12-2021 [Mona Jignesh Acharya v. Bank of India, 2021 SCC OnLine Guj 2811] are accordingly set aside. The civil appeals are disposed of. Writ Petition (C) No. 138 of 2022 is also disposed of in the above terms. There shall be no order as to costs.*

100. Pending application(s), if any, shall stand disposed of."

(emphasis supplied)

9. Reference may also be had to the decision of the Division Bench of this Court in ***IDBI Bank Ltd. vs. Gaurav Goel & Ors., 2025 SCC OnLine Del 935,*** wherein this Court has also clarified that the Hon'ble Supreme Court in ***Rajesh Agarwal*** (supra) has laid down that the giving of personal hearing is mandatory. The relevant paras from ***Gaurav Goel*** (supra) reads under:

"18. From a perusal of the afore-quoted extracts of the judgment rendered by the Hon'ble High Court of Telangana what we find is that one of the directions issued, as embodied in paragraph 76.4 of the judgment, was to give opportunity of 'personal hearing' both to the petitioner in the said writ petition and also to the Official Liquidator before taking any decision on the issue whether the account should be classified as fraud or not.

*19. **Since, in paragraph 99, the Hon'ble Supreme Court has upheld the said decision of the Hon'ble High Court of Telangana (2020 SCC OnLine TS 2021), in our considered opinion, reading the conclusion in Rajesh Agarwal, (supra), as can be found in paragraph 98.4, to mean that in proceedings under the RBI***

Directions, opportunity of hearing would not include opportunity of personal hearing, is untenable. Once, the Hon'ble Supreme Court upheld the judgment of the Hon'ble High Court of Telangana which clearly had directed for providing an opportunity of personal hearing as well, to conclude that opportunity of hearing would not include opportunity of personal hearing, in our opinion, will be erroneous.

20. The submission made by learned counsel representing the appellant that the proceedings consequent upon the show cause notice under the RBI Directions are administrative proceedings as such the process of fair hearing will not be at the standard of a judicial proceeding, in our considered opinion, does not have any bearing to the instant case for the reason that the Hon'ble Supreme Court in Rajesh Agarwal, (supra) has clearly reiterated the well-known principle of law that even in administrative action, the principles of audi alteram partem are to be observed. ***The extent of application of the principle of audi alteram partem in the proceedings drawn under the RBI Directions has already been explained by the Hon'ble Supreme Court in Rajesh Agarwal, (supra) which has upheld the directions issued by the Hon'ble High Court of Telangana where one of the directions issued was for providing opportunity of personal hearing as well****.*

21. It is trite in law that there is no straight jacketed formula to ensure observance of principles of justice for the reason that the extent and width of application of this principle depends on the nature of proceedings and the provisions under which such proceedings are drawn as also on the consequences which such proceedings entail.

22. ***However, once the Hon'ble Supreme Court in Rajesh Agarwal, (supra) has clearly upheld the directions issued by the Hon'ble High Court of Telangana (2020 SCC OnLine TS 2021) regarding providing opportunity of personal hearing in the proceedings drawn under the RBI Directions, it is not open to this Court to read the application of principle of audi alteram partem in any other manner****.”*

(emphasis supplied)

10. In view of the above enunciation of law, this Court is of the opinion that personal hearing ought to have been granted by respondent no.2 bank before passing the impugned order. The impugned order being contrary to the settled position of law, is unsustainable.

11. Accordingly, the petition is allowed and impugned order dated 22.11.2024 is quashed and set aside. However, liberty is granted to the respondent no.2 bank to pass a fresh order after affording personal hearing to the petitioner in accordance with law.

12. The petition, along with pending application is disposed of.

VIKAS MAHAJAN, J

MAY 28, 2025/dss