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

\+ W.P.(C) 5273/2024 and CM APPL. 21577/2024

ASHOK TIWARI .....Petitioner

Through: Mr. Saurabh Kirpal, Senior Advocate with Mr. Ashutosh Thakur, Mr. Amit Kumar and Mr. Ritesh K. Singh, Advocates.

versus

RESERVE BANK OF INDIA & ANR. .....Respondents

Through: Mr. Dhaval Mehrotra and Ms. Aditi Desai, Advocates for R1.
Mr. Sanjay Bajaj and Mr. Rajat Prakash, Advocates for R2.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

<u>O R D E R</u>

% 28.11.2025

1. This writ petition is filed on behalf of the Petitioner under Article 226 of the Constitution of India seeking the following reliefs:-

> *"(i) Issue an appropriate Writ/ Order or Directions in the nature of certiorari or any other appropriate writ thereby quashing & setting aside the classification / declaration of the account of Vayam Technologies Limited i.e. the Company as Fraud by Respondent No.2; and/or*
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> *(ii) Issue an appropriate Writ/ Order or Direction in the nature of mandamus directing the Respondents not to take any action against the Petitioner or the Company or any of its Officers/Guarantors pursuant to the wrongful classification/declaration of the Account of the Company as Fraud; and/or*
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> *(iii) Issue an appropriate Writ/Order or Direction directing the Respondents to withdraw any complaint or proceeding or publication that may have been initiated by them pursuant to the classification/declaration of the Account of the Company as Fraud; and/or*
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> *(iv) Issue an appropriate writ/order or directions thereby declaring the action of Respondent no.2 as contrary to the Master Directions on Frauds–classification and reporting by commercial banks and select F.Is dated 01.07.2016 (as updated from time to time) which imbibes within*

itself the principles of natural justice as laid down by the Hon'ble Supreme Court of India in (2023) 6 SCC 1; and/or

(v) Issue an appropriate Writ/Order or Direction in the nature of mandamus or any other appropriate Writ/Order or Direction restraining the Respondents from acting on the said Master Directions; and/or

(vi) Issue any other appropriate Writ, Order or Direction as this Hon'ble Court deems just and proper, in the facts and circumstances of the present matter."

2. In this writ petition, Petitioner has laid a challenge to the impugned action of Respondent No.2/IDBI Bank, whereby accounts of M/s Vayam Technologies Limited of which the Petitioner is the promoter-guarantor have been declared as 'Fraud' allegedly contrary to Forensic Audit Report dated 09.07.2019 declaring the accounts as 'no fraud'. Despite numerous requests of the Petitioner, no formal order of declaration has been communicated to the Petitioner and more importantly, classification of the accounts as fraud is without show cause notice and/or opportunity of hearing and the action of Respondent No.2 is thus *ex facie* erroneous, unreasonable, unfair and arbitrary.

3. As brought forth in the petition, on 23.07.2019, Forensic Audit Report dated 09.07.2019 was discussed in the Joint Lenders Forum Meeting and it was found that no fraud was reported. Consortium accepted the report on 05.11.2019 and majority banks agreed not to treat the company account as fraud. For the first time, Respondent No.2 informed the Petitioner vide e-mail dated 15.09.2023 that the account of M/s Vayam Technologies Limited was declared as fraud by IDBI Bank on 22.11.2022. Representation was made by the Petitioner on 05.10.2023 seeking withdrawal of the classification and declaration followed by reminder on 20.10.2023 but to no avail.

4. By an e-mail dated 22.12.2023, IDBI Bank informed the Petitioner of the declaration as fraud in terms of RBI direction, to which objection was preferred by the Petitioner vide e-mail dated 16.01.2024. On 02.02.2024, IDBI Bank issued a Public Notice and also called upon the Petitioner offering buyback of shares of M/s Vayam Technologies Limited, which compelled the Petitioner to approach this Court and vide order dated 15.04.2024, Respondents were restrained from taking any coercive action against the Petitioner and other officials of the company pursuant to declaration of company's account as fraud.

5. Mr. Saurabh Kirpal, learned Senior Counsel for the Petitioner submits that at this stage limited grievance of the Petitioner is that impugned action of Respondent No.2 is illegal and arbitrary as also violative of principles of natural justice as fraud detection order dated 22.11.2022 has been issued without even a show cause notice to the Petitioner. He asserts that this action is in the teeth of the judgment in ***State Bank of India and Others v. Rajesh Agrawal and Others, (2023) 6 SCC 1,*** wherein the Supreme Court held that application of *audi alteram partem* cannot be impliedly excluded under the Master Directions on Frauds and principles of natural justice demand that borrowers must be served a show cause notice.

6. There is indeed merit in the contention of the Petitioner. Admittedly, no show cause notice was served on the Petitioner by IDBI Bank before taking the impugned action. This is clearly violation of principles of natural justice embodying the doctrine of *audi alteram partem* i.e., no person should be condemned unheard. In ***Rajesh Agrawal (supra),*** the Supreme Court reiterated that this principle will apply to administrative action and to the same effect are the observations of the Division Bench of this Court in ***IDBI***

Bank Ltd. v. Gaurav Goel and Others, 2025 SCC OnLine Del 935.

Relevant passages from the judgment of the Division Bench are as follows:-

> *"**12.** In Rajesh Agarwal, (supra), the Hon'ble Supreme Court has considered, inter alia, the consequences of classification of an account as fraud and has discussed the application of the rule of audi alteram partem even in administrative actions. The Hon'ble Supreme Court has reiterated the settled principle of law that rule of audi alteram partem applies to administrative actions as well, apart from judicial and quasi-judicial functions. Another important principle reiterated in the said judgment by the Hon'ble Supreme Court is that it is also a settled position in administrative law that it is mandatory to provide for an opportunity of being heard when an administrative action results in civil consequences to a person or entity. The Hon'ble Supreme Court has further observed that that every authority which has the power to take punitive or damaging action has a duty to give a reasonable opportunity to be heard and that administrative action involving civil consequences must be made consistent with the rules of natural justice.*
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> ***13.** Paragraph 40 and 41 of the said judgment in Rajesh Agarwal, (supra) are relevant to be extracted here, which run as under:*
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>> ***"40.** The process of forming an informed opinion under the Master Directions on Frauds is administrative in nature. This has also been acceded to by RBI and lender banks in their written submissions. It is now a settled principle of law that the rule of audi alteram partem applies to administrative actions, apart from judicial and quasi-judicial functions. [A.K. Kraipak v. Union of India, (1969) 2 SCC 262; St. Anthony's College v. Rev. Fr. Paul Petta, 1988 Supp SCC 676 : 1989 SCC (L&S) 44; Uma Nath Pandey v. State of U.P., (2009) 12 SCC 40 : (2010) 1 SCC (Cri) 501.] It is also a settled position in administrative law that it is mandatory to provide for an opportunity of being heard when an administrative action results in civil consequences to a person or entity.*
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>> ***41.** In State of Orissa v. Binapani Dei [State of Orissa v. Binapani Dei, AIR 1967 SC 1269], a two-Judge Bench of this Court held that every authority which has the power to take punitive or damaging action has a duty to give a reasonable opportunity to be heard. This Court further held that an administrative action which involves civil consequences must be made consistent with the rules of natural justice: (AIR p. 1271, para 9)*
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>>> *"9. … The rule that a party to whose prejudice an order is intended to be passed is entitled to a hearing applies alike to judicial tribunals and bodies of persons invested with authority to adjudicate upon matters involving civil consequences. It is one of*

the fundamental rules of our constitutional set-up that every citizen is protected against exercise of arbitrary authority by the State or its officers. Duty to act judicially would therefore arise from the very nature of the function intended to be performed : it need not be shown to be super-added. If there is power to decide and determine to the prejudice of a person, duty to act judicially is implicit in the exercise of such power. If the essentials of justice be ignored and an order to the prejudice of a person is made, the order is a nullity. That is a basic concept of the rule of law and importance thereof transcends the significance of a decision in any particular case.""

14. *On an elaborate discussion on the issue which had arisen in Rajesh Agarwal, (supra), which centered around the issue relating to application of principle of audi alteram partem in respect of the proceedings drawn under the RBI Directions, the Hon'ble Supreme Court in paragraph 98 has concluded as under:*

*"**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."*

> ***15.*** *Underlying the fact that classification of account of a borrower as fraud results in civil consequences against the borrower, it has thus, been concluded in Rajesh Agarwal, (supra) that application of principle of audi alteram partem cannot be excluded under the RBI Directions on fraud and that it is reasonably practicable for lender banks to provide for an opportunity of hearing to the borrowers before classifying their accounts as fraud."*

7. In light of the aforesaid judgments, fraud detection order dated 22.11.2022, which was reported to RBI on 28.11.2022 through Fraud Monitoring Returns is quashed and set aside, leaving it open to IDBI Bank to issue a show cause notice to the Petitioner with relevant documents. Needless to state that if the show cause notice is received by the Petitioner, he shall furnish a response within 10 days and on receipt of reply, IDBI Bank is at liberty to take a decision in accordance with law. In case the Petitioner has any grievance with the decision, he may take recourse to appropriate legal remedies.

8. Writ petition is disposed of in the aforesaid terms with no expression on the merits of the case.

9. Pending application also stands disposed of.

JYOTI SINGH, J

NOVEMBER 28, 2025/YA