IN THE HIGH COURT AT CALCUTTA

(Constitutional Writ Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

WPA No. 15702 of 2025

Khatu Shyam Trading Co.

Versus

The Union of India & Ors.

Mr. Atarup Banerjee
Mr. Arindam Sen
Mr. Saurav Basu
Mr. Sumik Biswas
Ms. Payel Maji
Mr. Rajdeep Pramanik

.....For the petitioner.

Ms. Suchismita Ghosh

.....For the respondent nos. 5 & 6.

Mr. R.N. Pyne
Mr. Arijeet D. Mullick
Mr. Subhasis Pyne

.....For the respondent no. 7.

Hearing Concluded On : 08.12.2025

Judgment on : 07.01.2026

Krishna Rao, J

1. The petitioner has filed the present writ application praying for a direction upon the respondent no.7 to refund an amount of Rs. 7,82,282.02/- to the petitioner as was taken by the respondent no.7 illegally as a foreclosure charge of Term Loan and Overdraft Credit Loan of the petitioner.

2. The petitioner has availed Term Loan with a sanctioned amount of Rs. 2,38,00,000/- and Over Draft Credit Loan with a sanctioned amount of Rs.5,00,00,000/- out of which only Rs.4,00,00,000/- has been released and remaining amount of Rs.1,00,00,000/- has not been released without assigning any reasons. On 29th January, 2025, the petitioner has submitted a request to the bank for foreclosure of the Term Loan account followed by several reminders. The Bank by an e-mail directed the petitioner to deposit an amount of Rs. 7,82,282.02 being the charges for foreclosure of the Term Loan account of the petitioner.

3. The petitioner has also submitted a request for foreclosure of the Over Draft Facilities. On receipt of the request of the petitioner, the bank has demanded an amount of Rs. 17,70,000/- being 3% foreclosure charges of the original sanctioned amount of Rs. 5,00,00,000/-.

4. Mr. Atarup Banerjee, Learned Advocate representing the petitioner submits that the petitioner is a proprietorship firm registered under the

Micro, Small and Medium Enterprises (MSME) having registration No. UDYAM-WB-14-0010673 and as per the circular issued by the Reserve Bank of India dated 7^{th} May, 2014, the petitioner is not liable to pay any foreclosure charges to the bank but the bank has illegally charged an amount of Rs. 7,82,282.02 and Rs. 17,70,000/- for foreclosure of the Term Loan and Over Draft Credit Loan. The petitioner has made complaint to the Reserve Bank of India Ombudsman but no decision was taken by the Reserve Bank of India Ombudsman.

5. Mr. Banerjee relied upon the judgment in the case of ***Devendra Surana Vs. Bank of Baroda & Ors.,*** dated ***12^{th} December, 2018*** and submits that the Coordinate Bench of this Court held that the Reserve Bank of India, when it is advising the banks, by its circular dated 7^{th} May, 2014, not to charge any foreclosure charges/ prepayment penalties on all floating rate term loans sanctioned to individual borrowers, with immediate effect, it is not distinguishing between an individual borrower, who has obtained the term loan for business exploitation or otherwise.

6. Mr. Banerjee submits that the case of the petitioner is covered under the circular dated 7^{th} May, 2014, issued by the Reserve Bank of India but the respondent bank has illegally taken the foreclosure charges from the petitioner.

7. Mr. R.N. Pyne, Learned Advocate representing the respondent no. 7 submits that the petitioner is Medium Enterprises but the circular is applicable only for the Small Enterprises.

8. Mr. Pyne relied upon the Reserve Bank of India (Pre-payment Charges on Loans) Directions, 2025 and submits that by the said directions, all the previous circulars have been repealed and the petitioner cannot claim any benefits of circular dated 7th May, 2014.

9. Ms. Suchismita Ghosh, Learned Advocate representing the respondent nos. 5 and 6 submits that on receipt of the complaint of the petitioner, the Bank Ombudsman has called for report from the bank and on receipt of report from the bank, the petitioner has submitted reply and after considering the same, the Reserve Bank of India Ombudsman passed an order on 23rd April, 2025, holding that the petitioner is Medium Enterprises and no relief is available to the petitioner and the bank has charged foreclosure charges according to the guidelines of the Reserve Bank of India.

10. By a letter dated 30th August, 2024, the respondent no.7 had sanctioned Over Draft Credit Loan Facilities of Rs. 5,00,00,000/- and Term Loan of Rs. 2,38,00,000/-. The petitioner has executed terms for working capital facilities. Clause 14 of the said terms described the pre-payment penalty which reads as follows:

14.	*Prepayment Penalty*	***A: <u>Prepayment without any prepayment premium in the following circumstances</u>:***

No	Circumstances
a.	*In case of Micro and Small Enterprises (MSE borrower). Pre-paying the loan amount from internal accruals/ Own Fund and produce sufficient evidence of the same*

B. Prepayment premium shall be applicable as detailed below in all other circumstances (excluding A above) including prepayment out of own sources/Takeover of Loans by another Bank/FIs.

Facility Type	***Prepayment within 12 months***	***>12 – 24 months***	***>24 months***
Working Capital (On FB Sanctioned Limits)	*4%+ applicable taxes*	*3%+ applicable taxes*	*2%+ applicable taxes*
Term Loan (On Principal Outstanding	*4%+ applicable taxes*	*3%+ applicable taxes*	*2%+ applicable taxes*

C. Notice for prepayment
30 Business Days prior to the renewal due date

D. Failed take over
In case of a failed takeover, Bank reserves the right to charge the Borrower 1% plus applicable taxes on the total limits sanctioned as failed takeover charges.

11. The Reserve Bank of India by its circular dated 7th May, 2014, dealt with the Levy of Foreclosure Charges/ Prepayment Penalty on Floating Rate of Term Loans. The circular referred to in Part-B of the first bi-monthly monetary policy statement, 2024 announced on 1st April, 2014. It is noted that, such bi-monthly monetary policy statement indicated that, in the interest of the consumers, bank should consider allowing their borrowers the possibility of prepaying floating rate term loans without any penalty. The Reserve Bank of India by such circular advised the banks that, they will not be permitted to charge foreclosure charges/ prepayment penalties on floating rate term loans sanctioned to individual borrowers with immediate effect.

12. The contention of the respondent bank is that the petitioner is a Medium Enterprises, thus the petitioner is not entitled to get any benefit of the circular dated 7th May, 2014. In the case of ***Devendra Surana (supra)*** also initially the petitioner was small enterprises and in the year 2014, the said firm became Medium Enterprises. The Court held that:

> *"Reserve Bank of India, when it is advising the banks, by its circular dated May 7, 2014, not to charge any foreclosure charges/ prepayment penalties on all floating term loans sanctioned to individual borrowers, with immediate effect, it is not distinguishing between an individual borrower who has obtained the term loan for business exploitation or otherwise. Term loans are granted by banks, both for purchasing a home as also for commercial activities. There being no such distinction in the circular dated May 7, 2014, I am not minded to read the definition of 'consumer' as obtaining in the Consumer Protection Act, 1993 into such circular. They operate in different spheres."*

13. The respondent bank has relied upon the Reserve Bank of India (Pre-payment Charges on Loans) Directions, 2025 in which the Reserve Bank of India repealed all the Master Directions and Circulars issued earlier but as per Clause 3(ii), the said Directions shall be applicable to all loans and advances sanctioned or renewed on or after 1st January, 2026, thus the said Direction, 2025, is not applicable in the present case.

14. The petitioner has availed Over Draft Facility and Term Loan from 30th August, 2024, from the respondent no.7. On 29th January, 2025, the petitioner has requested for foreclosure of Term Loan and Over Draft Credit Loan Facilities, thus the Circular issued by the Reserve Bank of India dated 7th May, 2014, is applicable in the case of the petitioner. The judgment passed in the case of ***Devendra Surana (supra)*** is also squarely applicable in the case of the petitioner.

15. In view of the above, the petitioner is entitled to get an amount of Rs. 7,82,282.02 and Rs. 17,70,000/- from the respondent no.7. The respondent no.7 is directed to refund the amount of Rs. 7,82,282.02 and Rs. 17,70,000/- to the petitioner within a period of two (2) weeks from the date of receipt of this order.

16. **WPA No. 15702 of 2025** is **allowed**.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)