

IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)
APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

WPA No. 27675 of 2025

Bizitza Retail Ventures Private Limited and Others

Versus

Central Bank of India and Others

Mr. Chayan Gupta
Mr. Niladri Banerjee
Mr. Debayan Ghosh
Mr. Abhidipto Tarafdar
Mr. Deepankar Thakur

.....For the petitioners.

Ms. Suchismita Ghosh

.....For the R.B.I.

Ms. A. Rao

.....For the respondent nos. 1 to 3.

Hearing Concluded On : 07.01.2026

Judgment on : 15.01.2026

Krishna Rao, J.:

1. The petitioners have filed the present writ application praying for a Mandamus upon the respondent nos. 1, 2 and 3 to act in terms of the Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises dated 29th May, 2015 and 17th March, 2016 and the Master Direction for Lending to Micro, Small and Medium Enterprises Sector dated 21st July, 2016.
2. The petitioner no.1 is a registered Micro Enterprises, having Registration No. UDYAM-WB-10-0023419. The petitioner no. 1 has availed Cash Credit Facilities of Rs. 4,95,00,000/- from the respondent no.1 bank. The petitioner nos. 4 and 5 are guarantors of the petitioner no.1 of the said Cash Credit Facilities.
3. By a notice dated 24th June, 2025, the respondent no.1 has informed the petitioner no.1 that the cash credit account of the petitioner no.1 is under SMA-2 and will be turned to NPA on 25th June, 2025, due to non-service of interest and requested the petitioner no.1 to immediately pay the overdue amount of Rs. 14,33,608/- (Excluding revenue leakage of Rs. 33,365/-) and to regularize the account.
4. On 26th June, 2025, the respondent no.1 by a notice under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 calling upon the petitioners to discharge the liabilities in full by paying the entire amount of Rs. 5,12,64,234.67 with interest.

5. The petitioner no.1 by a letter dated 13th August, 2025, sent a reply to the notice dated 26th June, 2025, requesting the bank to withdraw the said notice and to follow the provisions of the “Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises (MSMEs)” and the judgment passed by the Hon’ble Supreme Court in the case of ***M/s. Pro Knits Vs. The Board of Directors of Canara Bank*** reported in ***(2024) 10 SCC 292***.
6. On 6th September, 2025, the bank again issued a notice under Section 13(2) of the SARFAESI Act, 2002, calling upon the petitioners to pay the amount of Rs.5,22,42,577.67 along with interest within 60 days from the date of receipt of the notice. In the said notice, it was also informed by the bank to the petitioners that the earlier notice dated 26th June, 2025, issued under Section 13(2) of the SARFAESI Act stands withdrawn.
7. By a reply dated 17th November, 2025, the bank has informed the petitioners that the bank has rightly classified the account of the petitioner no. 1 as NPA by the system itself as per guidelines of the RBI. In the said reply, the bank has also informed the petitioners that the Bank has never received such request from the petitioners for any Corrective Action Plan or restructuring as per the Framework for Revival of Micro, Small and Medium Enterprises.
8. On 28th November, 2025, the petitioner no. 1 has made request to the Zonal Head of the bank for implementation of the MSME. The petitioner

no. 1 also made request to the Reserve Bank of India with the request to issue direction upon the bank for implementation of the guidelines.

9. Mr. Chayan Gupta, Learned Advocate representing the petitioners submits that inspite of the representations submitted by the petitioners neither the bank nor the Reserve Bank of India has taken any action in terms of the Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises and on the other hand, the bank is proceeding against the petitioners under the SARFAESI Act.
10. The petitioners have relied upon the judgment in the case of ***Pro Knits (supra)*** and submits that prior to declaring the account of MSMEs, the instructions and directions of the Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises is required to be followed but in the case of the petitioners, the bank has not followed the said guidelines.
11. Mr. Gupta relied upon the judgment in the case of ***A.K. Karthikeyan vs. Authorized Officer, Canara Bank*** reported in ***2025 SCC OnLine Mad 3785*** and submits that the Hon'ble Division Bench of the Madras High Court also held that the bank is bound to consider the case of the petitioners under the 2015 Notification, if not viable then only ought to have proceeded under the SARFAESI Act.
12. Ms. A. Rao, Learned Advocate representing the Bank/ the respondent nos. 1 to 3 submits that on 24th June, 2025, it was duly informed to the petitioners that the Cash Credit of the petitioner no. 1 is under

SMA-2 and will be turned to NPA on 25th June, 2025 and requested the petitioners to immediately pay the overdue amount of Rs. 14,33,608/- but the petitioners have not paid the said amount. She submits that as the petitioners have not paid the amount, accordingly, the system of the bank automatically classified the account of the petitioner no. 1 as NPA.

13. Ms. Rao submits that the petitioners have never made any request to the bank for consideration of its case under the Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises. She submits that the bank has issued notice to the petitioners under Section 13(2) of the SARFAESI Act, on 26th June, 2025 but the petitioner no. 1 has submitted its reply only on 13th August, 2025. She submits that in the said reply also the petitioner no. 1 has not made any request but has only stated that the bank has violated the Notification and the order passed by the Hon'ble Supreme Court in the case of ***Pro Knits (supra)***.
14. Ms. Rao has relied upon the judgment in the case of ***Shri Shri Swami Samarth Construction & Finance Solution and Another Vs. Board of Directors of NKGSB Co-Operative Bank Ltd. and Others*** reported in ***2025 SCC OnLine 1566*** and submits that the Hon'ble Supreme Court while interpreting the "FRAMEWORK" held that it do not prohibit the lending bank/ secured creditor (assuming that it has no conscious knowledge that the defaulting borrower is an MSME) to classify the account of the defaulting MSME as NPA and to even issue the demand

notice under Section 13(2) of the SARFAESI Act without such identification of incipient stress in the account of the defaulting borrower (MSME). She further submits that the Hon'ble Supreme Court also held that upon receipt of demand notice, if such borrower in its response under Section 13(3-A) of the SARFAESI Act asserts it an MSME and claims the benefit of the FRAMEWORK citing reasons supported by an affidavit, the lending bank/ secured creditor would then be mandatorily bound to look into such claim keeping further action under the SARFAESI Act in abeyance.

15. Ms. Rao submits that the petitioners have not filed any affidavit with the bank after receipt of notice under Section 13(2) of the SARFAESI Act.
16. Ms. Suchismita Ghosh, Learned Advocate representing the Reserve Bank of India submits that the petitioners have made representations to the Reserve Bank of India only on 28th November, 2025 and filed the present writ application on 2nd December, 2025, thus the Reserve Bank of India could not get sufficient time to consider the representations made by the petitioners. She has relied upon an unreported judgment in the case of ***Mahua Bhaumik vs. Union of India & Ors.*** passed in **WPA No. 27289 of 2025** dated **16th December, 2025**, passed by this Court and submitted that in the similar circumstance of the case, this Court by considering the judgement passed by the Hon'ble Supreme Court in the case of ***Shri Shri Swami Samarth Construction and Finance Solution and Anr. (supra)*** directed the bank to consider the

case of the petitioners in terms of the FRAMEWORK and till the decision is taken, the proceeding initiated by the bank under the provisions of SARFAESI Act be kept in abeyance.

17. Heard the Learned Counsel for the parties, perused the materials on record and the judgments relied by the parties. The petitioner no.1 is a MSME and availed cash credit facility from the Central Bank of India for an amount of Rs. 4,95,00,000/-. The allegation of the petitioners is that the bank without following the Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises declared the account of the petitioner no.1 as Non-Performing Assets and started proceeding under the SARFAESI Act.
18. Interpretation of the Notification dated 15th May, 2015, (Framework for Revival and Rehabilitation of Micro Small and Medium Enterprises) came up for consideration before the Hon'ble Supreme Court in the case of **Pro Knits (supra)** wherein the Hon'ble Supreme Court held that:

“17. What is contemplated in the “Framework for Revival and Rehabilitation of MSMEs” contained in the Instructions/Directions stated hereinabove, is required to be followed prior to the classification of the borrower's account, (in the instant case MSMEs loan account), as non-performing assets. The said Instructions contained in the Notification dated 29-5-2015 as part of measures taken for facilitating the promotion and development of MSMEs issued by the Central Government in exercise of powers conferred under Section 9 of the MSMED Act, followed by the Directions issued by the RBI in exercise of the powers conferred under Sections 21 and 35-A of the Banking

Regulation Act, the banking companies though may be “secured creditors” as per the definition contained in Section 2(zd) of the SARFAESI Act, are bound to follow the same, before classifying the loan account of MSME as NPA.

20. *Therefore, the stage of identification of incipient stress in the loan account of MSMEs and categorisation under the Special Mention Account category, before the loan account of MSME turns into NPA is a very crucial stage, and therefore it would be incumbent on the part of the MSME concerned also to produce authenticated and verifiable documents/material for substantiating its claim of being MSME, before its account is classified as NPA. If that is not done, and once the account is classified as NPA, the banks i.e. secured creditors would be entitled to take the recourse to Chapter III of the SARFAESI Act for the enforcement of the security interest.*

21. *It is also pertinent to note that sufficient safeguards have been provided under the said Chapter for safeguarding the interest of the defaulters-borrowers for giving them opportunities to discharge their debt. However, if at the stage of classification of the loan account of the borrower as NPA, the borrower does not bring to the notice of the bank/creditor concerned that it is a Micro, Small or Medium Enterprise under the MSMED Act and if such an Enterprise allows the entire process for enforcement of security interest under the SARFAESI Act to be over, or it having challenged such action of the bank/creditor concerned in the court of law/tribunal and having failed, such an Enterprise could not be permitted to misuse the process of law for thwarting the actions taken under the SARFAESI Act by raising the plea of being an MSME at a belated stage. Suffice it to say, when it is mandatory or obligatory on the part of the Banks to follow the Instructions/Directions issued by the Central Government and the Reserve Bank of India with regard to the Framework for Revival and Rehabilitation of MSMEs, it would be equally incumbent on the part of the MSMEs concerned to be vigilant enough to follow the process laid down under the said Framework, and bring to the notice of the Banks concerned, by*

producing authenticated and verifiable documents/material to show its eligibility to get the benefit of the said Framework.”

19. Now, recently the Hon’ble Supreme Court in the case of **Shri Shri Swami Samarth Construction & Finance Solution & Anr. (supra)** held that:

“6. The way Mr. Nedumpara urges us to read the notification and the terms of the framework, if accepted, would lead to the conclusion that every lending bank/secured creditor under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, would be obliged to find out in every event of continuing default, likely to give rise to classification of the relevant account as non-performing asset, whether the borrower is an micro, small and medium enterprise to which the framework applies, whether its business has failed or whether it is suffering from any disability to pay its debts; and upon receiving a response, to apply the terms thereof by, inter alia, including the account in the special mention account for the claim for a corrective action plan to be considered by the Committee for stressed micro, small and medium enterprises. This could not have been the intention behind introduction of the framework to aid the micro, small and medium enterprises which, for reasons personal to them, is unable to clear its debt and require revival and rehabilitation that the framework envisages. If indeed it is only the obligation of the lending bank/secured creditor to identify incipient stress in the account, subparagraphs 2 and 3 of paragraph 1 would be rendered redundant. A micro, small and medium enterprise, despite finding that its business is failing or that it is unable to pay its debts or accumulation of losses equals to half or more of its entire net worth and classification of its account as non-performing asset is imminent, it would rest on its oars believing that it has no responsibility and that its account will not be classified as non-performing asset because it is the entire obligation of the lending bank/secured creditor to do what the

framework requires. We would read and interpret the seemingly confusing terms of the Framework harmoniously to ensure that a right under the Micro, Small and Medium Enterprise Act is not destroyed by the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, or vice versa. In our reading, the terms of the framework do not prohibit the lending bank/secured creditor (assuming that it has no conscious knowledge that the defaulting borrower is a micro, small and medium enterprise) to classify the account of the defaulting micro, small and medium enterprise as non-performing asset and to even issue the demand notice under section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, without such identification of incipient stress in the account of the defaulting borrower (MSME); however, upon receipt of the demand notice, if such borrower in its response under section 13(3A) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act asserts that it is a micro, small and medium enterprise and claims the benefit of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, citing reasons supported by an affidavit, the lending bank/secured creditor would then be mandatorily bound to look into such claim keeping further action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act in abeyance; and should the claim be found to be worthy of acceptance within the framework of the framework, to act in terms thereof for securing revival and rehabilitation of the defaulting borrower.

7. *As has been noted above, the petitioning enterprise does not seem to have ever claimed the benefit of the terms of the framework after the demand notice under section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act was issued. It is at the stage of compliance with an order passed by the relevant Magistrate under section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act that this writ petition has been presented before this court claiming benefits of the*

framework to restrain respondent No. 2 and its officers from proceeding further under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act and other enactments except in the manner contemplated under the said notification. We find the bona fides of the petitioning enterprise to be suspect.

8. *Pro Knits (supra)* is a decision of a co-ordinate Bench of this court holding, inter alia, that the notification is binding on the lending banks/secured creditors. Finding to the contrary by the High Court of Bombay in the judgment and order under challenge in the appeal was, thus, quashed. Though while stressing that the terms of the framework need to be followed by the lending banks/secured creditors before the account of an micro, small and medium enterprise is classified as non-performing asset, this decision also lays stress on the obligation of the micro, small and medium enterprises by holding that “it would be equally incumbent on the part of the micro, small and medium enterprises concerned to be vigilant enough to follow the process laid down under the said framework, and bring to the notice of the banks concerned, by producing authenticated and verifiable documents/material to show its eligibility to get the benefit of the said framework”. It was cautioned that “if such an enterprise allows the entire process for enforcement of security interest under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act to be over, or it having challenged such action of the bank/creditor concerned in the court of law/Tribunal and having failed, such an enterprise could not be permitted to misuse the process of law for thwarting the actions taken under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act by raising the plea of being an micro, small and medium enterprise at a belated stage”. This decision, however, left unsaid something which we have explained hereinabove while construing the terms consistently to prevent undermining of rights that one central enactment confers by another.”

20. In the present case, on 24th June 2025, the bank has issued notice to the petitioners intimating that the cash credit account of the petitioner no. 1 is under SMA-2 and will be turned to NPA on 25th June, 2025, and requested the petitioner no. 1 to pay the overdue amount of Rs. 14,33,308/- and to regularize the account. On 26th June, 2025, the bank has issued notice upon the petitioners under Section 13(2) of the SARFAESI Act directing the petitioners to discharge its liability by paying the total due amount of Rs. 5,12,64,234.67 and if the petitioners failed to pay the said amount, the consequential steps which the bank will take was also informed to the petitioners.

21. In reply to the notice in paragraph 9, the petitioners have stated as follows:

“9. That the provisions of the “Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises (MSMEs)” as per the RBI circular and also as notified by the Central Govt vide notification dt. 29.05.2015 have been blatantly violated by the Bank. Also in terms of the recent judgment of the Hon’ble Supreme Court in the matter of M/s Pro Knits Vs The Board of Directors of Canara Bank delivered on 1st August 2024 the same has been contemptuously avoided and disregarded by the bank.”

22. Subsequently, the bank has issued another notice under Section 13(2) of the SARFAESI Act wherein the bank has withdrawn its earlier notice dated 26th June, 2025. The contention of the bank is that the bank has not intentionally declared the account of the petitioner no. 1 as NPA on 26th June, 2025. If the borrower will not regularize the account, the system automatically shows the account of the borrower as NPA. It is

the further contention of the bank that the petitioners have not made any request for any Corrective Action Plan or restructuring the account of the petitioner no. 1 in terms of the Framework.

23. On receipt of notice dated 26th June, 2025, the petitioners, though, did not categorically requested the bank for consideration of its case under the FRAMEWORK but have stated that the bank has violated the notification dated 29th May, 2015 and the order passed by the Hon'ble Supreme Court in the case of ***Pro Knit (supra)***. The respondent bank has withdrawn the notice dated 26th June, 2025 but has issued fresh notice under Section 13(2) of the SARFAESI Act on 6th September, 2025. After the judgment passed by the Hon'ble Supreme Court in the case of ***Shri Shri Swami Samarth Construction and Finance Solution & Anr. (supra)*** on 28th July, 2025, the bank has withdrawn the notice dated 26th June, 2025 and issued another notice dated 6th September, 2025 under Section 13(2) of the Act and thereafter by a reply dated 17th November, 2025, have taken a stand that the petitioners have not made any request for any Corrective Action Plan or Restructuring.

24. This Court finds that the petitioners in its reply dated 13th August, 2025 informed the bank that the bank has violated the notification dated 29th May, 2015 by not considering the case of the petitioners in terms of the said notification though the bank admits that the petitioner no. 1 is a MSME. When the bank came to know about the order passed by the Hon'ble Supreme Court in the case of ***Shri Shri***

Swami Samarth Construction and Finance Solution & Anr. (*supra*), the bank has taken the stand that the petitioners have not requested the bank for restructuring.

- 25.** It is mandatory on the part of the bank that, in reply, if the borrower claims benefit of the FRAMEWORK with reasons and affidavit, the bank is bound to look into the claim of the borrower. Considering the above, this Court finds that the proceeding initiated by the bank against the petitioners is at the initial stage and there is no dispute that the petitioner no. 1 is not MSME. The petitioners are directed to file its claim within a week from the date along with an affidavit and documents to the respondent no. 2. If the petitioners submit its claim within a week from date, the bank shall consider the same in accordance with notifications dated 29th May, 2015 and 17th March, 2016. Till the final decision is taken by the bank, the proceeding initiated by the bank shall kept be in abeyance.

- 26. WPA No. 27675 is disposed of.**

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.)