IN THE HIGH COURT AT CALCUTTA

(CONSTITUTIONAL WRIT JURISDICTION)

ORIGINAL SIDE

Present :

The Hon'ble Justice Partha Sarathi Chatterjee

WPO 340 of 2024

Siddhanth Vedant Cold Storage (P) Ltd. & Ors.

Vs.

Punjab National Bank & Anr.

For the petitioner	: Mr. Debabrata Ray, Sr. Adv., Mr. S. Nag, Mr. Dwaipayan Basu Mullick, Mr. Rajesh Upadhyay, Mr. Subhankar Das, Mr. S. Biswas, Mr. Shoham Sanyal.
For the PNB	: Mr. Swatarup Banerjee, Mr. Sailendra Kr. Tiwari, Mr. Shambhu Mahato, Ms. T. Bose, Ms. M. Jalan.
Heard on	: 13.10.2026
Judgment on	**: 20.11.2026**

Partha Sarathi Chatterjee, J.:-

Prelude:

1. The present writ petition has been preferred by the petitioners, being the borrower-company and its Directors, challenging the show-cause notice dated

28th December, 2023 issued by the respondent-Punjab National Bank (in short, "the Bank"), whereby the petitioners were called upon to show cause as to why their loan account should not be classified and reported as a "fraud account", as also the subsequent communication dated 21st March, 2024, whereby the petitioners were intimated that their loan account had been classified as a "fraud account".

Petitioners' case:

2. The facts leading to the filing of the present writ petition, as pleaded by the petitioners, may be noticed briefly. The petitioners are engaged, inter alia, in the business of manufacture of organic manure and allied activities. Petitioner nos. 2 and 4 were initially partners of a partnership firm which was enjoying a credit facility of Rs.24 lakhs from Canara Bank. The said credit facility was subsequently taken over by the erstwhile United Bank of India and was enhanced to Rs.50 lakhs.

3. It is the case of the petitioners that, at the instance of the erstwhile United Bank of India, they subsequently acquired several NPA/closed cold storage units and commenced business through different companies. According to the petitioners, in the process, their overall credit exposure increased substantially. The petitioners further claim that the concerned entities were registered as Micro, Small and Medium Enterprises under the applicable statutory framework.

4. The petitioners have attributed the subsequent financial stress to, inter alia, demonetisation, decline in demand in the potato market and other adverse market conditions. They have further relied upon various circulars issued by

the Reserve Bank of India and the erstwhile United Bank of India concerning restructuring of stressed MSME accounts and have asserted that proposals submitted by them for restructuring were not duly considered.

5. It is the further case of the petitioners that, during the intervening period, the COVID-19 pandemic occurred and the Reserve Bank of India issued directions providing, inter alia, for moratorium and restructuring measures. According to the petitioners, notwithstanding their request for restructuring, their loan accounts were classified as NPA.

6. The petitioners had earlier challenged the action of the Bank in proceedings being WPA 9820 of 2021. The prayer for interim relief was declined by a coordinate Bench by order dated 8th July, 2021. The said order was carried in appeal in MAT No.643 of 2021, wherein, by order dated 26th July, 2021, the parties were directed to maintain status quo for a period of eight weeks or until further orders, whichever was earlier.

7. In the meantime, the erstwhile United Bank of India was amalgamated with Punjab National Bank. Thereafter, the Punjab National Bank (hereinafter, referred to as the Bank) instituted OA No.401 of 2022 before the Debts Recovery Tribunal under Section 19 of the Recovery of Debts and Bankruptcy Act, 1993. The petitioners entered appearance and filed their written statement and also raised a counter-claim.

8. It is in the aforesaid backdrop that the Bank issued the impugned show-cause notice dated 28th December, 2023, calling upon the petitioners to show cause as to why their loan account should not be classified as a “fraud account”. Upon receipt of the said notice, the petitioners, by a letter, requested the Bank

to furnish the documents relied upon by it in issuing the said notice. However, the said request was not acceded to. Subsequently, by a communication dated 21st March, 2024, the petitioners were informed that their loan account had been classified as a “fraud account”.

9. The principal grievance of the petitioners is that the procedure contemplated under the Reserve Bank of India (Frauds Classification and Reporting by Commercial Banks and Select FIs) Directions, 2016 was not followed. It is contended that the forensic audit report (for short, FAR), on the basis of which the fraud classification was made, was not supplied to the petitioners and that, consequently, they were deprived of an effective opportunity to deal with the material relied upon against them.

Respondents’ case:

10. The respondent bank contested the writ petition by filing an affidavit-in-opposition, wherein it was, inter alia, contended that the petitioners had availed themselves of various credit facilities from the respondent no. 1/bank, either by way of fresh sanction or renewal-cum-enhancement thereof, upon execution of the requisite loan and security documents. It was further contended that, as security for the said credit facilities, the petitioners had created equitable mortgages over certain immovable properties and had also created hypothecation over various movable assets, including stocks, book debts and other current assets of the petitioner no. 1.

11. However, upon the petitioners' failure to adhere to the stipulated repayment schedule, the respondent bank classified the loan accounts as Non-Performing Assets (for short, NPA), in accordance with the Reserve Bank of India's (for

short, RBI) Master Directions on Frauds – Classification and Reporting by Commercial Banks and Select FIs, dated 1st July, 2016, as updated on 23rd July, 2016, and the circular/guidelines issued by the Head Office, Recovery Division of the bank, being FRMD Circular No. 70/2023 dated 20th October, 2023 (for short, FRMD circular).

12. Subsequently, the respondent bank, in its capacity as a secured creditor, initiated measures under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, the SARFAESI Act), for enforcement of its security interest. The petitioners assailed the said measures by instituting a writ petition, being WPO 9820 of 2021. By an order dated 8th July, 2021, a coordinate Bench of this Court declined to grant any interim relief to the petitioners. Aggrieved thereby, the petitioners preferred an intra-court appeal, being MAT 643 of 2021. The said appeal was disposed of by an order dated 23rd December, 2021, whereby the respondent bank was restrained from taking any measures under the SARFAESI Act until disposal of the writ petition.

13. Subsequently, by an order dated 5th August, 2025, the writ petition, being WPO 9820 of 2021, was allowed. The respondent bank has assailed the said order in an intra-court appeal, being MAT 1887 of 2025, which is presently pending adjudication. In the interregnum, and in terms of the order dated 23rd December, 2021, the respondent bank initiated proceedings under Section 19 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, by instituting an Original Application, being O.A. 401 of 2022, which is also pending final adjudication.

14. The respondent bank contended that the borrowers had violated various terms and conditions governing the sanction of the credit facilities and that the statements of account disclosed certain unlawful, illegal and suspicious transactions. It was further contended that a report in that regard had been forwarded to the competent authority for necessary action in terms of the Master Directions of 2016. Consequently, a forensic auditor was appointed to examine the accounts and the transactions undertaken therein. The bank alleged that, despite repeated requests, the petitioners failed to extend the requisite cooperation to the forensic auditors in the course of the audit. Thereafter, by a notice dated 28th December, 2023, the respondent bank called upon the petitioners to show cause and submit their written representations within fifteen days from the date of receipt of the said notice, as to why their loan account should not be classified as 'fraud account'.

15. The respondent bank contended that extracts and relevant portions of the forensic audit report had been furnished to the petitioners along with the show cause notice dated 28th December, 2023. It was further asserted that the said notice also contained excerpts from the FAR highlighting the circumstances and findings indicative of the alleged fraudulent activities. The bank alleged that, instead of submitting a reply to the show cause notice, the petitioners, by placing an erroneous interpretation upon the decision of the Hon'ble Supreme Court in *State Bank of India vs. Rajesh Kumar Agarwal & Ors.*, reported in *(2023) 6 SCC 1*, addressed a letter dated 13th January, 2024, calling upon the bank to furnish certain documents, without due application of mind. The bank contended that the said letter dated 13th January, 2024

could not, by any stretch of interpretation, be construed as a reply to the show cause notice.

16. The respondent bank further contended that, upon affording the petitioners a reasonable opportunity of hearing and in the absence of any reply to the show cause notice within the stipulated period, the competent authority of the respondent no. 1/bank proceeded to classify the loan account of the petitioners as 'fraud account' by passing a reasoned order. The said decision was duly communicated to the petitioners vide a communication dated 21st March, 2024.

Contents of affidavit-in-reply:

17. In the affidavit-in-reply, the petitioners, inter alia, contended that the bank ought to have furnished the forensic audit report in its entirety, upon which reliance had been placed for the purpose of classifying their loan account as ‘fraud account’, instead of merely supplying extracts or selected pages thereof. It was contended that, in the absence of the complete report, the petitioners were deprived of an effective opportunity to submit their reply. The petitioners further specifically alleged that the order dated 11th March, 2024 was a document of anterior date, purportedly brought into existence to mislead the Court and to conceal the deficiencies in the decision-making process, and that the same had neither been brought to the notice of the learned Single Bench or the Hon’ble Division Bench of this Court nor communicated to the petitioners. It was also contended that the letter dated 21st March, 2024, whereby the petitioners were intimated of the classification of their account as ‘fraud account’, made no reference whatsoever to the order

dated 11th March, 2024. The petitioners asserted that the classification of their account as 'fraud account' was made in brazen disregard of the settled principles of law and the fundamental requirements of natural justice.

Submissions:

18. The parties have advanced elaborate arguments and have also filed their respective written notes of submissions.

19. Mr. Saha Roy, learned Senior Counsel appearing for the petitioners, submitted that it is an admitted position that, although the bank had placed reliance upon the FAR for the purpose of classifying the petitioners' account as 'fraud account', the said report, in its entirety, was never furnished to the petitioners. He submitted that the bank, in its affidavit, had admitted that only extracts and/or certain pages of the FAR had been forwarded to the petitioners. He further contended that the petitioners had not, in fact, been furnished even with the extracts and/or relevant pages of the FAR, which the bank claimed to have forwarded to them.

20. He contended that immediately upon receipt of the show cause notice, the petitioners, by their letter dated 13th January, 2024, requested the bank to furnish certain documents, including a copy of the FAR or any other audit report relied upon by the bank. However, the bank failed to accede to such request, thereby depriving the petitioners of a reasonable opportunity to submit an effective reply to the show cause notice.

21. He argued that the petitioners were merely furnished with a one-page intimation informing them that their accounts had been classified as 'fraud accounts'. The said letter of intimation dated 21st March, 2024, was cryptic in

nature and disclosed no reasons whatsoever for such classification. It was further submitted that the letter did not indicate the documents or materials upon which the bank had placed reliance in arriving at such a decision. He further contended that, even before the order of classification was made available to the petitioners, their account had already been classified as 'fraud account' and the same had been reported to the Reserve Bank of India on 16th March, 2024.

22. He submitted that the present writ petition was initially allowed by a Coordinate Bench by an order dated 29th April, 2024, whereby the letter of intimation dated 21st March, 2024, was set aside on the ground that the FAR had not been furnished to the petitioners. The said order was, however, carried in appeal by the bank, and the appeal was allowed by an order dated 16th September, 2025, solely on the ground that the writ petition had been disposed of without affording the bank an opportunity to file its affidavit-in-opposition. Consequently, the matter was remanded for fresh consideration. He further submitted that it was only in the affidavit-in-opposition filed pursuant to such remand that the bank, for the first time, disclosed an order dated 11th March, 2024, which, according to the bank, constituted the final order classifying the petitioners' account as 'fraud account.

23. He referred to the order dated 11th March, 2024, appearing at page 22 of the affidavit-in-opposition, and submitted that the expression 'For Approval', appearing at the top of the said order, clearly indicates that the same was not a final order and was not intended to be communicated to the petitioners. He further drew my attention to the concluding portion of the order, wherein it was specifically recorded that the bank's decision was to be suitably

communicated to the concerned party in terms of Annexure-5(B) of FRMD Circular No. 70/2023 dated 20th October, 2023, and an acknowledgement of receipt of such communication was to be kept on record. According to him, the aforesaid direction clearly demonstrates that the order dated 11th March, 2024, which the bank now claims to be the final order classifying the petitioners' account as 'fraud account', had never been communicated to the petitioners. Referring to the postal receipt appearing at page 19 of the affidavit-in-reply, he submitted that the weight of the consignment was recorded as only 15 grams. He pointed out that a 17-page order dated 11th March, 2024, could not possibly have weighed so little. He, therefore, contended that the said order had never actually been sent to the petitioners.

24. He argued that the bank, being a State within the meaning of Article 12 of the Constitution, had made false statements in its affidavit-in-opposition with the apparent intention of misleading the Court. He further submitted that the bank had failed to adhere either to the requirements stipulated in the relevant RBI circulars or to the provisions of its own circulars while undertaking the exercise of classifying the petitioners' account as 'fraud account'.

25. He placed reliance upon the judgment of the Hon'ble Supreme Court in State Bank of India & Ors. v. Rajesh Agarwal & Ors (supra), and submitted that classification of a borrower's account as fraudulent entails serious civil consequences and, therefore, strict compliance with the principles of natural justice is imperative before such a decision is taken. He also relied upon the decision of the Hon'ble Supreme Court reported in 2026 INSC 323 (State Bank of India v. Amit Iron Private Limited & Ors.), wherein the scope and effect of the decision in Rajesh Agarwal and the borrower's entitlement to a

copy of the FAR have been authoritatively considered. He submitted that furnishing the FAR to the borrower is the rule and that only such portions thereof as may adversely affect the interests of third parties can be withheld, that too upon recording appropriate reasons. He contended that, in the present case, the FAR was never furnished to the petitioners, nor were they afforded an effective opportunity to controvert the allegations of misappropriation, criminal breach of trust and diversion of funds levelled against them. He, therefore, submitted that the aforesaid lapses furnished sufficient grounds for interference by this Court in exercise of its writ jurisdiction. To reinvigorate his submissions, he cited another decision, reported in 2024 SCC OnLine Cal 1012 (Hemanta Kanoria vs. Bank of India & Ors.).

26. In rebuttal, Mr. Banerjee, learned counsel appearing for the bank, on the other hand, submitted that the petitioners were duly served with a show cause notice and were afforded an opportunity to submit their response thereto. He contended that the bank had sufficient materials before it to conclude that the loan funds had been diverted and/or utilised for purposes other than those for which the credit facilities had been sanctioned. There were also materials indicating misappropriation of funds and criminal breach of trust. He, therefore, submitted that upon due compliance with the prescribed procedure, the petitioners' account was classified as 'fraud account' in conformity with the applicable RBI circulars as well as the bank's own circulars.

27. Referring to a footnote appended to the bank's FRMD Circular No. 70 of 2023 dated 20th October, 2023, Mr. Banerjee submitted that the said circular had been framed in consonance with the principles laid down by the Hon'ble

Supreme Court in the decision of Rajesh Agarwal (supra) and prescribes the procedure to be followed while undertaking the exercise of classifying an account as a 'fraud account'. He further contended that the petitioners had neither challenged the aforesaid FRMD circular nor the RBI Master Circular of 2016, which contains the guidelines governing the classification of account as fraud account. In the absence of any such challenge, according to him, the FRMD circular remains binding upon the petitioners. He submitted that, in accordance with the procedure prescribed therein, the show cause notice was issued in the prescribed format under Annexure-5(A), and the letter of intimation was also issued in the format prescribed under Annexure-5(B), both appended to the said circular.

28. Referring to the relevant portion of the FRMD circular, he submitted that it is the bank's policy to furnish relevant extracts of the FAR along with the show cause notice, while withholding sensitive internal information, details relating to the role of bank officials, third-party entities and the bank's internal policies and procedures. He contended that, in keeping with the said policy, the relevant extracts of the FAR had been made available to the petitioners. According to the bank, the complete report contains statements and information concerning bank officials as well as third parties, and disclosure of such information may expose the persons concerned, whether employees of the bank or representatives of the account holder, to certain risks. In such circumstances, the bank considered it inappropriate to disclose the entire report.

29. He submitted that the procedure prescribed under the FRMD guideline involves three authorities, namely, the Initiative Authority, the Reviewing

Authority and the Final Authority. The Initiative Authority, in the present case being the Fit Level Committee, is empowered to issue a show cause notice on the direction of the Final Authority, following the consideration by the Reviewing Authority, which in the present case is the Committee of General Managers. He further submitted that, since the amount involved in the alleged fraud exceeds Rs. 3 crores but is less than Rs. 50 crores, the Executive Director is the designated Final Authority. As per the guidelines, whenever fraud is suspected in any account, the findings, investigation report and primary forensic audit report are required to be placed before the Final Authority, and the decision taken by the Final Authority is thereafter to be reported to the Reserve Bank of India. Mr. Banerjee contended that, in the case at hand, the Bank had duly followed the procedure prescribed under the guidelines.

30. Mr. Banerjee contended that the decisions relied upon by the petitioners are distinguishable on facts. Referring to the decision in Rajesh Agarwal (supra), he submitted that the said decision merely emphasised the necessity of adhering to the principles of *audi alteram partem*, which, according to him, had been duly complied with in the present case. He further contended that nowhere in the said decision was it directed that the entire FAR must be furnished to the account holders. With regard to the decision in Amit Iron (supra), he submitted that the Hon'ble Supreme Court had recognised that any portion of the FAR could be withheld where its disclosure might affect the privacy or interests of third parties. He further sought to distinguish the decision in Hemanta Kanoria & Anr. (supra) by pointing out that the writ petitioner therein was a director of the company whose account had been

classified as fraud account and had himself been declared a perpetrator of fraud. In such circumstances, the Coordinate Bench had directed the Bank to furnish the entire FAR to enable the petitioner therein to effectively defend himself against the allegations levelled against him.

Analysis and conclusion:

31. The question which, therefore, arises for consideration is whether the procedure adopted by the Bank before classifying the petitioners' loan account as "fraud" satisfies the requirements of natural justice, the applicable RBI framework and settled principles of law.

32. In State Bank of India v. Rajesh Agarwal (supra), the Hon'ble Supreme Court held that classification of a borrower's account as fraud entails serious civil consequences and, therefore, the borrower must be afforded an opportunity to explain the material relied upon by the Bank before such classification is made. The principle of *audi alteram partem* must be read into the provisions of the Master Directions on Frauds to save them from the vice of arbitrariness. The principles of natural justice require that the borrower be served with a notice, afforded an opportunity to explain the findings of the forensic audit report (FAR) and permitted to make a representation before the Bank/JLF (Joint Lenders' Forum) prior to classification of the account as fraud under the Master Directions on Frauds. The Hon'ble Supreme Court further held that the decision classifying a borrower's account as fraudulent must be supported by a reasoned order.

33. Reaffirming the principles enunciated in Union of India v. Tulsiram Patel, reported in (1985) 3 SCC 398, the Hon'ble Supreme Court, in State Bank of

India v. Rajesh Agarwal (supra), reiterated that, in conformity with the rule of *audi alteram partem*, a person against whom an order prejudicial to his interests is proposed to be passed must be made aware of the allegations and charges levelled against him and afforded an opportunity to submit his explanation thereto. He must also be made aware of the evidence on which the proposed action is founded, be afforded an opportunity to inspect the documents relied upon against him and be permitted to adduce evidence in support of his defence.

34. For the effective adjudication of the present writ petition, it would be apposite to reproduce the concluding portion of the decision rendered in State Bank of India v. Amit Iron Private Limited & Ors. (supra), which reads as follows:

" In view of the discussions hereinbefore, we hold:-

a) Rajesh Agarwal (supra) did not recognize any right in the borrower to a personal hearing by the banks before classifying their account as a fraud account;

b) The RBI in its Master Directions of 15.07.2024 correctly understood the scope of Rajesh Agarwal (supra) and incorporated Clause 2.1.1.1, 2.1.1.2, 2.1.1.3, and 2.1.1.4 as the procedure to be followed before classifying an account as a fraud account;

c) The procedure set out in **Rajesh Agarwal (supra)** which has been incorporated in the Master Directions of 2024 strikes a fair balance between promptitude and fairness and duly comports with the principles of natural justice ensuring fairness to the borrower whose account is likely to be classified as a fraud account.

d) Wherever audit reports are available, including forensic audit reports, the same shall be furnished to the borrower and their representation on the report, including on the findings and conclusions be elicited, in case the banks consider the audit report relevant for classifying the account as fraud account. In view of the same, disclosure by furnishing copies of the audit report, including the forensic audit report to the borrower is mandatory. Supply of reports in digital form will be valid compliance;

e) As held in **T. Takano (supra)**, if the banks, for reasons to be recorded establish that the disclosure of any part of the report would effect the privacy of third parties, in that exceptional situation banks would be justified to withhold those portions of the report which concern third party rights;

f) We reiterate that the rule is to supply the audit reports, including the forensic audit reports since even under Clause 4 of Chapter IV of the 15.07.2024 Master Directions post the red-flagging of the account banks use the audit mechanism for further investigation. Even in the exceptional cases we hope and expect that the banks will not unreasonably use the power of redaction since that will only end up delaying the culmination of proceedings. Clause 4.1.4 also reiterates that banks shall ensure the principles of natural justice. That this was the legal position even under the 2016 Master Directions is clear from para 95 of **Rajesh Agarwal** (supra);

g) The judgments of the High Courts which have taken a contrary view to what we have held hereinabove would stand overruled."

35. Therefore, the decision in *State Bank of India v. Amit Iron Private Limited & Ors*. (supra) has, however, clarified the precise content of such procedural protection. The Hon'ble Supreme Court has held that *Rajesh Agarwal* does not recognize a right in the borrower to a personal or oral hearing before classification of an account as fraud. The requirements of natural justice are satisfied by issuance of a show-cause notice, disclosure of the material relied upon, opportunity to submit a representation and consideration thereof by the competent authority, followed by a reasoned decision.

36. At the same time, the Hon'ble Supreme Court has made it clear that the supply of the forensic audit report is the rule. The Court has specifically held that furnishing merely the findings and conclusions of the audit report would not amount to compliance with the principles of natural justice, since the reasons and the material forming the basis of such findings are contained in the body of the report.

37. The Hon'ble Supreme Court has, however, recognized a limited exception. Where the Bank, for reasons to be recorded, establishes that disclosure of a particular portion of the report would affect the privacy or rights of third parties, such portion may be withheld or redacted. The Court has nevertheless cautioned that such power of redaction should not be used unreasonably.

38. In the present case, the Bank does not dispute that a forensic audit report was relied upon for arriving at the decision to classify the petitioners' account as "fraud". The Bank admitted that the entire forensic audit report has not been supplied to the petitioners. Its case is that relevant extracts thereof were furnished and that the

remaining portions were withheld as the report contained statements and information relating to Bank officials and/or third parties.

39. Before proceeding further, it would be apposite to deal with the contention of the respondent Bank that the FRMD Circular No. 70/2023 dated 20th October, 2023 is binding upon the petitioners and that, in the absence of any challenge to the said circular or the RBI Master Directions of 2016, the petitioners cannot question the procedure adopted by the Bank in purported compliance therewith. Such contention, in the opinion of this Court, is devoid of merit. The mere fact that the petitioners have not assailed the validity of the FRMD Circular does not, by itself, render every action taken thereunder immune from judicial scrutiny. The said circular, being an internal guideline governing the procedure to be followed by the Bank, cannot override or dilute the law declared by the Hon'ble Supreme Court.

40. It is a settled principle that the law declared by the Hon'ble Supreme Court is binding on all authorities under Article 141 of the Constitution of India. Consequently, even if the Bank has acted in conformity with its own circular, such compliance cannot, by itself, validate an action which is otherwise inconsistent with the law laid down by the Hon'ble Supreme Court. The question, therefore, is not whether the FRMD Circular is binding upon the petitioners, but whether the procedure adopted by the Bank in purported compliance therewith satisfies the requirements of law and the principles of natural justice.

41. In view of the law now declared by the Hon'ble Supreme Court in *Amit Iron* (supra), the aforesaid explanation, by itself, cannot constitute sufficient compliance with the requirements of natural justice. The Bank was required to furnish the entire forensic audit report to the petitioners, subject only to such redaction or withholding

as may be justified by reasons referable to the rights or privacy of third parties. The fact that the report may contain statements of Bank officials does not, by itself, justify withholding the report in its entirety. The Bank was required to identify the particular portions, if any, which could legitimately be withheld and to record reasons for such withholding.

42. This Court is conscious of the fact that the allegations against the petitioners are serious and that the Bank may have material to support its decision. The Court is also not required, in exercise of jurisdiction under Article 226 of the Constitution, to undertake an adjudication as to whether the petitioners have in fact committed the acts constituting fraud. That determination falls within the domain of the competent authority, subject to the applicable statutory and regulatory framework.

43. The issue before this Court is narrower, namely, whether the decision-making process preceding the impugned classification complied with the requirements of natural justice. In view of the law declared by the Hon'ble Supreme Court, this Court is of the view that the petitioners were entitled to the forensic audit report relied upon by the Bank, subject to permissible redaction of those portions which the Bank is able to justify as affecting the privacy or rights of third parties.

44. It is also necessary to clarify that the petitioners are not entitled, as a matter of right, to a personal or oral hearing before the Bank. A written representation after disclosure of the relied-upon material would meet the requirement of natural justice, provided such representation is duly considered and a reasoned decision is thereafter taken.

45. In the circumstances, the communication dated 21st March, 2024, whereby the petitioners were informed of the classification of their account as "fraud", cannot be

sustained at this stage. However, this Court does not propose to examine the merits of the allegations of fraud or to record any finding either in favour of or against the petitioners on that aspect.

46. Accordingly, the communication dated 21st March, 2024 is set aside. The show-cause notice dated 28th December, 2023 shall stand revived. The respondent-Bank shall furnish to the petitioners the forensic audit report relied upon for the proposed classification, subject to permissible redaction strictly in accordance with the principles laid down by the Hon'ble Supreme Court in *State Bank of India v. Amit Iron Private Limited & Ors.* (supra). In the event the Bank seeks to withhold any portion of the report, it shall record reasons identifying the particular portion sought to be withheld and the basis on which such withholding is considered necessary.

47. Upon receipt of the forensic audit report, the petitioners shall be afforded reasonable opportunity to submit their representation dealing with the findings and conclusions contained therein and the other material relied upon by the Bank. The competent authority of the Bank shall thereafter consider the representation independently and pass a fresh, reasoned and speaking order in accordance with the applicable RBI Directions.

48. It is made clear that this Court has expressed no opinion on the merits of the allegations of diversion or misuse of funds or misappropriation of funds or criminal breach of trust, or on the question as to whether the petitioners' account ultimately warrants classification as a "fraud account". All such questions are left open for determination by the competent authority of the Bank in accordance with law.

49. It is further made clear that the order shall not prevent the Bank from pursuing the proceedings before the Debts Recovery Tribunal in accordance with law.

50. The writ petition is accordingly **disposed of** in the aforesaid terms.

51. There shall be no order as to costs.

52. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with the requisite formalities.

(Partha Sarathi Chatterjee, J.)