courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 14/09/2026

(2013) 08 CAL CK 0031

In the Calcutta High Court

Case No : W.P. No. 749 of 2013

Maheshwary Ispat Ltd. APPELLANT

Vs

Central Bank of India RESPONDENT

Date of Decision : 06-08-2013

Acts Referred:

Citation : (2014) 1 CHN 116

Hon'ble Judges : S. Banerjee, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S. Banerjee, J.—This is another instance of a nationalised bank failing to appreciate the purport of the Reserve Bank Master Circular on willful defaulters. The Master Circular provides a fair procedure before any person is declared a willful defaulter, since such declaration amounts to the person being regarded as a pariah in the financial and commercial world. Paragraph 3 of the Master Circular of July 1, 2011 provides for an initial committee of high functionaries of the concerned bank or financial institution to be entrusted with the preliminary decision to classify a person as a willful defaulter. The committee, as per the circular, should be headed by an executive director and consist of two general managers or deputy general managers as may be decided by the board of directors of the concerned bank or financial institution.

2. Clause (i) of paragraph 3 of the Master Circular requires identification of cases of willful default to be entrusted to such committee of higher functionaries headed by an executive director "with a view to imparting more objectivity...." Clause (ii) of paragraph 3 of the Master Circular mandates that a decision taken for classifying a borrower as a willful defaulter "should be well documented and supported by requisite evidence...(and)...should clearly spell out the reasons for which the borrower has been declared as willful defaulter vis-?-vis RBI guidelines." Though clauses (i) and (ii) of paragraph 3 of the Master Circular loosely use the expressions "classify the borrower as willful defaulter" and

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/maheshwary-ispat-ltd-appellant-has...

"borrower has been declared as willful defaulter", it is apparent from the scheme of the procedure envisaged in paragraph 3 of the Master Circular that the decision or classification or declaration referred to in clauses (i) and (ii) thereof is tentative and not final.

3. Clauses (iii) and (v) of paragraph 3 of the Master Circular provide as follows:

3. Grievances Redressal Mechanism Banks/FIs should take the following measures in identifying and reporting instances of willful default:

(i) ....

(ii) ....

(iii) The borrower should thereafter be suitably advised about the proposal to classify him as willful defaulter along with the reasons therefore. The concerned borrower should be provided reasonable time (say 15 days) for making representation against such decision, if he so desires, to a Grievance Redressal Committee headed by the Chairman and Managing Director and consisting of two other senior officials.

(iv) ....

(v) A final declaration as ''willful defaulter'' should be made after a view is taken by the Committee on the representation and the borrower should be suitably advised.

4. The word "thereafter" and the expression "proposal to classify" in clause (iii) of paragraph 3 of the Master Circular read with clause (v) thereof leave no manner of doubt that the exercise under clauses (i) and (ii) is only a proposal, whereupon the would-be willful defaulter is to be forwarded the preliminary decision "along with the reasons therefore" for the concerned borrower to be afforded reasonable time to make a representation against the decision to the Grievance Redressal Committee "headed by the Chairman and Managing Director and consisting of two other senior officials." It is plain to see from the scheme of paragraph 3 of the Master Circular, which is in keeping with the seriousness of the consequence of a borrower being branded as a willful defaulter, that the would-be willful defaulter is afforded full opportunity to question the basis of the preliminary opinion or proposal to label the borrower as a willful defaulter. The obligation of the Grievance Redressal Committee, headed by the top functionary of the bank or financial institution, is to take cognizance of the representation or defence of the would-be willful defaulter and weigh the same against the evidence furnished in the preliminary opinion of the committee headed by an executive director to brand the borrower as a willful defaulter. Clause (v) mandates the would-be willful defaulter to be "suitably advised" after a view is taken by the Grievance Redressal Committee on the representation of the borrower. Indeed, the entire procedure as devised in paragraph 3 of the Master Circular, particularly the fifth clause thereof, is in tune with the fundamental principles of natural justice and even to afford the reasons proffered by the

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/maheshwary-ispat-ltd-appellant-has…

Grievance Redressal Committee to be tested by the would-be willful defaulter.

5. Far too often banks and financial institutions fail to see the distinction between a defaulter and a willful defaulter. The provisions in the Master Circular provide for a procedure such that the defaulters who are incapable of paying are not branded as willful defaulters and only such defaulters are branded willful defaulters who may have diverted funds or may have the ability to repay but fall prey to the Indian habit of not paying the debt due from them.

6. Since the preliminary opinion impugned in the present proceedings is devoid of any reason or any evidence as to why the petitioners have been proposed to be classified as willful defaulters, the notices impugned dated March 5, 2013 and April 13, 2013 are set aside and the preliminary committee of the respondent bank is left free to proceed afresh in accordance with paragraph 3 of the Master Circular.

7. Nothing in this order should be construed to be a certificate to any of the petitioners and the bank is left free to collate the material to brand the petitioners as willful defaulters and take steps against the petitioners in accordance with the Master Circular.

8. W.P. No. 749 of 2013 is allowed as above without any order as to costs. Certified website copies of this order, if applied for, be urgently supplied to the parties subject to compliance with all requisite formalities.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/maheshwary-ispat-ltd-appellant-has…