IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.14750 OF 2025

Vardhan Agro Processing Limited and another … Petitioners
Vs.
Union of India and others … Respondents

Mr. Rohaan Cama a/w. Mr. T. N. Tripathi, Ms. Kalyani Wagle, Ms. Somya i/b. T. N. Tripathi & Co. for Petitioners.

Mr. Ashutosh Mishra a/w. Mr. Viraaj Bhate for Respondent No.1-UOI.

Ms. Huzan Bhumgara a/w. Mr. Pradeep Mane and Ms. Riddhi Badheka i/b. Desai and Diwanji for Respondent No.2.

Mr. Phiroze Colabawala a/w. Ms. Pushpa Thapa and Ms. Naina Chheda i/b. Mabale and Associates for Respondent No.3.

CORAM : MANISH PITALE &
SHREERAM V. SHIRSAT, JJ.
Reserved on : JANUARY 17, 2026
Pronounced on : JANUARY 29, 2026

ORDER : (*Per Justice Manish Pitale*)

. Petitioner No.1 is categorized as a Micro, Small and Medium Enterprise (MSME), of which petitioner No.2 is the chairman and shareholder. The petitioners have approached this Court seeking directions against the respondent No.3 - Union Bank of India to implement Government Notification dated 29.05.2015 issued by the respondent No.1 - Union of India and Master Direction dated 21.07.2016 issued by the respondent No.2 - Reserve Bank of India, in order to refer the loan account of the petitioner to the Committee, for restructuring of the debt, constituted by the respondent No.3 - Bank under the aforesaid Master Direction dated 21.07.2016. The petitioners have also sought further ancillary directions.

2. The crux of the dispute between the petitioners and respondent

No.3 is on the eligibility of petitioner No.1 as an MSME to the aforesaid Notification issued by respondent No.1 and the Master Direction issued by respondent No.2 - RBI, as also the Framework devised by the respondent No.2 - RBI for revival and rehabilitation of MSMEs. According to the petitioners, the petitioner No.1 is eligible under the said Framework, while the respondent No.3 - Bank has proceeded on the basis that the petitioner No.1 is not eligible. It is the case of the petitioners that from the very outset when the loan account of the petitioner No.1 showed signs of stress, the respondent No.3 - Bank was clearly made aware about the fact that the petitioner No.1 is an MSME and therefore, as per the law laid down by the Supreme Court in the case of *Pro Knits Vs. Board of Directors of Canara Bank and others*, **(2024) 10 SCC 292**, it was incumbent upon the respondent No.3 - Bank to have granted the benefit of the aforesaid Framework devised by the respondent No.2 - RBI and to refer the loan account to the Committee for restructuring of debt under the said Framework. The respondent No.3 - Bank proceeded without referring the account of the petitioner No.1 to the said Committee and proposed restructuring under its own Framework. According to the respondent No.3 - Bank, the petitioner No.1 initially indicated that it would abide by directions given by the respondent No.3 - Bank, but thereafter defaulted, as a consequence of which, the account was declared as 'Non-Performing Asset' (NPA) and consequential steps were undertaken under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the 'Securitization Act').

3. The conflict between the petitioners and the respondent No.3 - Bank is on the applicability of the said Framework and in that context, of the eligibility of petitioner No.1 to take benefit of the same. The question arising in this petition requires perusal and interpretation of the

said Notification as also Master Directions and Framework devised by the respondent No.2 - RBI, from time to time. But, before proceeding to consider the same, the chronology of events, in brief, needs to be appreciated.

4. On 07.03.2022, the petitioner No.1 sent a letter to the respondent No.3 - Bank, requesting for restructuring of the loan account. It was stated that due to *Covid-19* pandemic condition, there was a gap in repayment of some of the amounts and in that context, the repayment schedule was requested to be rescheduled. This request was reiterated in a further letter dated 28.07.2022 submitted on behalf of the petitioners. It is relevant to note that in both these letters, the petitioners specifically stated that the sanctioned amount of term loan was Rs.30 crores, apart from other loans such as *Covid* loan, pledge loan, H & T loan etc. The outstanding amounts in the two letters were recorded as Rs.48.49 crores and Rs.44.68 crores. The said figures mentioned in the two letters have a bearing on the rival submissions made on behalf of the petitioners and respondent No.3 - Bank.

5. On 12.03.2023, the petitioners sent a letter to the respondent No.3 - Bank, further requesting to consider restructuring of the loan account and in this letter, it was specifically stated that petitioner No.1 being an MSME, restructuring of the loan account may be permitted for a five-year period. It is undisputed that on 29.07.2023, the account of the petitioner No.1 was declared as 'NPA'. Pursuant thereto, on 31.07.2023, the respondent No.3 - Bank issued notice under Section 13(2) of the Securitization Act to the respondent No.1 as the borrower and also to the guarantors. On 26.10.2023, the respondent No.3 - Bank issued possession notice under Section 13(4) of the Securitization Act.

6. On 18.12.2023, the respondent No.3 - Bank issued notice to the petitioners under Rules 6(2) / 8(6) of the Security Interest (Enforcement)

Rules 2002, informing about the sale. On 04.01.2024, the petitioners responded to the same through their advocate, claiming that the said notices were bad in law as sufficient details were not mentioned therein. A reference was made to certain judgements in support of the aforesaid contention, but there was no whisper about petitioner No.1 being an MSME, requiring the respondent No.3 to proceed as per the Framework devised by the respondent No.2 - RBI for revival and rehabilitation of MSMEs. On 12.01.2024, the respondent No.3 - Bank sent a letter to the petitioner No.1, communicating that the competent authority had not considered the request for restructuring of term loan account as the same was found not viable as per the policy of respondent No.3 - Bank. A request was made to the petitioner No.1 to upgrade or close the loan account as soon as possible to avoid further legal action.

7. On 20.03.2024, the respondent No.3 issued a show-cause notice to the petitioners for reporting the petitioner No.1 as a willful defaulter. On 17.04.2024, the petitioner No.1 responded to the said show cause notice regarding willful defaulter, explaining utilization of loan amount, reason for the account becoming NPA; it referred to repeated requests for restructuring of loan facilities; and in the last paragraph stated that the respondent No.3 - Bank ought to give a little helping hand to the petitioner No.1 as it is an MSME and an Agro Processing Unit, further referring to the policy of the Government to help and encourage MSMEs.

8. The respondent No.3 - Bank, despite rejecting the proposal of the petitioners for restructuring of the loan, on 09.09.2024, granted approval for the petitioner No.1 to open a Trust Retention Account (TRA Account) and also permitted hold in operations in the TRA Account with cut back of 15% from the revenue generated from the operations. According to the respondent No.3 - Bank, the said proposal was

approved so that the transactions of the petitioner No.1 could be routed through the current account where the 15% cut back amount was to be utilized to service the dues of respondent No.3 - Bank. According to the respondent No.3 - Bank, the petitioner No.1 failed to positively respond to the approval of the TRA Account, and therefore, on 20.12.2024, a show-cause notice was issued to the petitioner No.1 about its failure to route its transactions through the said account where the 15% cut back amount was to be utilized to service the dues of the respondent No.3 - Bank. The petitioner No.1 was again called upon to route entire sale proceeds through the TRA Account, failing which, the respondent No.3 - Bank would be constrained to cancel the hold in operation and all reliefs granted to the petitioner would be revoked.

9. According to the respondent No.3 - Bank, since the petitioner No.1 did not qualify to be an eligible MSME for the benefit of the Notification dated 29.05.2015 issued by the respondent No.1 - Union of India and the Master Direction of respondent No.2 - RBI dated 21.07.2016, as well as the Framework devised by the respondent No.2 - RBI, the respondent No.3 - Bank had given the option to the petitioner No.1 to service its dues as per the policy of the respondent No.3 - Bank and yet, the petitioner No.1 failed to take benefit of the same. The respondent No.3 - Bank also alleged that the petitioner No.1 had not submitted crucial documents, it had not co-operated with completion of the Techno Economic Viability (TEV) Study and that, funds were diverted and not routed through TRA Account.

10. Thereafter, the petitioner No.1 addressed a series of communications to the respondent No.3 - Bank, proposing certain commitments in order to repay the dues. But, according to the respondent No.3 - Bank, the default continued. As a consequence, sale notice dated 14.05.2025 was issued. On 24.05.2025, the petitioner No.1

sent an e-mail to the respondent No.3 - Bank and in this e-mail, for the first time, the petitioner No.1 emphatically claimed that it was eligible for restructuring of the loan under the MSME Rehabilitation Scheme issued by the RBI. On 26.05.2025, a further such e-mail was addressed to the respondent No.3 - Bank. In response thereto, on 31.05.2025, the respondent No.3 - Bank sent an e-mail to the petitioner No.1, stating the reasons why restructuring of the loan account was not possible. These included the failure on the part of the petitioner No.1 to honour the OTS in the corporate guarantee loan, the hold in operation was not followed as per the procedure and that, moratorium would not be allowed as it was too late.

11. It is in this backdrop that the petitioners filed the present writ petition for the aforesaid reliefs. On 04.12.2025, the petition was taken up for consideration as the respondents were served in advance. Opportunity was granted to the respondents to file their reply affidavits. On 16.12.2025, the petition came up for consideration, when the petitioners pressed for limited interim relief on the ground that the respondent No.3 - Bank had filed a petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC) before the National Company Law Tribunal (NCLT). It was submitted that if the petition filed by the respondent No.3 - Bank was admitted, the present writ petition would not proceed due to moratorium coming into operation. At that stage, the learned counsel appearing for respondent No.3 - Bank, on instructions, made a statement that an adjournment would be sought before the NCLT when the petition was to come up for admission. It is a matter of record that the aforesaid statement has continued to operate from time to time.

12. Mr. Rohaan Cama, learned counsel appearing for the petitioners submitted that in the present case, the petitioners on the first available

opportunity had informed the respondent No.3 - Bank that the petitioner No.1 was an MSME. In subsequent communications also, this fact was reiterated and it was specifically contended that the petitioner No.1 was eligible for the facility of revival and restructuring of its loan as per the Framework devised by the respondent No.2 - RBI, in the light of its own Master Direction and the Notification dated 29.05.2015 issued by the respondent No.1 - Union of India. It was further submitted that the respondent No.3, at no point in time, informed the petitioners that according to the interpretation placed by the respondent No.3 - Bank on the said Notification, Master Direction and Framework pertaining to revival of MSMEs, the petitioner No.1 was ineligible. This assertion was never communicated and it is for the first time before this Court, while responding to the writ petition that the respondent No.3 - Bank has taken the aforesaid stand.

13. It was submitted that in any case, the aforesaid stand was wholly unsustainable in the light of the parameters for determining an eligible MSME under the said Notification, Master Direction and Framework for revival of MSMEs. Much emphasis was placed on Master Circular dated 01.07.2015 issued by the respondent No.2 - RBI, which defines the expression ‘exposure’. It was submitted that as per the definition of ‘exposure’ in the said Master Circular dated 01.07.2015, the outstanding amount, concerning a loan, would be the exposure of the MSME. It was submitted that the threshold of Rs.25 crores mentioned in the Framework for Revival and Rehabilitation of MSMEs issued on 17.03.2016 and Policy Framework of the respondent No.3 - Bank itself devised for revival and rehabilitation of MSMEs, pertaining to ‘exposure’ as defined in the Master Circular dated 01.07.2015 issued by the respondent No.2 - RBI, concerned the amount outstanding and not the loan limit of the loan facility made available to the MSME.

14. On this basis, it was submitted that even through the term loan advanced to the petitioner No.1 was Rs.30 crores and hence above the loan limit of Rs.25 crores, even according to the respondent No.3 - Bank, the outstanding amount due was only about Rs.19.75 crores, when the loan account of petitioner No.1 was declared as NPA and notice was issued under Section 13(2) of the Securitization Act. This demonstrated that the 'exposure' of the petitioner No.1 was below the threshold of Rs.25 crores and hence, the petitioner No.1 was clearly an eligible MSME for the benefit of the Framework devised by the respondent No.2 - RBI.

15. On this basis, it was submitted that the respondent No.3 - Bank was mandatorily required to follow the procedure of identifying incipient stress in the loan account of the petitioner No.1, then to categorize the account under Special Mention Account (SMA) categories and thereafter to refer the loan account of the petitioner No.1 to the Committee constituted under the Framework, before declaring the account as 'NPA'. It was submitted that since this procedure was not followed by the respondent No.3 - Bank, the action taken under the provisions of the Securitization Act was rendered illegal and unsustainable. In fact, all steps taken by the respondent No.3 - Bank, including approaching the NCLT, have been rendered bad in law and unsustainable. It was submitted that the respondent No.3 - Bank was mandatorily required to refer the loan account of the petitioner No.1 to the said Committee and hence, appropriate directions need to be issued.

16. On the requirement of the bank undertaking such an exercise, not requiring the petitioner No.1 to move an application for being referred to the said Committee, reliance was placed on judgement of the Supreme Court in the case of **Pro Knits Vs. Board of Directors of Canara Bank and others** *(supra)*. It was submitted that in the said judgement, the

Supreme Court specifically set aside a judgement and order of a Division Bench of this Court in the case of *Navinchandra Steels (P) Ltd. Vs Union of India*, **2024 SCC OnLine Bom 147**, wherein the Division Bench of this Court had held that it was for the MSME entity to apply and not for the bank to consider applicability of the Framework devised by the RBI. It was further submitted that the position of law has not changed in the light of the subsequent judgement of the Supreme Court in the case of *Shri Shri Swami Samarth Construction & Finance Solutions and another Vs. Board of Directors of NKGSB Co-op. Bank Ltd. and others* [**Writ Petition (C) No.684 of 2025** decided on **28.07.2025**]. On this basis, it was submitted that the stand taken by the respondent No.3 - Bank that the petitioner No.1 could have applied for the benefit of the Framework is without any substance. It was submitted that surprisingly, the respondent No.2 - RBI has also taken such a stand despite the clear position of law laid down by the Supreme Court in the aforementioned judgements. On this basis, it was submitted that this writ petition may be allowed.

17. On the other hand, Mr. Phiroze Colabawala, learned counsel appearing for respondent No.3 - Bank refuted the claims made on behalf of the petitioners. It was submitted that a proper interpretation of the Master Circular dated 01.07.2015 issued by the respondent No.2 - RBI, defining the term ‘exposure’ and the manner in which it was applied by the said respondent Bank in its own Policy Framework demonstrates that, while considering eligibility of an MSME entity to claim benefit of the Framework for revival and restructuring of loans, the threshold of Rs.25 crores pertains only to the loan limit and not to the outstanding amount due. It was submitted that a plain reading of the said document would show that if the loan facility was more than Rs.25 crores, the Framework devised by the respondent No.2 - RBI for MSMEs, mandatorily requiring reference to the Committee for restructuring under

the said Framework, would not apply.

18. It was emphasized that in the present case, admittedly, the term loan facility given to the petitioner No.1 was of Rs.30 crores, clearly exceeding the loan limit of Rs.25 crores, thereby demonstrating that while the petitioner No.1 is registered as an MSME under the provisions of the Micro, Small and Medium Enterprises Development Act, 2006 (MSME Act), it does not qualify to be an eligible MSME for the benefit of the said framework.

19. It was submitted that in any case, the respondent No.3 - Bank had given sufficient opportunity to the petitioner No.1 under its policy for restructuring the loan, a TRA Account was opened and hold in operations facility was provided with 15% cut back on each transaction. But, the petitioner No.1 failed to adhere to the same, thereby showing its intention of not servicing the dues. Instead, the petitioner No.1 continued to drag the matter and now it has turned around to claim that it is eligible for the benefit under the Framework devised by the respondent No.2 - RBI. It was further submitted that a proper reading of the two judgements of the Supreme Court in the cases of **Pro Knits Vs. Board of Directors of Canara Bank and others** *(supra)* and **Shri Shri Swami Samarth Construction & Finance Solutions and another Vs. Board of Directors of NKGSB Co-op. Bank Ltd. and others** *(supra)* shows that the MSME is not completely absolved of the necessity to raise objection with proper documentation and affidavit in the first instance for claiming reference to the Committee for restructuring of loan as per the Framework devised by the respondent No.2 - RBI. In the present case, other than merely stating that the petitioner No.1 was an MSME, no further details or documentation was produced. In any case, since the petitioner No.1 was not an eligible MSME for the benefit of the aforesaid Framework and Scheme, the law laid down by the Supreme

Court in the said judgements cannot inure to the benefit of the petitioners. On this basis, it was submitted that the writ petition deserved to be dismissed so that the respondent No.3 - Bank can pursue the pending proceeding before the NCLT.

20. Ms. Huzan Bhumgara, learned counsel appearing for respondent No.2 - RBI supported the stand taken on behalf of the respondent No.3 - Bank. It was submitted that the petitioner No.1 was not an eligible MSME for taking benefit of the said Framework devised for rehabilitation of MSMEs.

21. Having heard the learned counsel for the parties, prayers made in the present writ petition will have to be decided on interpretation of the aforesaid Notification dated 29.05.2025 issued by the Union of India, as also the Master Circular issued by the respondent No.2 - RBI concerning exposure norms, Framework for Revival and Rehabilitation of MSMEs devised by the respondent No.2 - RBI dated 17.03.2016 and Master Direction dated 21.07.2016 issued by the respondent No.2 - RBI, concerning lending to the MSME sector. The said documents will have to be interpreted, keeping in mind the purpose for which they have been issued by respondent Nos.1 and 2, as also the object of the MSME Act.

22. The petitioner claims that since it is an MSME registered under the MSME Act and this fact was brought to the notice of the respondent No.3 - Bank, benefit of the aforesaid documents ought to have been granted so that the loan account would have been referred to the Committee constituted by the said respondent Bank for dealing with such loan account of the petitioner No.1 MSME as per the Framework for Revival and Rehabilitation devised by the RBI. According to the respondent No.3 - Bank, although the petitioner No.1 is registered as an MSME under the provisions of the MSME Act, benefit of the Framework would be available only if the petitioner No.1 qualifies to be

an eligible MSME.

23. A contention was raised on behalf of the petitioners that since the respondent No.3 in its communications addressed to the petitioner No.1, at no point in time, raised the objection of the petitioner No.1 being an ineligible MSME for the said Framework devised by the RBI, the question or objection raised by the respondent No.3 - Bank, for the first time before this Court, cannot be entertained. The aforesaid contention of the petitioners is stated only to be rejected, simply for the reason that if the petitioner No.1 indeed does not qualify to be an eligible MSME, the benefits of the said Framework devised by the RBI in its Master Circular and Master Direction would not apply and the respondent No.3 Bank would be justified in proceeding on the basis of its own procedure for restructuring loans. Hence, the question regarding petitioner No.1, qualifying as an eligible MSME, is required to be decided in the facts and circumstances of the present case.

24. The rival submissions in respect of the said question revolve around the expression ‘exposure’ as used in the aforesaid documents, with specific reference to Master Circular pertaining to exposure norms dated 01.07.2015 issued by the respondent No.2 - RBI. On the one hand, the petitioners claim that exposure in the context of the threshold of Rs.25 crores pertains only to the outstanding dues, on the other hand, the respondent No.3 - Bank claims that the exposure in the context of the said threshold of Rs.25 crores pertains only to the loan limit and nothing else.

25. Clause 2.1.3.1 of the Master Circular on exposure norms dated 01.07.2015 issued by the respondent No.2 - RBI defines ‘exposure’ as follows:-

> “**2.1.3.1 <u>Exposure</u>**
>
> Exposure shall include credit exposure (funded and non-

> funded credit limits) and investment exposure (including underwriting and similar commitments). The sanctioned limits or outstandings, whichever are higher, shall be reckoned for arriving at the exposure limit. However, in the case of fully drawn term loans, where there is no scope for re-drawal of any portion of the sanctioned limit, banks may reckon the outstanding as the exposure."

26. The Framework for Revival and Rehabilitation of MSMEs dated 17.03.2016 devised by the respondent No.2 - RBI, in the forwarding letter to the scheduled commercial banks, records as follows:-

> "2. While the prudential norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances will continue to be as per the instructions consolidated in the Master Circular on IRAC Norms dated July 1, 2015 and as updated from time to time, the revival and rehabilitation of MSMEs having loan limits up to Rs.25 crore will be in terms of these operating instructions. Restructuring of loan accounts with exposure of above Rs.25 crore will continue to be governed by the extant guidelines on Corporate Debt Restructuring (CDR) / Joint Lenders' Forum (JLF) mechanism."

27. The said Framework further records in clause 1 regarding eligibility of MSMEs as follows:-

> "**1. Eligibility**
>
> The provisions made in this framework shall be applicable to MSMEs having loan limits up to Rs.25 crore, including accounts under consortium or multiple banking arrangement (MBA)."

28. Thereupon in clause 2, the Framework lays down the norms for identification of incipient stress, as also categorization of accounts turning into NPA by creating sub-categories under the Special Mention Account (SMA).

29. In line with the Framework devised by the respondent No.2 - RBI, respondent No.3 - Bank also deliberated upon its scope and provided in

its policy document for revival and rehabilitation of MSMEs as follows:-

> "**2. Scope**
>
> 2.1 The provisions under the Framework shall be applicable to MSMEs having loan limits (Aggregate Exposure) upto Rs.25 crores, including accounts under Consortium or Multiple Banking Arrangement (MBA).
>
> 2.2 Restructuring of loan accounts with exposure of above Rs.25 crores will henceforth be as per extant guidelines of the Bank."

30. The Notification dated 29.05.2015 issued by the respondent No.1 - Union of India under Section 9 of the MSME Act lays down the basic guidelines and framework for revival and rehabilitation of MSMEs. This document also indicates the manner in which incipient stress is to be identified in such MSMEs, further laying down sub-categorization of NPAs, as referred to hereinabove. It is relevant to note that this Notification lays down that an MSME may even voluntarily initiate proceedings under the Framework if the enterprise reasonably apprehends failure of its business or its inability or likely inability to pay debts and before the accumulated losses of the enterprise equals to half or more of its entire net worth. It is further laid down that such an application for initiation of the proceedings under the Framework shall be verified by an affidavit of an authorized person.

31. A conjoint reading of the aforesaid documents, particularly the definition of 'exposure' in clause 2.1.3.1 of the Master Circular on exposure norms issued by the respondent No.2 - RBI, as also eligibility of an MSME for the benefit of Framework for Revival and Rehabilitation of MSMEs devised by the respondent No.2 - RBI on 17.03.2016, read with the policy document issued by the respondent No.3 - Bank itself, issued in the light of the said Framework, shows that much emphasis is placed on revival and rehabilitation of MSMEs having loan limits upto Rs.25 crores. It is specified in the said Framework

devised by the respondent No.2 - RBI that restructuring of loan accounts with exposure of above Rs.25 crores will continue to be governed by the extant guidelines on Corporate Debt Restructuring / Joint Lenders' Forum mechanism.

32. The above-quoted eligibility in the Framework dated 17.03.2016 specifically lays down that such a Framework shall be applicable to MSMEs having loan limits upto Rs.25 crores, including accounts under consortium or multiple banking arrangement. Following the said Framework, the respondent No.3 - Bank in its own policy document for revival and rehabilitation of MSMEs specifically lays down in clause 2.1, quoted hereinabove, that the Framework shall be applicable to MSMEs having loan limits (aggregate exposure) upto Rs.25 crores, including accounts under Consortium or Multiple Banking Arrangement. Clause 2.2 thereof crucially records that restructuring of loan accounts with exposure of above Rs.25 crores will henceforth be as per extant guidelines of the Bank. We find that the expression 'exposure' used in the above-stated documents, specifying the eligibility of an MSME for the benefit of the Framework for Revival and Rehabilitation of MSMEs, puts the threshold of Rs.25 crores only in the context of loan limits and therefore, the expression 'exposure' has to be understood with regard to the loan limit.

33. Even if the above-quoted definition of 'exposure' in clause 2.1.3.1 of the Master Circular on exposure norms dated 01.07.2015 of the RBI is to be considered, it cannot be concluded that exposure and the threshold of Rs.25 crores has to be determined on the basis of the outstanding amount due. We find that the Master Circular dated 01.07.2015 and Framework for Revival and Rehabilitation of MSMEs dated 17.03.2016 along with Notification dated 29.05.2015 issued by the Union of India have to be read to further the purpose for which the said

documents were issued, in the context of the object of enactment of the MSME Act. We find that an MSME, which has taken a loan of only upto Rs.25 crores, being a comparatively smaller enterprise, is sought to be given the protection or assistance of the Framework for Revival and Rehabilitation of MSMEs. The Framework is not meant for MSMEs that have taken loans above the threshold of Rs.25 crores as they would comparatively be larger enterprises. While advancing loans, the Banks would give loans only after ascertaining the capacity of the MSME to repay the loan, thereby indicating that loans exceeding Rs.25 crores would be advanced to comparatively larger MSMEs. The threshold of Rs.25 crores is part of the policy and framework, which is not under challenge. The expression ‘exposure’ is, therefore, required to be interpreted in this context.

34. The emphasis in the Framework dated 17.03.2016 on loan limits of Rs.25 crores, while determining the eligibility of an MSME, cannot be ignored and clause 2.1.3.1 of the Master Circular on exposure norms dated 01.07.2015 issued by the RBI cannot be interpreted to reach a conclusion against the specific eligibility criteria specified in the eligibility clause of the Framework dated 17.03.2016 issued by the RBI. The petitioners cannot rely upon the general definition of 'exposure' as given in the Black's Law Dictionary, 8th Edition, upon which reliance was placed on behalf of the petitioners. The eligibility of the MSME has to be determined on the basis of the criteria laid down by the respondent No.2 - RBI. Therefore, the yardstick for determining eligibility of an MSME under the said Framework for Revival and Rehabilitation of MSMEs has to be loan limit of Rs.25 crores.

35. Applying the said yardstick, the petitioner No.1 does not qualify to be an eligible MSME as the term loan facility, admittedly provided to the petitioner No.1 by the respondent No.3 - Bank was for Rs.30 crores,

clearly exceeding the threshold limit of Rs.25 crores. The Framework for Revival and Rehabilitation of MSMEs dated 17.03.2016 devised by the RBI itself stipulates that those MSMEs whose loan limits and exposure exceed Rs.25 crores will continue to be governed by the extant guidelines on Corporate Debt Restructuring / Joint Lenders' Forum mechanism. Thus, the petitioners cannot claim that the respondent No.3 - Bank, in the facts and circumstances of the present case, ought to have referred the defaulting loan account of the petitioner No.1 to the Committee constituted under the said Framework. The documents on record show that the respondent No.3 - Bank proceeded to provide opportunities to the petitioners to restructure the debt as per the policy of the said respondent, other than the Framework devised as per the guidelines given by the respondent No.2 - RBI in the aforesaid Framework dated 17.03.2016 and the other documents on record. We do not find any error committed by respondent No.3 in that regard.

36. It is also relevant to note that clause 1 of the said Framework for Revival and Rehabilitation of MSMEs dated 17.03.2016, pertaining to the eligibility of an MSME, stipulates that the Framework will be applicable to MSMEs having loan limits upto Rs.25 crores, including accounts under consortium or multiple banking arrangement. This indicates that the loan limit of Rs.25 crores includes accounts under consortium or multiple banking arrangement. In this context, letters dated 07.03.2022 and 28.07.2022 sent by the petitioner No.1 to the respondent No.3 - Bank assume relevance. These letters show that term loan facility of Rs.30 crores was made available to the petitioner No.1 and other loan facilities such as, UGECL, *Covid* loan, pledge loan, H & T loan (personal guarantee), H & T loan (corporate guarantee) and bank guarantee were specified therein. In the letter dated 07.03.2022, the total sanctioned amount under these heads came to Rs.87.51 crores and the outstanding amount came to Rs.48.49 crores as on 28.02.2022 and as per

the letter dated 28.07.2022, the sanctioned amount came to Rs.87.51 crores and the outstanding amount came to Rs.44.68 crores as on 28.07.2022. Considering the said figures stated by the petitioner No.2 itself, we find no substance in the contention of the petitioners that the petitioner No.1 ought to have treated as an 'eligible MSME' for the benefit of the said Framework, Master Circular as well as the Notification issued by the respondent No.1 - Union of India.

37. It is in these circumstances that the position of law relied upon by the petitioners will have to be considered, in the context of the judgement rendered by the Supreme Court in the case of **Pro Knits Vs. Board of Directors of Canara Bank and others** *(supra)*. A perusal of the said judgement indeed shows that the respondent No.3 - Bank is required to examine as to whether a borrower is entitled for the benefit of the Framework for Revival and Rehabilitation of MSMEs, before classifying the loan account of an MSME borrower as NPA. Although the MSME borrower can also apply for the benefit under the said Framework, as per the ratio laid down in the said judgement of the Supreme Court, it is for the bank or banking company to examine *suo moto* regarding the benefit of the Framework to be extended to an MSME borrower before declaring the loan account as NPA. But, it is crucial to understand that the said position of law will apply only to an 'eligible MSME borrower'. It cannot be said that the said position of law would apply to all the MSMEs, without reference to the eligibility criterion specified in the Framework for Revival and Rehabilitation of MSMEs devised by the respondent No.2 - RBI and the Master Circular issued in that context. An MSME borrower must be an eligible MSME for the benefit of the Framework, without which the position of law clarified by the Supreme Court in the case of **Pro Knits Vs. Board of Directors of Canara Bank and others** *(supra)* cannot be applied.

38. This Court having rendered the finding hereinabove that the petitioner No.1 does not qualify to be an 'eligible MSME' for the benefit of the said Framework and the Master Circular, the petitioners cannot claim that a fundamental error was committed by the respondent No.3 - Bank while dealing with the defaulting loan account of the petitioner No.1. It can also not be said that the actions undertaken by the respondent No.3 - Bank, in the facts and circumstances of the present case, could be said to be in violation of the position of law clarified by the Supreme Court in the case of **Pro Knits Vs. Board of Directors of Canara Bank and others** *(supra)*.

39. The petitioner No.1 cannot claim that since it had claimed to be an MSME in a couple of communications addressed to the respondent No.3 - Bank, the law laid down by the Supreme Court in the case of **Pro Knits Vs. Board of Directors of Canara Bank and others** *(supra)* and the subsequent judgement in the case of **Shri Shri Swami Samarth Construction & Finance Solutions and another Vs. Board of Directors of NKGSB Co-op. Bank Ltd. and others** *(supra)*, has been satisfied. A proper appreciation of the subsequent judgement of the Supreme Court in the case of **Shri Shri Swami Samarth Construction & Finance Solutions and another Vs. Board of Directors of NKGSB Co-op. Bank Ltd. and others** *(supra)* shows that although the position of law laid down in the case of **Pro Knits Vs. Board of Directors of Canara Bank and others** *(supra)* has been reiterated, a significant clarification has been given. It is specifically laid down in the said subsequent judgement that when the bank or the secured creditor does not have conscious knowledge that the defaulting borrower is an MSME, it can classify the defaulting MSME as NPA and even issue demand notice under Section 13(2) of the Securitization Act, without the mandatory requirement of identifying incipient stress in the account of the defaulting MSME borrower. It is further laid down that after a

demand notice is issued to such an MSME borrower, it is incumbent upon such a borrower to assert its claims, including claiming the benefit of the Framework devised by the respondent No.2 - RBI by citing reasons, supported by an affidavit, which would then require the bank or the secured creditor to keep further action under the Securitization Act in abeyance.

40. The position of law clarified by the Supreme Court in the subsequent judgement in the case of **Shri Shri Swami Samarth Construction & Finance Solutions and another Vs. Board of Directors of NKGSB Co-op. Bank Ltd. and others** *(supra)*, thus makes it clear that even if the MSME borrower claims the benefit of the aforesaid Framework devised by the respondent No.2 - RBI, it must, at the first opportunity, give all the details supporting its claim, including submitting an affidavit as contemplated under the Master Circular of respondent No.2 - RBI, the aforesaid Framework as well as the Notification issued by the respondent No.1 - Union of India.

41. In the present case, the petitioners cannot claim that since the respondent No.3 - Bank did not specifically assert that the petitioner No.1 was not an eligible MSME, it was absolved from putting on record its detailed reasons and material along with affidavit for claiming eligibility under the Framework. This is not a case where the respondent - No.3 Bank proceeded against the petitioner without conscious knowledge about the status of the petitioner No.1 being an 'eligible MSME borrower'. The actions of the respondent No.3 - Bank clearly indicate that notwithstanding the passing reference and general claim made by the petitioner No.1 being an MSME borrower, the said respondent proceeded consciously on the basis that the petitioner No.1 could not be treated as an 'eligible MSME borrower'. In such a situation, the petitioners cannot claim the benefit of the law laid down by the

Supreme Court in the cases of **Pro Knits Vs. Board of Directors of Canara Bank and others** *(supra)* and **Shri Shri Swami Samarth Construction & Finance Solutions and another Vs. Board of Directors of NKGSB Co-op. Bank Ltd. and others** *(supra)*.

42. As noted hereinabove, the moment it is found that the petitioner No.1 could not be said to be an 'eligible MSME', the respondent No.3 - Bank was clearly entitled to proceed against the petitioner No.1 under the extant guidelines on Corporate Debt Restructuring / Joint Lenders' Forum mechanism. This is exactly what the respondent No.3 - Bank did by offering the petitioner No.1 alternative methods of restructuring its debt by granting facility of TRA Account and hold in operation. In this context, the conduct of of the petitioner No.1 assumes significance.

43. A perusal of the documents on record shows that after giving sufficient opportunity to the petitioner No.1, post declaration of the loan account as 'NPA' on 29.07.2023, the respondent No.3 Bank, on 09.09.2024, permitted the petitioner No.1 to open TRA Account and also permitted hold in operations in TRA Account with deduction of 15% from the revenue generated from the operation. This facility was provided to the petitioner No.1 so that it could continue its operation while routing all its revenue through the TRA Account, from which 15% would be deducted to satisfy the dues of the respondent No.3 - Bank. This was a step taken by the respondent No.3 - Bank to ensure that the petitioner No.1 is not closed down and the outstanding dues of the bank are also satisfied in a systematic and assured manner.

44. The petitioner No.1 failed to take benefit of the said facility and in that backdrop, on 20.12.2024, the respondent No.3 - Bank, through its Chief Manager and Branch Head, was constrained to issue a show cause notice to the petitioner No.1. It was recorded in the show cause notice that GST returns of the petitioner No.1 Unit itself demonstrated sales

turnover of Rs.27.43 crores during April 2024 and October 2024, but, none of the transactions were routed by the petitioner No.1 through the TRA Account where 15% cut back was to be undertaken, to be utilized for serving the dues of the respondent No.3 - Bank. It was recorded that such actions on the part of the petitioner No.1 were defeating the very purpose of providing the facilities. In that backdrop, it was recorded that while undertaking such action, the restructuring proposal moved by the petitioners could not be considered and that, written explanation was expected from the petitioner No.1, failing which, the said facility was to be withdrawn and appropriate action was to be taken against it.

45. This was followed up by the respondent No.3 - Bank on 30.01.2025 by sending a letter to the petitioner No.1, stating that the actions of the petitioner No.1 had clearly proved that the purpose for which the TRA Account and hold in operation facility was provided, had been defeated and that the petitioner No.1 was diversifying the funds. In this backdrop, a request for restructuring of the loan account made on behalf of the petitioner No.1 was not considered and notice was issued for sale of immovable property of the petitioner No.1. There were further e-mails exchanged between the parties and on 31.05.2025, the respondent No.3 - Bank was constrained to communicate to the petitioner No.1 that in the light of the OTS not being honoured, the TRA Account and hold in operation facility being misutilized by the petitioner No.1 and the impossibility of merging of loans and reduction of rate interest clearly demonstrated that there was no other option for the respondent No.3 - Bank, but to further proceed against the petitioner No.1.

46. We find that the aforesaid documents placed on record clearly indicate that no fault can be found in the approach adopted by the respondent No.3 - Bank and that, it is the petitioners, who are to blame

for their predicament. In the facts and circumstances of the present case, the petitioners have neither made out a case on law nor on facts and hence, we do not find any merit in the present writ petition.

47. In view of the above, the writ petition is dismissed. Consequentially, the respondent No.3 - Bank is relieved of its statement made before this Court. Resultantly, the respondent No.3 - Bank would be entitled to proceed with the application / proceeding initiated by it before the NCLT, in accordance with law.

48. Pending applications, if any, also stand disposed of.

(SHREERAM V. SHIRSAT, J.) **(MANISH PITALE, J.)**

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