* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Judgment reserved on: 25 March 2025**
Judgment pronounced on: 26 May 2025

\+ W.P.(C) 13454/2024 & CM APPL. 56232/2024

RAJBHUSHAN OMPRAKASH DIXIT .....Petitioner

Through: Mr. Vikram Chaudhri, Sr. Adv. with Mr. Hemant Shah, Mr. Akshay Rana, Mr. Arveen Sekhon, Mr. Santosh Pal, Mr. Vishal Mann, Mr. Chetan Manchanda, Mr. Prashant Kumar, Mr. Ojas Kaushik & Mr. Vinayak Dixit, Advs.

versus

PUNJAB NATIONAL BANK THROUGH CHAIRMAN & ORS. .....Respondents

Through: Mr. Ankur Goel, Adv. for LIC.
Mr. Santosh Kumar Rout, SC with Ms. Dharna Veragi, Mr. B.N. Mishra & Ms. Shilpa Chaursia, Advs. for R-1, R-2 and R-12, PNB & Indian Bank.
Mr. Sarfaraz Khan, Mr. Mirza Amit Baig & Mr. Abdul Wahid Mashaal, Advs. for R-15/UCO Bank.
Ms. Mayuri Raghuvanshi, Mr. Vyom Raghuvanshi & Ms. Akanksha Rathore, Advs. for Indian Overseas Bank.
Mr. Akhil Kapur & Ms. Riya Sood, Advs. for R-13/SBI.

Mr. O.P. Gaggar & Mr. Sachindra Karn, Advs. for R-3,7 and 16.

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G E M E N T

1. The petitioner, who was a former director in M/s Sterling Biotech Limited and its group of companies [**"SBLG"]** has invoked the extra ordinary jurisdiction of this Court under Article 226 of the Constitution of India, 1950, seeking the following reliefs:-

> "a. Call for the requisite records from the Respondents as regards the declaration of the companies namely Sterling Biotech Limited and its group companies (as mentioned in chart/ table **Annexure P-1**) and as well as all correspondences and material relating thereto so as to ascertain the compliance of due process of law in the course of declaration of these companies as *Wilful defaulter'* and so called *'Fraud';*
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> b. Set aside and quash the declarations of namely Sterling Biotech Limited and its group companies (as mentioned in chart/ table **Annexure P-1**) as *Wilful defaulter'* and so called *'Fraud'* as neither the due process of law has been followed nor the process established by law has been adhered to resulting in absolute vitiation thereof;
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> c. Declare and hold that all actions taken by the Respondent banks pursuant to the declaration of Sterling Biotech Limited and its group companies (as mentioned in chart/ table **Annexure P-1**) as '*Wilful defaulter'* and so called *'Fraud'* would be null and *void-ab-initio* since the very initial action is not in consonance with law, all consequential proceedings must fail;
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> d. In the interim/ ad interim stage this Hon'ble Court maybe pleased to stay the operation of declaration of Sterling Biotech Limited and its group companies (as mentioned in chart/ table **Annexure P-1**) as *Wilful defaulter'* and so called *'Fraud'* in the interest of justice as the impugned declarations cannot withstand the test of law, equity or justice."

2. Briefly stated, it is the case of the petitioner that the SBLG was a pioneer entity which started producing 'Gelatin' as per USA and

European standards, which opened the door of the western markets to Indian pharmaceuticals companies. It is stated that its plants were set up for manufacturing anti-cancer drugs needed during chemotherapy treatment, which led to a huge reduction of prices of anti-cancer drugs in India. It is further stated that over the years, SBLG acquired a high reputation in the market and has been availing credit facilities for more than 25 years, setting up various high-tech projects with the credible track records.

3. It is however stated that consequent to various external factors beyond its control, like regulatory changes and project overrun, some of its accounts became NPA[1] by the end of 2011 and yet, it is undisputed that the SBLG has been repaying the loan amounts for several years in terms of the credit facilities extended to it, and as a matter of fact, no new additional financial facilities or credit has been granted to SBLG since June, 2011 except for restructuring/refinancing schemes granted for resolution of the corporate debts.

4. It is stated that as per the audited bank statement and the records of SBLG, conducted by M/s Mukesh & Associates, the Chartered Accountants, that has brought to the fore that from 01.04.2009 till 31.03.2018, the SBLG has availed disbursement of ₹7,659/- crores over and above the opening balance of ₹3001.55/- crores but at the same time, made a repayment of ₹11,994/- crores, resulting into net payment of ₹1,332/- crores to the Indian lenders towards five Indian companies of the group *viz.* SBL, PMT Machines Ltd., Sterling SEZ and Infrastructure, Sterling Oil Resources and Sterling Port Ltd.

5. It is stated that though all major SBL group companies stood liquidated under the provision of the IBC[2], yet all major units remained operational with more than 1500 employees. Emphasis is laid on the fact that the entire outstanding principal of ₹7,626/- crores also included two corporate loans given to the foreign companies of the group *viz*., Atlantic Blue Water Services Limited and British Oil and Gas Limited. It is stated that although the original loan amount was USD 80 million each in both the companies, but at present, the outstanding has been reduced to USD 10 million and USD 25 million respectively.

6. In the said backdrop, it is also stated that all Indian companies of the group, namely, Sterling Biotech Limited, PMT, Sterling SEZ, Sterling Oil Resources and Sterling Port Ltd have repaid the entire amount disbursed to them and in addition, have paid ₹1332/- crores to the bank. It is submitted that significantly, even after onslaught of cases under the IBC, the banks, having regard to the long standing and unblemished relation with the group, have negotiated a 'One Time Settlement's (OTS) to the tune of ₹6457/- crores belonging to the Indian group of companies and foreign group of companies to the tune of ₹3826/- crores and ₹2631/- crores respectively.

7. It is stated that the payment was made after the due approval from the consortium banks and the promoters/Directors have already paid upfront 10% approximately of the OTS amount to the tune of

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[1] Non-Performing Asset
[2] Insolvency and Bankruptcy Code, 2016

₹614/- crores and it is emphasised that the promoters, with a view to resolve the issues, have paid a total amount of ₹2042.63/- crores.

8. The grievance of the petitioner is that despite having an impeccable track record, he has not only been declared as a 'Wilful defaulter' but also that his account has been declared as 'fraud' by the respondents/banks/consortium of banks so much so that criminal proceedings have been initiated against the group of companies and its directors/promoters including the petitioner by the various governmental agencies including ED[3] and CBI[4] and the said actions have been assailed in W.P.(Crl.) No.48/2000 before the Supreme Court, wherein several interlocutory applications have been filed seeking quashing of the entire proceedings. Pertinently, all criminal proceedings have since been stayed by the Supreme Court for which reference is invited to the orders dated 18.11.2021, 18.01.2022, 13.02.2024, 04.03.2024 and 10.05.2024 which read as under: -

> **18.11.2021**
>
> "Applications for exemption from filing original affidavit, exemption from filing original affidavit in support of the rejoinder affidavit and permission to file/place on record additional documents/grounds are allowed.
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> In view of the averment made in the application(s), what is being pleaded is that since the total amount stated to be due from the petitioner is little over rupees 1500 odd Crore out of which Rupees 600 crore is alleged to have been repaid to the banks and the outstanding is little more than rupees 900 crore, the petitioner is willing to pay the amount within the period of three months. That could possibly bring all the disputes to an end.
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> Learned ASG would like to obtain instructions in the said context of facts and figures.
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> List on 16.12.2021.

[3] Enforcement Directorate
[4] Central Bureau of Investigation

Next proceedings are stated to be on 30.11.20201 before the trial Court. In view of these subsequent developments, those proceedings may be deferred to a date beyond the next date before this Court."

18.01.2022

"Learned counsel for the respondent states that Mr. S. V. Raju, learned ASG has developed Covid who would be appearing in the matter and seeks deferment by two weeks. On our query that when the petitioners are willing to pay the amount, why should there be delay, learned counsel submits that the matter has been finalized and an affidavit will be filed within a week.

In view of the fact that the entire amount in respect of which charge sheet has been filed has been volunteered to be paid by the petitioners, we really see no reason why the money should not be received but then the excuse given today is such that we don't want to say anything more, except that all proceedings must remain in abeyance till we consider the matter.

List on 01.02.2022."

13.02.2024

"(1) We have perused the orders passed in the instant petitions and more specifically, the orders dated 07.02.2020, 18.11.2021, 16.12.2021, 18.01.2022, 01.02.2022, 27.04.2022, 05.09.2022 and 09.01.2024.

(2) The Writ Petitioners, through their counsel, have been apprised of the consequences of the violation of such an undertaking, including being liable for initiation of proceedings for contempt.

(3) Mr. Hemant Shah, learned counsel for the petitioner(s), appearing in Writ Petition (Crl) No. 37/2020 [Hemant S. Hathi Vs. CBI & Ors.] and Writ Petition (Crl.) No. 48/2020 [Chetan Jayantilal & Ors. Vs. CBI & Ors.] under instruction states that the petitioners undertake to deposit a sum of Rs. 900 Crores in the Registry of this Court within a period of three weeks from today.

(4) The statement is accepted and taken on record.

(5) Needless to add, the deposit shall be without prejudice to the respective rights and contentions of the parties and subject to the outcome of the present petitions.

(6) The amount so deposited shall be kept in a short term interest bearing Fixed Deposit, in a nationalized bank, on autorenewal basis.

(7) In the event of default of any nature, it shall be open to the respondents/financial institutions to immediately proceed further for recovery of the amounts in question, without any further orders from this Court.

(8) Also, in the event of default, all interim orders of protection shall be deemed to have been vacated automatically.
(9) Petitioners shall file Affidavits of compliance, positively, within three weeks.
(10) Relist the matter along with all interlocutory applications, including applications for impleadment and directions, on 12.03.2024, high up on Board."

04.03.2024

"Learned Senior Advocate appearing for the applicants/petitioners states, on instructions, that about USD 50 million (Rs.415 crores, approximately) have been transferred to the Bank recovery account. Another amount of USD 50 million (Rs.415 crores, approximately) will be transferred to the bank recovery account, during the course of the next three days.
It is also stated at the Bar on behalf of the applicants/petitioners that another payment of USD 100 million will be made within a period of eight weeks from today.
Re-list in the week commencing 06.05.2024.
The applicants/petitioners will furnish details/particulars of the payment made to the learned counsel for the respondents.
The date of hearing already fixed vide order dated 13.02.2024, is cancelled."

10.05.2024

"It is stated that payment in terms of the first paragraph of the order dated 04.03.2024 has been made. In fact, USD 110 million (Rs.918 crores, approximately) have been deposited.
It is accepted at the Bar that payment of USD 100 million (Rs.834 crores, approximately) in terms of the second paragraph of the order dated 04.03.2024, which was to be made within eight weeks, has only partly been made. The balance amount in terms of the statement, would be paid within a period of four weeks from today, failing which the present writ petition may be dismissed.
The payment(s) will be made/deposited with the UCO Bank or the Andhra Bank.
Pendency of the writ petitions/criminal cases will not be a bar for making/accepting the aforesaid payments. The payment(s) made/will be made and accepted by the bank(s) are without prejudice to the rights and contentions of the parties.
The applicants/petitioners will furnish details/particulars of payment made in terms of paragraph 1 of the order dated 04.03.2024 and payments to be made in terms of the present order, to respondent no. 1 – Central Bureau of Investigation.

> Re-list both the writ petitions for final disposal/hearing on a non-miscellaneous day in the week commencing 22.07.2024.
> All interlocutory applications including I.A. no. 34566/2024 in W.P. (Crl.) no. 37/2020 and I.A. nos. 50216/2024 and 34562/2024 in W.P. (Crl.) no. 48/2020 will be listed on the next date of hearing.
> Interim order(s) shall continue to operate till the next date of hearing."

9. On filing of the instant writ petition, upon issuance of notice, replies have been filed on behalf of the lead banker i.e., respondent no. 1 & 11/PNB, respondent no. 9/ Indian Overseas Bank, respondent no. 2/ Indian Bank , respondent no. 10/ LIC and respondent no. 3, 7 & 16/ Union Bank of India, and strong objections have been raised challenging the maintainability of the writ petition for want of territorial jurisdiction. The conjoint plea of the respondents/banks as deciphered from their replies is that no cause of action has arisen within the territorial jurisdiction of Delhi, and if any cause of action has arisen, it is within the territorial jurisdiction of Bombay. The replies are completely silent as to what procedure was followed prior to the impugned action of declaring the account of the SBLG as 'wilful defaulter' and/ or 'fraud'. The remaining respondents banks/financial institutions have not cared to file a reply.

10. In this regard, learned counsel for the respondents/banks have alluded to the documents filed on behalf of the petitioner to the effect that the lenders' meeting had been held exclusively in Mumbai and even the proceedings under the IBC against the SBLG were initiated in Mumbai. The objection is that although the petitioner justifies that this Court has territorial jurisdiction on the basis of criminal cases

foisted upon the SBLG in Delhi, they have not even been made parties in the instant petition.

ANALYSIS AND DECISION

11. Upon hearing the learned senior counsel for the petitioner and learned counsels for the respondents/banks as also on perusal of the record, what is clearly brought about is that the respondents/banks have declared SBLG and its promoters or directors as 'Wilful defaulter' in 2014 owing to alleged non-repayment of credit facilities at the instance of the Reserve Bank of India. It is also admitted that FIR No. RC/BD1/2017/E/007 dated 25.10.2017 has been registered by CBI BS & FC, New Delhi against SBLG, its promoters, directors including the present petitioner, on the allegations that the accused persons hatched a criminal conspiracy with dishonest intention to cheat public sector banks so as to avail a loan of more than ₹5000/- crores by SBLG which eventually turned into NPA. It is also brought on the record that the SBLG account has been classified as 'fraud' by the respondent no. 3/Andhra Bank which was the lead bank on 26.12.2017.

12. Learned senior counsel for the petitioner alluded to various paragraphs of the charge-sheet filed against the SBLG companies including the present petitioner, pointing out that the Special Court CBI at New Delhi has taken cognizance of offences in the charge-sheet filed by CBI and that even ED has registered ECIR HIU/17/2017 dated 25.10.2017 resulting in the provisional attachment orders and original complaints having been filed under Section 5 of

the Prevention of Money Laundering Act, 2002, before the Adjudicating Authority at New Delhi.

13. The main plank of the submissions by the learned senior counsel for the petitioner is that the factum of declaration/classification of SBLG including its promoters and directors and also the petitioner, are the foundation of all the prosecution lodged against the petitioner at New Delhi. Referring to the Chapter VI of the RBI Master Guidelines on Fraud Classification dated 01.07.2016 for reporting the frauds to police/CBI, learned senior counsel for the petitioner has urged that that there was a common thread with all the proceedings relating to diversion of funds by the SBLG by way of fraud which is the subject matter of the challenge in the present writ petition. It is vehemently urged that by raising a preliminary objection to the issue of territorial jurisdiction in filing the present writ petition, the banks are indulging in subterfuge or misrepresentation as well as blowing hot and cold in the same breath.

14. It is urged that this Court has the requisite territorial jurisdiction to entertain the writ and the *forum conveniens* for all intents and purposes. Further, it is pointed out that the petitioner was initially arrested by ED and later by SFIO[5] in criminal proceedings pending at Delhi and in both of which he has been released on bail.

15. On the objection raised by the learned counsel for the respondents/banks that initially a writ petition was instituted before the High Court Judicature at Bombay seeking similar relief, it is

submitted that the said petition never came up for hearing and its listing was never pressed and eventually, the said writ petition has been withdrawn with liberty to prefer appropriate legal proceedings in any other competent forum. It is urged that the mere filing of the writ petition would not denude the jurisdiction of this Court to entertain the present petition in case a cause of action, so arises, and this Court feels justified to invoke such jurisdiction.

16. Evidently, the broad factual chronology is not in dispute. The directors and promoters of SBLG, including the petitioner, have been facing criminal proceedings related to the non-payment of credit facilities by the company at the hands of various agencies, including the ED, CBI, SFIO, and income tax authorities. There is also some merit to the plea advanced by the learned senior counsel for the petitioner that the principal seat of initiation of all actions and proceedings against the petitioner and all other former directors and promoters of the company are based in Delhi.

17. There is no gainsaying that even the act of classifying the petitioner as a 'wilful defaulter' or declaring 'fraud' has pan-India implications, and various disabilities are suffered by the petitioner. As discussed hereinabove, the Supreme Court is seized of the entire matter and has passed several orders from time to time regarding the subject matter of the case, thereby keeping all criminal proceedings in abeyance.

18. At this juncture, it would be apposite to refer to certain case laws touching upon the aspect of territorial jurisdiction. The Supreme

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[5] Serious Fraud Investigation Office

Court in the case of **Navinchandra N. Majithia v. State of Maharashtra**[6] had an occasion to observe as under:-

> "17. From the provision in clause (2) of Article 226 it is clear that the maintainability or otherwise of the writ petition in the High Court depends on whether the cause of action for filing the same arose, wholly or in part, within the territorial jurisdiction of that Court.
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> 18. **In legal parlance the expression "cause of action" is generally understood to mean a situation or state of facts that entitles a party to maintain an action in a court or a tribunal; a group of operative facts giving rise to one or more bases for suing; a factual situation that entitles one person to obtain a remedy in court from another person.** (*Black's Law Dictionary*).
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> 19. In *Stroud's Judicial Dictionary* a "cause of action" is stated to be the entire set of facts that gives rise to an enforceable claim; the phrase comprises every fact, which, if traversed, the plaintiff must prove in order to obtain judgment.
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> 20. In "*Words and Phrases*" (4th Edn.) the meaning attributed to the phrase "cause of action" in common legal parlance is existence of those facts which give a party a right to judicial interference on his behalf.
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> xxx xxx xxx
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> 22. **So far as the question of territorial jurisdiction with reference to a criminal offence is concerned the main factor to be considered is the place where the alleged offence was committed.**
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> xxx xxx xxx
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> 27. Tested in the light of the principles laid down in the cases noted above the judgment of the High Court under challenge is unsustainable. The High Court failed to consider all the relevant facts necessary to arrive at a proper decision on the question of maintainability of the writ petition, on the ground of lack of territorial jurisdiction. **The Court based its decision on the sole consideration that the complainant had filed the complaint at Shillong in the State of Meghalaya and the petitioner had prayed for quashing the said complaint. The High Court did not also consider the alternative prayer made in the writ petition that a writ of mandamus be issued to the State of Meghalaya to transfer the investigation to Mumbai Police.** The High Court also did not take note of the averments in the writ

[6] 2000 (7) SCC 640

petition that filing of the complaint at Shillong was a mala fide move on the part of the complainant to harass and pressurise the petitioners to reverse the transaction for transfer of shares. The relief sought in the writ petition may be one of the relevant criteria for consideration of the question but cannot be the sole consideration in the matter. On the averments made in the writ petition gist of which has been noted earlier it cannot be said that no part of the cause of action for filing the writ petition arose within the territorial jurisdiction of the Bombay High Court."

Bold portions emphasized}

19. Even in the case of **Kusum Ingots & Alloys Ltd. v. Union of India**[7], it was held that when *a part of cause of action* arises within one or the other High Court, it would be for the petitioner to choose its forum. It would also be pertinent to refer to the decision by a Five Judge Bench of this Court in the case of **M/s Sterling Agro Industries Ltd. v. Union of India**[8], whereby it was held as under:-

"(b) **Even if a miniscule part of cause of action arises** within the jurisdiction of this court, a writ petition would be maintainable before this Court, however, the cause of action has to be understood as per the ratio laid down in the case of Alchemist Ltd. v. State Bank of Sikkim (2007) 136 C-C 665; (2007) 11 SCC 335.

(c) An order of the appellate authority constitutes a part of cause of action to make the writ petition maintainable in the High Court within whose jurisdiction the appellate authority is situated. Yet, the same may not be the singular factor to compel the High Court to decide the matter on merits. The High Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of forum conveniens.

(e) **The finding that the court may refuse to exercise jurisdiction under Article 226 if only the jurisdiction is invoked in a malafide manner is too restricted /constricted as the exercise of power under Article 226 being discretionary cannot be limited or restricted to the ground of malafide alone"**

{Bold portions emphasized}

[7] (2004) 6 SCC 254
[8] (2011) 181 DLP 658

20. In summary, it has been a consistent proposition of law that the question of territorial jurisdiction has to be decided on the basis of pleadings in the writ petition and further, whether or not the cause of action wholly or in part for filing a writ petition has arisen within the territorial limits of the High Court, has to be decided in the light of the nature and character of the proceedings under Article 226 of the Constitution of India, 1950. It is well settled that in order to maintain the writ petition, the petitioner has to establish that a legal right claimed by him has *prima facie* either been infringed or is threatened to be infringed by the respondent within the territorial limits of the jurisdiction of the Court.

21. To sum up a cumulative reading of the facts and circumstances placed on the record and the settled proposition of law, this Court would have no hesitation in holding that in terms of Article 226 of the Constitution of India, 1950, this Court has ample jurisdiction to entertain the present petition. Once the instant writ petition is found to be maintainable, it may be noted that the Supreme Court in the case of **Radha Raman Samanta v. Bank of India**[9] had an occasion to hold that that *it is not improper for the High Court to look into undisputed documents and raise an inference as to the status of the parties concerned*. In the light of the aforesaid, a careful perusal of the order and the directions passed by the Supreme Court on the subject matter referred to hereinabove would show that initially the SBLG had arrived at a 'One Time Settlement' with as many as fifteen banks out

[9] (2004) 1 SCC 605

of twenty. The entire history of the matter raises an inference about the *bona fide* intent of the promoters and directors to settle the entire dispute and also to pay all the corporate debts.

22. Evidently, the promoters have already deposited a sum of ₹2996.5/- crores which is much more than the undertaking which has been tendered before the Supreme Court. It is also evident that throughout the length and breadth of this long ordeal for the SBLG and its promoters and directors including the petitioner, the accounts of the company have remained operational and have been duly serviced for number of years and an amount of ₹1332/- crores has already been paid and has been paid over and above the disbursed amount.

23. The plea by the petitioner is that the valuation of the equitable mortgaged assets with the banks, as assessed by the consortium banks and ED are more than ₹27,000/- crores, which is far more than the alleged outstanding corporate debt. In summary, having regard to the conduct of the promoters and directors of the group coupled with the value of the mortgaged assets, the repayments have been made before or after the onslaught of the cases, which belies the action taken by the respondent consortium banks that there was any element of 'wilful default' or 'fraud' on the part of the promoters or directors from the very inception.

24. All said and done, withing delving into the merits of the matter, it would be apposite to refer to now the *causa celebre*, **State Bank of**

India v. Rajesh, Agarwal[10]**,** wherein the Supreme Court conducted an exhaustive analysis of the relevant RBI Master Guidelines prescribing the procedure leading to the declaration of account of any entity or person as 'willful defaulter' or fraud' and it was held that:

> "We need to bear in mind that the principles of natural justice are not mere legal formalities. They constitute substantive obligations that need to be followed by decision-making and adjudicating authorities. The principles of natural justice act as a guarantee against arbitrary action, both in terms of procedure and substance, by judicial, *quasi judicial*, and administrative authorities. Two fundamental principles of natural justice are entrenched in Indian jurisprudence:
> (i) *nemo judex in causa sua*, which means that no person should be a Judge in their own cause; and
> (ii) *audi alteram partem,* which means that a person affected by administrative, judicial or quasi-judicial action must be heard before a decision is taken. The courts generally favour interpretation of a statutory provision consistent with the principles of natural justice because it is presumed that the statutory authorities do not intend to contravene fundamental rights. Application of the said principles depends on the facts and circumstances of the case, express language and basic scheme of the statute under which the administrative power is exercised, the nature and purpose for which the power is conferred, and the final effect of the exercise of that power.
>
> "**Conclusion**
> **98. The conclusions are summarised below:**
> **98.1. No opportunity of being heard is required before an FIR is lodged and registered.**
> **98.2. Classification of an account as fraud not only results in reporting the crime to the investigating agencies, but also has other penal and civil consequences against the borrowers.**
> **98.3. Debarring the borrowers from accessing institutional finance under Clause 8.12.1 of the Master Directions on Frauds results in serious civil consequences for the borrower.**
> **98.4. Such a debarment under Clause 8.12.1 of the Master Directions on Frauds is akin to blacklisting the borrowers for being untrustworthy and unworthy of credit by banks. This Court has consistently held that an opportunity of hearing ought to be provided before a person is blacklisted.**

[10] (2023) 6 SCC 1

> **98.5 The application of audi alteram partem cannot be impliedly**
> **98.6 The principles of natural justice demand that the borrowers must be served a notice, given an opportunity to explain the conclusions of the forensic audit report, and be allowed to represent by the banks/JLF before their account is classified as fraud under the Master Directions on Frauds. In addition, the decision classifying the borrower's account as fraudulent must be made by a reasoned order."**
> **98.7. Since the Master Directions on Frauds do not expressly provide an opportunity of hearing to the borrowers before classifying their account as fraud, audi alteram partem has to be read into the provisions of the directions to save them from the vice of arbitrariness." {Bold emphasis supplied}**

25. This Court had the occasion to consider the of the *ratio* laid in ***Rajesh Agarwal (supra.)***, in the matter of **Rajkumar Sukhdevsinhji v. IDBI Bank**[11], wherein it was held as under:-

> "11. First things first, the decision in the case of Shantanu Prakash (supra), heavily relied upon by the learned counsel for the respondent, (2006) SCC 28 (2020) 12 SCC 808 9 (2020) 12 SCC 572 2024 SCC OnLine Del 3870 2023 SCC OnLine SC 342 was one wherein this Court reiterated the decision in the case of Rajesh Agarwal (supra) and the petitioner, who was also an Ex- Director and a guarantor of the company, had availed various credit facilities from consortium of banks, of which the respondent banks were also members and it was found that there was not only a violation of the principles of nature justice inasmuch as relevant documents were not supplied to the petitioner, but also that the petitioner was not given any opportunity before classifying his accounts as "fraud". Resultantly, this Court passed directions against the respondents to allow the petitioner and/or authorized representative to inspect the records of the company besides the records which are available and in possession of the IRP and once that bridge was passed, the petitioner was called upon to make representation and to be afforded an opportunity of hearing before passing appropriate directions."

26. In view of the above, there is no gain saying that the decision given by the Supreme Court in the case of ***Rajesh Aggarwal (supra)*** is

[11] 2024 SCC OnLine Del 4863

binding upon this Court in terms of Article 141 of the Constitution of India, 1950. It may be stated that during the course of hearing, extensive arguments were advanced by the learned senior counsel for the petitioner, apart from addressing the issue regarding maintainability. None of the counsel for the respondents were able to controvert the submissions of the learned Senior Counsel for the petitioner on merits except on the ground of maintainability. The sum and substance of the matter is that the present matter is a stark case where the petitioner and the group of companies were never afforded the opportunity of being heard.

27. Resultantly, while following the dictum of law laid down in the case of ***Rajkumar Sukhdevsinhji (supra)***, this Court observes that the instant case is a unique one where the promoters and directors of SBLG have demonstrated their *bona fide* conduct and have been adhering to all regulatory norms. However, at present, there is a blanket order passed by the Supreme Court, keeping in abeyance and staying all proceedings pending at the instance of law enforcement agencies. The whole situation so far, marked by a complete reluctance on the part of the respondents to take a stand, commensurate with financial prudence and disciplinary prudence, makes it not out of context to hold that the respondents' act of classifying the petitioner as a 'wilful defaulter', which by all means and measure is also flawed under the RBI Master Guidelines, has resulted in a grave miscarriage of justice for the same being contrary to the settled proposition of law as laid down in the case of ***Rajesh Aggarwal* (*supra*).**

28. The principle of stare decisis, which translates to “to stand by decided cases” has been a cornerstone of the judiciary since its inception. This doctrine is rooted in the Latin maxim "***stare decisis et non quieta movere***," meaning it is best to adhere to decided cases and not disturb settled issues. Once a point of law has been established, it forms a precedent that should generally be followed in subsequent cases. This ensures consistency and predictability in the application of the law. When similar cases arise, the scales of justice must remain balanced and steady, with legal principles applied uniformly, rather than being swayed by individual judges’ opinions or personal biases.

29. In the judicial hierarchy, the rulings of higher courts on matters of law are binding on lower courts. As enshrined in Article 141 of the Constitution of India, the law declared by the Supreme Court is binding on all Courts within the territory of India. Under this doctrine of precedent, the High Courts are not at liberty to adopt a different view or rely on conflicting decisions when the Supreme Court has clearly laid down the law on a subject. It is imperative for High Courts to align with the Supreme Court’s declarations of law, avoiding contradictions and ensuring a cohesive application of legal principles.

30. At this juncture, it would be apposite to take note of the observations made by the Supreme Court in the case of **Biswajit Das v. CBI**[12], which read as under:

> “Nonetheless, if in a given case, notice is issued which is limited on terms but the party approaching the Court is otherwise persuasive in pointing out that the case does involve a substantial question of law deserving consideration and the Bench is so

[12] 2025 SCC OnLine SC 124

> satisfied, we see no reason why the case may not be heard on such or other points. In such a case, the jurisdiction to decide all legal and valid points, as raised, does always exist and would not get diminished or curtailed by a limited notice issuing order. However, whether or not to exercise the power of enlarging the scope of the petition/appeal is essentially a matter in the realm of discretion of the Bench and the discretion is available to be exercised when a satisfaction is reached that the justice of the case so demands."

31. Apart from the aforesaid proposition of law, this Court must also consider the ongoing proceedings before the Supreme Court, where the issue of payments made by the Promoters of the group and their *bona fides* is already being examined. It is crucial to note that the declaration of 'wilful defaulter' and 'fraud' in contravention of the well settled parameters entails a cascading effect on the group, triggering both civil and criminal actions against them.

32. In the present case, neither respondent disputes that the petitioner or its companies were given an opportunity to be heard before being declared "wilful defaulters" or "fraudulent accounts". Given this, the law as previously discussed shall apply, and accordingly, the declaration of the bank accounts of the Sterling Group of Companies as "wilful defaulters" or "fraud" is hereby set aside.

33. The instant petition along with pending application is disposed of accordingly.

DHARMESH SHARMA, J.

MAY 26, 2025
Ch/Es