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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
WRIT PETITION NO. 2157 OF 2017**

Edayar Zic Ltd.

...Petitioner

*Versus*

Union of India & Ors.

...  
Respondents

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**Mr Aspi Chinoy** with *Nirman Sharma, Shriraj Dhruv, Mitesh Naik and Husaina Zaidy i/b Dhruv & Co., for the Petitioner.*

**Mr Mandar Limaye**, for Respondent No.1

**Mr Sukanta Karmarkar**, AGP for the Respondent-State.

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**CORAM: G.S. Patel &**

**Madhav J. Jamdar, JJ.**

**DATED: 16th November 2021**

**PC:-**

1. Rule.

2. We believe arguable and serious questions arise not only in regard to interpretation of the applicable RBI Master circular but also manner in which the 3rd Respondent, the Punjab National Bank, has conducted itself vis-à-vis the Petitioner, ostensibly under RBI Master circular.

3. Mr.Chinoy, learned Senior Counsel points out that on 17th November 2016, the Petitioners were asked to appear before the PNB's Wilful Defaulters' Committee. The Petitioners were asked to file further documents. There was no action or response until 12th April 2017 when the Petitioners received a letter from the Assistant General Manager of PNB stating that the Petitioners had defaulted in making payments of bank dues inter alia by diverting and siphoning funds contrary to the terms and completion of loan documents executed by the Petitioner. That communication said that the company had been declared wilful defaulter on 27th March 2017.

4. The Petitioners filed this Writ Petition impugning the 12th April 2017 letter and previous letter. On 19th May 2017, a Vacation Bench granted ad-interim relief in terms of prayer clause (c). This has been continued since then.

5. On 24th July 2017, PNB filed an Affidavit in Reply stating that the RBI circular did not compel the PNB to inform the Petitioners of the formation or composition of what is called an Identification Committee or the Review Committee. PNB maintained that the Identification Committee has been duly constituted with appropriate members as required by law. That Affidavit in Reply did not give any particulars of any decision or order of the Identification Committee nor of the Review committee. On 22nd February 2019 this Court passed an order requiring a further Affidavit from PNB. That affidavit was filed on

8th March 2019 placing on record the order of Identification Committee classifying the Petitioners as a wilful defaulter and confirmatory order of the Review Committee. These orders were dated 17th February, 2016 (Identification committee) and 27th March, 2017 (Review committee) respectively.

6. Mr. Chinoy says that from these disclosures it has come to light that constitution of both the committees were wholly improper or irregular and possibly illegal. He also says that no order could have been passed on 17th November 2016 because the order of that date makes reference to documents and emails by the Petitioners of 25th November 2016.

7. More importantly, Mr Chinoy points out that none of these orders were ever served on the Petitioners.

8. We believe it is settled law that a declaration of the entity as wilful defaulter as the most serious consequences. We will examine the legal issues in that regard and also the other issues that arise at a later date. For the present, we note these facts because apart from admitting the Petition, we are inclined to grant further ad-interim relief in terms of prayer clause (b) and (b)(i), in addition to continuing the order in terms of prayer clause (c).

9. Since the Respondents have already the filed Affidavits in Reply issuance of Rule Nisi is dispensed with. We will list the matter on early date for final disposal.
10. No further Affidavits are to be filed without leave of the Court.
11. List the matter on 8th December 2021 for final disposal.
12. All concerned will act on production of a digitally signed copy of this order.

**(Madhav J. Jamdar, J)**

**(G. S. Patel, J)**