HC-KAR

NC: 2026:KHC:35164
WP No. 4432 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 4432 OF 2025 (GM-RES)

BETWEEN

ANURADHA HOLDINGS PRIVATE LIMITED
A COMPANY INCORPORATED UNDER THE COMPANIES ACT
HAVING ITS REGISTERED OFFICE AT NO 752
8TH MAIN, 3RD BLOCK
KORAMANGALA
BENGALURU 560034
REPERSENTED BY ITS AUTHORIZED SIGNATORY
MR RAFEEQUIDDIN (ACCOUNTS HEAD)
AGE 45 YEARS

...PETITIONER

(BY SRI: S.S. NAGANAND., SR. COUNSEL FOR
SRI. SYED KHAMRUDDIN., ADVOCATE)

AND

INDIAN BANK
MID CORPORATE BRANCH BENGALURU
NO 10, 1ST FLOOR, K G ROAD
GANDHINAGAR
BENGALURU 560009
REPRESENTED BY ITS MANAGER

...RESPONDENT

(BY SRI: VIKRAM HUILGOL., SR. COUNSEL FOR
SRI. K.R. PARASHURAM., ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OR ORDER QUASHING THE E-MAIL COMMUNICATION DATED 03.02.2025 ISSUED BY THE RESPONDENT DEMANDING LOAN ACCOUNT REVIEW CHARGES OF RS.9,09,815/- AND PRE-CLOSURE CHARGES OF

RS.3,03,02,872.00/- IN RESPECT OF LRD LOAN ACCOUNT BEARING NO. 7685942215 (ANNEXURE-A).AND ETC.

THIS WRIT PETITION COMING ON FOR ORDERS AND HAVING BEEN RESERVED FOR ORDERS ON 25.06.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CAV ORDER

1. The petitioner is before this Court seeking for the following reliefs:

> *i. Issue a Writ or Order quashing e-mail communication dated 03.02.2025 issued by the Respondent demanding Loan Account Review Charges of Rs.9,09,815/- and Pre-Closure Charges of Rs.3,03,02,872.00/- in respect of LRD Loan Account bearing No. 7685942215 (Annexure - A)*
>
> *ii. Issue a Writ or Order declaring that the demand of the Respondent towards Loan Account Review Charges of Rs.9,09,815/- and of Pre-Closure Charges Rs.3,03,02,872.00/- in respect of LRD Loan Account bearing No. 7685942215 is illegal, arbitrary and contrary to the Sanction Letter dated 28.12.2023 and guidelines framed by the Reserve Bank of India. Annexure-E*
>
> *iii. Pass such other or further order as this Hon'ble Court may deem fit in the facts and circumstances of the case, and in the interests of justice and equity.*

2. The petitioner is a small-scale enterprise registered under the Micro, Small and Medium Enterprises Development Act, 2006 vide MSME Udhyaan portal. The petitioner availed of a Term Loan - Lease Rental

Discounting (LRD loan) from respondent - Indian Bank of ₹ 129.00 crores vide a Sanction Letter dated 28.12.2023 against rental discounting of lease rentals of a building owned by the petitioner at a effective rate of 8.95% per annum, being the MCLR + 0.20% for a tenor of 15 years i.e. 180 months.

3. A Medium-Term Loan agreement came to be executed between the petitioner and respondent on 29.12.2023, capturing aforesaid terms. The issue in the present matter is not relating to the loan or the repayment thereof but is related to prepayment of the loan and prepayment charges sought to be levied by the respondents. The only aspect of the Medium-Term Loan agreement which is required for consideration is prepayment charges which is reproduced hereunder for easy reference:

Pre-payment charges	*2% + GST* *As per extant guidelines of service charges as per Cir No.Adv.72 dated 03.09.2019, no prepayment penalty would be payable to lender if:* *1. The prepayment is made at the instance of the lenders or as per the terms of sanction with respect to Mandatory Repayment.* *2. If interest on the reset date/repricing date is not acceptable to the borrower, the borrower would have the option to*

	prepay the outstanding facility owing to such lender, within the next 3 months from such date of spread reset/receipt of advice from the lender by giving a notice of 30 days. *3. The repayment is made from surplus cash accruals generated by the borrower or equity infusion*

4. The petitioner started exchanging correspondence from 22.11.2024 calling upon the respondent to make known the rate of interest for the upcoming year on the interest reset date i.e. 30.12.2024. Three emails having been sent and not having received any response, the petitioner vide its email dated 19.12.2024 informed the respondent that since the interest reset date is 30th, they notify the respondent bank that in case interest levied on the reset date is not acceptable, they will be repaying the loan on 30.12.2024 as per the sanctioned terms of interest and in this regard relied on the earliest email dated 22.11.2024 for the purpose of calculating one (1) month notice under the prepayment clause extracted above.

5. The respondent bank on 06.01.2025 informed the petitioner that the MCLR being 8.65%, the spread of the respondent - bank would be 0.10%, giving

effective rate of 8.75% from the reset date of 30.12.2024 and informed the petitioner that with reference to the LRD term loan ₹ 129 crores, the pre-closure amount as on 06.01.2025 would be based on the present applicable rate of interest as mentioned therein. For ease of reference the entire email is extracted herein below for easy reference:

> *"Dear Sir,*
>
> *With reference to the above we wish to inform you that we have taken up with our Higher authorities for finer Rate of Interest -3 Months MCLR (8.65%) + 0.10% effective rate is 8.75% effective from Reset date 30.12.2024.*
>
> *With reference the LRD term Loan Rs.129.00 Crs. the pre-closure amount as on today le 06.01.2025 hased on present applicable Rate of Interest is as below*
>
> *Balance outstanding amount as on date Rs. 1.28.45.40.000/-*
>
> *Annual TL review charges: Rs. 5,90,000/-*
>
> *Interest accrued as on 06.01.2025 is Rs. 16.30.809/-*
>
> *Term Loan Pre closure charges for term loan is Rs.3,03,15,144/-*
>
> *Total amount to be paid for closure of LRD term loan as 06.01.2025 is Rs. 1,31,70,75,953/-*
> *Per day interest is Rs. 3,25,534.11/- is applicable for payment beyond 06.01.2025."*

6. The petitioner replied on 07.01.2025 stating that the petitioner has been asking for the interest rates from 22.11.2024 and the reply for the first time has been received on 06.01.2025; the interest rate was not acceptable and the question of levying of any prepayment charges would not arise. The email

dated 07.01.2025 is reproduced hereunder for easy reference:

"Dear Sir,

We are surprised and shocked to see your trail mall. We have asked you for interest rates on 22nd Nov 2024 which you are replying now after almost expiry of 45 days. This interest rate is not acceptable to us. Now our submissions on charges levied by yours are as under

1. Annual TI Review charges are applicable if it is reviewed while we are withdrawing the facilities and do not accept the levy of review charges as we have already initiated the issue before expiry of year and all delays are on your part

2. Interest we agree to pay till the date of repayment.

3. Pre closure Charges you levied is against the sanction terms which is very much clear that on interest reset date

We may repay the loan amount outstanding without charges in case we do not accept the interest reset by yours. We have asked and clearly informed almost in five trail malls of our decision to repay yours which you intentionally delayed and against the consumer ethics and violation of sanction terms. We strongly oppose the same. In view of the above we request you to kindly review the sanction terms and revise the Loan closure amount. An immediate and favourable action shall be highly apppreciated.

Regards

Vineet Kumar

Group Finance Head
Anuradha Holdings Pvt Ltd
Bangalore"

7. On 07.01.2025 the bank replied to the petitioner stating that the company's loan rate of interest is linked to one (1) year MCLR and as per RBI guidelines, the rate of interest being linked to one (1) year MCLR, reset happens annually and as per

the sanction letter, annual term loan, review charges at 50% of card rate is applicable. As loan has been completed one (1) year, annual term loan review charges would be applicable and on that basis, it was contended that the conditions for non-payment of penalty are not met. Hence pre-payment penalty is applicable and on that basis, the bank informed the petitioner that pre-closure amounts stated in the email dated 06.01.2025 would be paid.

8. Thereafter there were certain other correspondences which were exchanged between the parties. On 03.02.2025, the bank addressed an email to the petitioner acknowledging receipt of a sum of ₹ 129,57,71,717.00 on 01.02.2025 and having credited a sum of ₹ 1,29,46,34,727.00 to the loan account, but informed the petitioner that the bank is unable to close the loan account as it has not received the review charges of ₹ 9,09,815.00 and pre-closure charges of ₹ 3,03,02,872. It is challenging the same, the petitioner is before this Court.

9. The submission of Sri. S. S. Naganand, learned Senior counsel is that:

9.1. The interest rate being reset on 30.12.2024 in terms of the pre-payment clause extracted hereinabove, if the interest on the reset date / repricing date is not acceptable to the borrower, the borrower would have the option to repay the outstanding facility owing to such lender within the next three (3) months from such date of spread, reset / receipt of advice from the lender by giving a notice of 30 days.

9.2. His submission is that the borrower from 22.11.2024 called upon the respondent bank to make known the charges, the interest that would be levied on and from the date of the reset i.e. 30.12.2024. The bank not having informed about the charges that would be levied, the borrower on 19.12.2024, exercised the right for pre-payment of the loan. since the borrower had for the first time on 22.11.2024 requested for the details of the interest that is going to be levied from 30.12.2024.

9.3. His submission is that the bank not having informed from 22.11.2024 to 19.12.2024, the borrower had indicated that the 30 days' notice period under the prepayment charge clause would end on 22.12.2024 enabling the borrower to repay the loan amounts without making payment of prepayment charges. The bank having informed the borrower on 06.01.2025 about the interest rate, his submission is that the term loan pre-closure charges were also indicated in the said email. Hence, the borrower on 07.01.2025 expressed his shock at such a belated reply and contended that since notice had been issued commencing from 22.11.2024 to exercise the prepayment option, the question of levy of prepayment charges would not arise. On that basis, he submits that the borrower having gone ahead and made payment of the due amounts, the prepayment charges could not have been levied by the respondent.

9.4. An interim order was passed in the above matter on 07.03.2025, which reads as under:

ORAL ORDER

A Co-ordinate Bench of this Court on 25.02.2025 had passed the following order:

"Learned Senior Counsel appearing for the petitioner seeks a short accommodation to enable the petitioner to file an affidavit of undertaking along with a bank guarantee to enable this court to pass interim orders.

Re-list this matter on 05.03.2025."

In furtherance of the said order, Bank Guarantee is issued in favour of the Bank by the petitioner, which is appended to a memo filed today.

Learned counsel for the Bank accepts the Bank Guarantee.

In the light of the Bank Guarantee being furnished, there shall be an interim order as prayed for, till the next date of hearing.

*List the matter on **03.04.2025**.*

9.5. The submission of Sri S.S.Naganand, learned Senior Counsel is that this Court on 07.03.2025 had passed interim orders on account of a bank guarantee having been furnished by the petitioner/borrower. The interim reliefs which have been sought for read as under:

9.6. His submission is that on a bank guarantee having been furnished, the respondent has handed over the original documents offered as mortgage and security in respect to the LRD loan.

9.7. Sri. S. S. Naganand, learned Senior Counsel on instructions submits that the original documents have been handed over. The funds in the escrow account have been released so also the funds in the debt service reserve account have been released. No due certificate has been issued.

9.8. On the above basis he submits that the writ petition is required to be allowed and reliefs sought for in so far as the prepayment charges are concerned are to be granted.

10. Sri.Vikram Huilgol, learned senior counsel appearing for the bank would submit that:

10.1. The entire conduct of the borrower is mala fide. His submission is that the emails from 22.11.2024 onwards have only been designed to escape the pre-payment charges.

10.2. He relies upon a Facility Agreement cum Hypothecation Agreement entered into between the petitioner and Bank of Maharashtra on 31.01.2025 by referring to Clause (1) thereof, he submits that an application having been made by the borrower on 11.10.2024 it was sanctioned on 17.12.2024. On that basis, he submits that it is only after the application was submitted by the borrower to the Bank of Maharashtra that the correspondence ensued from 22.11.2024.

10.3. His submission is that the borrower having already decided not to accept the rate of interest to be levied by the bank had approached Bank of Maharashtra to avail of a loan facility which was granted on 17.12.2024 and it is after 17.12.2024 that the email dated 19.12.2024 was issued stating that the borrower was not acceptable to interest reset and wanted to prepay the loan by 30.12.2024. His submission therefore is that the entire correspondence issued by the borrower is only to get over the prepayment charges. There are no bona fides on the part of the borrower. If this conduct were to be looked into, the levy of prepayment charges by the bank is proper.

10.4. His submission is also that if a borrower were allowed to pre-close a loan at any point of time, then there would be no purpose in the prepayment clause or prepayment charges being contained in agreement.

10.5. His submission is that the bank while granting any loan takes into consideration various aspects. One of the aspects being the tenor of the loan and the spread of interest over the entire tenor of the loan. If a loan is pre-closed, the interest which the bank would receive during the term of the loan would get adversely affected resulting in losses to the bank and as such if a pre-closure were to happen, pre-payment charges are levied which is the integral term of the lending agreement. As such, he submits that the petitioner could have at the most issued a notice after 06.01.2025 of 30 days' and it is only after 30 days that the pre-closure could have been made. Notice could not have been issued on 22.11.2024 when the bank itself did not know what was the MCLR rate which would be applicable from 30.12.2024.

11. Heard Sri S. S. Naganand, learned Senior Counsel appearing for the petitioner and Sri Vikram Huilgol, learned Senior Counsel appearing for the respondent bank.

12. The points that would arise for consideration by this Court in the present matter are:

i) **Whether the prepayment made by the borrower is in compliance with the prepayment clause in the Medium Term Loan Agreement?**

ii) Whether the bank could levy pre-payment charges on the pre-closure of the loan by the borrower.

iii) What order?

13. This Court answers the above points as follows:

14. **<u>Answer to Point No.(i):</u> Whether the prepayment made by the borrower is in compliance with the prepayment clause in the Medium Term Loan Agreement?**

14.1. Sri S.S. Naganand, learned Senior Counsel appearing for the petitioner, submitted that the Medium Term Loan Agreement dated 29.12.2023 contains a prepayment clause. Under the second exception in that clause, if the interest on the reset date or repricing date is not acceptable to the borrower, the borrower has the option to prepay the outstanding facility within the next three months from the date of spread reset or receipt of advice from the lender, by giving a notice of 30 days.

14.2. The interest reset date was 30.12.2024. From 22.11.2024 onwards, the petitioner sent three e-mails calling upon the respondent-bank to make known the rate of interest that would be levied on and from the reset date. The bank did not reply to any of those e-mails.

14.3. Since no reply was received, the petitioner, by its e-mail dated 19.12.2024, exercised its right of prepayment by notifying the bank that if the interest levied on the reset date was not acceptable, it would repay the loan on 30.12.2024 as per the sanctioned terms, and relied on the earliest e-mail dated 22.11.2024 for the purpose of computing the notice of one month under the prepayment clause. Thus, according to him, the 30 days' notice period would end on 22.12.2024, enabling the borrower to repay the loan without payment of any prepayment charges.

14.4. The bank informed the petitioner of the reset rate for the first time only on 06.01.2025, that is, after the reset date, and in the very same e-mail also indicated term loan pre-closure charges. The petitioner, on 07.01.2025, expressed shock at such a belated reply, stated that the reset rate was not acceptable, and contended that since notice had been issued commencing from 22.11.2024 to exercise the prepayment option, the question of levy of prepayment charges would not arise.

14.5. The borrower thereafter went ahead and made payment of the due amounts. The entire delay was on the part of the bank. Hence, the prepayment is fully in compliance with the prepayment clause, and the prepayment charges could not have been levied by the respondent.

14.6. Sri Vikram Huilgol, learned Senior Counsel appearing for the respondent-bank, submitted that the entire conduct of the borrower is mala fide. The e-mails from 22.11.2024 onwards were only designed to escape the prepayment charges.

14.7. He relied upon the Facility Agreement cum Hypothecation Agreement dated 31.01.2025 entered into between the petitioner and Bank of Maharashtra and, by referring to Clause (1) thereof, submitted that the petitioner had made an application to Bank of Maharashtra on 11.10.2024, which was sanctioned on 17.12.2024. It is only after the said application was submitted that the correspondence with the respondent-bank ensued from 22.11.2024.

14.8. The borrower had already decided not to accept the rate of interest to be levied by the bank and had approached Bank of Maharashtra for a loan facility, which was granted on 17.12.2024. It is only after 17.12.2024 that the e-mail dated 19.12.2024 was issued stating that the interest reset was not acceptable and that the borrower wanted to prepay the loan by 30.12.2024. The entire correspondence issued by the borrower is therefore only to get around the prepayment charges, and there is no bona fides on the part of the borrower.

14.9. A notice could not have been issued on 22.11.2024 when the bank itself did not know what MCLR rate would be applicable from 30.12.2024. At the most, the petitioner could have issued a notice of 30 days only after 06.01.2025, when the rate was communicated, and it is only after 30 days therefrom that the pre-closure could have been made.

14.10. The answer to this point, turns on the true meaning of the prepayment clause in the

Medium Term Loan Agreement dated 29.12.2023 and its application to the admitted facts.

14.11. The prepayment clause is once again extracted for easy reference:

Pre-payment charges	*2% + GST* *As per extant guidelines of service charges as per Cir No.Adv.72 dated 03.09.2019, no prepayment penalty would be payable to lender if:* *1. The prepayment is made at the instance of the lenders or as per the terms of sanction with respect to Mandatory Repayment.* *2. If interest on the reset date/repricing date is not acceptable to the borrower, the borrower would have the option to prepay the outstanding facility owing to such lender, within the next 3 months from such date of spread reset/receipt of advice from the lender by giving a notice of 30 days.* *3. The repayment is made from surplus cash accruals generated by the borrower or equity infusion*

14.12. The prepayment clause has two parts. The first part provides for prepayment charges of 2% + GST. The second part, which traces itself to the bank's own extant guidelines of service charges as per Circular No.Adv.72 dated 03.09.2019, states that no prepayment penalty would be payable to the lender in three situations, namely:

14.12.1. The prepayment is made at the instance of the lenders or as per the terms of sanction with respect to Mandatory Repayment.

14.12.2. If interest on the reset date/repricing date is not acceptable to the borrower, the borrower would have the option to prepay the outstanding facility owing to such lender, within the next 3 months from such date of spread reset/receipt of advice from the lender by giving a notice of 30 days.

14.12.3. The repayment is made from surplus cash accruals generated by the borrower or equity infusion.

14.13. On a plain reading, each of the three situations is a separate and independent exception. The petitioner rests its case on the second exception. The second exception, when broken down into simple parts, has three ingredients:

14.13.1. the interest on the reset or repricing date is not acceptable to the borrower;

14.13.2. the prepayment is made within the next three months from the date of spread reset or receipt of advice from the lender; and

14.13.3. the borrower gives a notice of 30 days.

14.14. The dates in this matter are not in dispute: the Sanction Letter is dated 28.12.2023; the Medium Term Loan Agreement is dated 29.12.2023; the interest reset date was 30.12.2024; the petitioner sought the reset rate by three e-mails commencing from 22.11.2024, to which no reply was given; the petitioner, on 19.12.2024, notified the bank that if the interest levied on the reset date was not acceptable, it would repay the loan; the bank communicated the reset rate of 8.75% for the first time on 06.01.2025; the petitioner, on 07.01.2025, stated that the rate was not acceptable; and the petitioner remitted ₹129,57,71,717/- on 01.02.2025, out of which the bank credited ₹1,29,46,34,727/- to the loan account, as acknowledged by the bank in its e-mail dated 03.02.2025.

14.15. The first ingredient is satisfied. The reset rate was made known to the borrower only on 06.01.2025. On the very next day, i.e., 07.01.2025, the borrower stated in clear words that the rate was not acceptable. There was no delay whatsoever on the part of the borrower in expressing non-acceptance.

14.16. The second ingredient is also satisfied. Whether the three-month period is counted from the date of the spread reset (30.12.2024) or from the date of receipt of the advice from the lender (06.01.2025), the repayment made on 01.02.2025 falls well within three months of both dates.

14.17. The third ingredient, namely the notice of 30 days, is the real bone of contention, and it is on this that the rival submissions of Sri S.S. Naganand and Sri Vikram Huilgol are joined. The petitioner would count the notice from 22.11.2024, or in any event from 19.12.2024; the bank would contend that the notice could be issued only after 06.01.2025, when the rate was communicated.

14.18. The clause must be read and applied as it stands. It requires the borrower to prepay “by giving a notice of 30 days”. The clause does not say that such notice can be given only after the reset rate is communicated by the bank. The only purpose which a notice of this kind serves is to give the lender advance information of the intended prepayment so that the lender can arrange its affairs. Nothing more can be read into it.

14.19. The e-mails commencing from 22.11.2024 were, in substance, requests calling upon the bank to make known the reset rate. This Court, therefore, does not treat 22.11.2024 as the date of the notice of prepayment, and to that limited extent the submission of Sri S.S. Naganand that the notice period could be counted from 22.11.2024 is not accepted. However, the e-mail dated 19.12.2024 stands on an entirely different footing. By that e-mail, the borrower in clear words notified the bank that if the interest levied on the reset date was not acceptable, it would repay the loan. That is a clear notice of the intention to prepay, though conditional upon non-acceptance of the reset rate.

14.20. Such a conditional notice is valid and effective. The very structure of the second exception contemplates that the borrower's decision depends on a future event, namely, the reset of the rate. A borrower who acts with diligence, asking for the rate five weeks in advance, and, on receiving no reply, notifying its intention eleven days before the reset date, cannot be placed in a worse position than a borrower who sits idle. The condition attached to the notice of 19.12.2024 stood fulfilled on 07.01.2025, when the borrower, immediately upon receipt of the bank's advice dated 06.01.2025, communicated its non-acceptance of the rate.

14.21. The submission of Sri Vikram Huilgol that the notice could not have been issued on 22.11.2024 because the bank itself did not then know the MCLR rate applicable from 30.12.2024, does not carry the bank's case any further. First, as held above, the operative notice is the one dated 19.12.2024 and not the e-mail dated 22.11.2024. Secondly, the reason the borrower did not know the reset rate before the reset date is the bank's own failure to reply to three e-mails over a period of about 45 days. A party cannot take advantage of its own default to defeat the contractual right of the other party. If the bank's construction, that the 30 days' notice can commence only after the bank communicates the rate, were to be accepted, the bank, by simply delaying its advice, could postpone the borrower's exit indefinitely and continue to charge the very rate which the borrower finds unacceptable. Such a construction, which rewards the bank's own default, cannot be accepted.

14.22. Counting from 19.12.2024, the repayment made on 01.02.2025 is after 44 days, which is more than the 30 days' notice required under the clause. The bank thus had actual advance knowledge of the borrower's intention for about six weeks before the repayment. The object of the notice stipulation was fully achieved.

14.23. The submission of Sri Vikram Huilgol founded on the Facility Agreement cum Hypothecation Agreement dated 31.01.2025 with Bank of Maharashtra, is that the application was made on 11.10.2024, the sanction was obtained on 17.12.2024, and the correspondence with the respondent-bank was engineered thereafter. In the considered view of this Court, a borrower arranging alternative finance in advance is an act of ordinary commercial prudence and not an act of mala fides. The window under the second exception is a short one of three months. A borrower owing about ₹129 crores cannot mobilise such funds overnight; unless it ties up refinance in advance, the option given to it by the second exception would remain only on paper. The clause nowhere prohibits prepayment out of borrowed funds. The requirement that the repayment be made from surplus cash accruals or equity infusion forms part of the third exception, which is a separate and independent exception, and cannot be imported into the second exception. Where a party exercises a right given to it by the contract, strictly in accordance with the terms of the contract, its motive for doing so is immaterial, and such exercise cannot be branded as mala fide.

14.24. In fact, the sequence of events supports the bona fides of the borrower rather than the contrary. The borrower began asking for the reset rate on 22.11.2024, more than five weeks before the reset date; it disclosed its intention to prepay on 19.12.2024, eleven days before the reset date; it communicated its non-acceptance within a day of receiving the bank's advice; and it repaid the entire amount within a month thereafter. The party that remained silent for about 45 days, despite repeated requests, was the bank.

14.25. As regards the repayment to be made from surplus cash accruals generated by the borrower or equity infusion, the same is not urged by the respondent Bank, in fact the respondent bank has accepted the payments made by the Petitioner without questioning the source of funds, the claim laid by the bank is only for the prepayment charges.

14.26. For the above reasons, it is held that all the three ingredients of the second exception to the prepayment clause stand satisfied, and the prepayment made by the borrower on 01.02.2025 is in compliance with the prepayment clause in the Medium Term Loan Agreement.

14.27. This Court answers Point No. (i) by holding that the prepayment made by the borrower is in compliance with the prepayment clause in the Medium Term Loan Agreement.

15. **<u>Answer to Point No. (ii):</u> Whether the bank could levy pre-payment charges on the pre-closure of the loan by the borrower.**

15.1. Sri S.S. Naganand, learned Senior Counsel appearing for the petitioner, submitted that once the second exception to the prepayment clause applies, the clause itself declares that no prepayment penalty would be payable to the lender. The demand of pre-closure charges of ₹3,03,02,872/-, made in the e-mail dated 03.02.2025 and preceded in the e-mails dated 06.01.2025 and 07.01.2025, is therefore contrary to the Sanction Letter dated

28.12.2023, the Medium Term Loan Agreement and the bank's own guidelines.

15.2. The borrower having gone ahead and made payment of the due amounts, the prepayment charges could not have been levied by the respondent, and the writ petition is required to be allowed and the reliefs sought, insofar as the prepayment charges are concerned, are to be granted.

15.3. Sri Vikram Huilgol, learned Senior Counsel appearing for the respondent-bank, submitted that if a borrower were allowed to pre-close a loan at any point of time without charges, there would be no purpose in the prepayment clause or the prepayment charges being contained in the agreement.

15.4. The bank, while granting any loan, takes into consideration various aspects, one of which is the tenor of the loan and the spread of interest over the entire tenor. If a loan is pre-closed, the interest which the bank would receive during the term of the loan gets adversely affected, resulting in losses to the bank. Hence, on a pre-closure, pre-payment charges are levied, which is an integral term of the lending agreement.

15.5. The conduct of the borrower being mala fide, as demonstrated by the Bank of Maharashtra transaction, the levy of prepayment charges by the bank is proper. At the most, the petitioner could have issued a notice of 30 days after 06.01.2025 and pre-closed the loan only after 30 days therefrom; not having done so, the charges were rightly levied.

15.6. The answer to this point flows directly from the finding on Point No.(i). The second part of the prepayment clause opens with the words "no prepayment penalty would be payable to lender if", and then lists the three exceptions. The words are plain and simple: once any one of the exceptions applies, the bank has no right to demand or recover prepayment charges. It has been held under Point No.(i) that the second exception applies. The levy of pre-closure charges of ₹3,03,02,872/- is therefore without any authority under the contract itself.

15.7. It is significant that the exceptions are the bank's own stipulations, traceable to its own Circular No.Adv.72 dated 03.09.2019 relating to service charges, and incorporated by the bank into its own Sanction Letter and the Medium Term Loan Agreement. The bank, having framed the clause, must be held to it. It cannot rely on the first part of the clause to demand 2% + GST while ignoring the exceptions contained in the very same clause.

15.8. The submission of Sri Vikram Huilgol that the prepayment clause would be rendered purposeless if borrowers could pre-close without charges, is not acceptable. Giving effect to the second exception does not make the clause meaningless. The charge of 2% + GST continues to operate in all cases falling outside the three exceptions, for instance, a prepayment made mid-tenor without any connection to an interest reset, or a prepayment made beyond the three-month window, or without the 30 days' notice. The main clause and its exceptions operate in different fields, and both survive. The Court is only giving effect to the whole of the clause, and not to a part of it.

15.9. The further submission that the bank prices a loan on the tenor and the spread of interest over the entire tenor, and that a pre-closure results in losses to the bank, is a submission of commercial expectation. A commercial expectation cannot override the express terms of the contract. The loan itself was structured on an annual interest reset. Such a regime, by its very nature, contemplates that at every reset date the borrower may find the reset rate unacceptable and exit, and the bank itself has, by the second exception, agreed that such an exit would be free of prepayment charges. That risk was built into the bargain by the bank. It is not open to this Court to rewrite the contract to protect the bank from a risk which it consciously undertook.

15.10. The submission of mala fides founded on the Bank of Maharashtra transaction has already been considered and rejected while dealing with

Point No.(i). For the same reasons, it is rejected here as well; the motive of a party exercising a contractual right strictly as per its terms is immaterial to the question of levy of charges.

15.11. The submission that the notice could have been issued only after 06.01.2025, and the pre-closure effected only 30 days thereafter, has also been considered and rejected above. The construction canvassed by the bank would place a premium on the bank's own delay in communicating the reset rate, and would permit the bank to continue charging a rate unacceptable to the borrower during the period of its own default. It deserves rejection for this additional reason as well.

15.12. The demand of charges contrary to the binding terms of the bank's own sanction, its own agreement and its own circular is an arbitrary act.

15.13. For the above reasons, point no. (ii) is answered by holding that the bank could not levy pre-payment charges on the pre-closure of the loan by the borrower, and the demand of pre-closure charges of ₹3,03,02,872/- contained in the e-mail dated 03.02.2025 is unsustainable.

16. **<u>Answer to Point No.(iii):</u> What order?**

16.1. In view of the findings on Point No.(i) and Point No.(ii), the petitioner is entitled to succeed insofar as the demand of pre-closure charges of ₹3,03,02,872/- is concerned. The e-mail dated 03.02.2025 (Annexure-A), to the extent it demands the said pre-closure charges, is liable to be quashed, and the declaration sought in respect of the pre-closure charges is liable to be granted.

16.2. Since the entire outstanding amount has been repaid, the original security documents have been returned, and the funds in the escrow account and the debt service reserve account have been released, what remains is the closure of the loan account, the issuance of the no-due certificate and the discharge of the bank guarantee furnished pursuant to the interim order dated 07.03.2025.

16.3. In view of the above, this court passes the following:

ORDER

i) The Writ Petition is ***allowed in part***.

ii) The e-mail communication dated 03.02.2025 issued by the respondent (Annexure-A), insofar as it demands pre-closure charges of ₹3,03,02,872/- in respect of LRD Loan Account bearing No.7685942215, is hereby quashed. It is declared that the respondent-bank is not entitled to levy any pre-closure or pre-payment charges on the pre-closure of the said loan account.

iii) The respondent-bank shall, within a period of two weeks from date of receipt of a copy of this order, close LRD Loan Account bearing No.7685942215, issue a no-due certificate to the petitioner, and return the bank guarantee furnished by the petitioner pursuant to the order dated 07.03.2025, duly discharged.

iv) The interim order dated 07.03.2025 stands merged in this final order.

Sd/-
(SURAJ GOVINDARAJ)
JUDGE

PRS
List No.: 3 Sl No.: 1