IN THE HIGH COURT AT CALCUTTA

(Constitutional Writ Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

W.P.A. No. 23190 of 2025

Benimadhab Construction Private Limited & Another

Vs.

Reserve Bank of India & Ors.

Mr. Chayan Gupta
Ms. Mayuri Ghosh
Mr. Sourjyo Das
Ms. Poulami Bhowmick

....For the petitioners.

Mr. Debabrata Das
Mr. A. Sarkar
Mr. P. Acharjee

....For the R.B.I.

Ms. Soni Ojha
Ms. Sambrita B. Chatterjee

....For the respondent nos. 2 and 3.

Hearing Concluded On : 27.07.2026

Judgment Delivered On : 12.08.2026

Judgment Uploaded On : 12.08.2026

Krishna Rao, J.:

1. The petitioners have filed the present writ petition praying for a mandamus commanding the respondent no.1 to forthwith directing the respondent nos.2 and 3 to comply with the guidelines and directions issued by the Reserve Bank of India and to withdraw/ cancel/ rescind the notices dated 19th June, 2025.

2. The petitioners have availed loan from the respondent no.2 in the year 2012 and the same was renewed from time to time and was lastly renewed for a period of one year till 31st December, 2024 with the sanctioned amount of Rs. 150 Lakhs. On 29th January, 2025 by an email, the respondent bank has advised the petitioner no. 1 to deposit an amount of Rs. 7,00,000/- with the bank failing which the account of the petitioners would be declared as Non-Performing Account (hereinafter referred to as "NPA"). As per the advice of the bank, the petitioners have deposited an amount of Rs. 9,25,000/- in the bank account from 30th January, 2025 to 27th February, 2025. The petitioners had paid Rs. 1,00,000/- per month till May, 2025 towards the cash credit facilities.

3. In the month of June, 2025, the petitioners came to know that the account of the petitioners declared as NPA. On 19th June, 2025, the bank has issued notice under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "SARFAESI Act"). On 6th August, 2025, the petitioners have sent a reply to the notice under Section 13(2) of the SARFAESI Act calling upon the bank to review and renew/regularize the bank account and to revoke the NPA status in terms of the RBI and MSME guidelines.

4. Mr. Chayan Gupta, Learned Advocate representing the petitioners submits that the bank has a duty and obligation to ensure that all scheduled commercial bank act in compliance with the guidelines and directions but the respondent nos. 2 and 3 have acted in blatant breach and violation of the guidelines of the Reserve Bank of India and declared the account of the petitioners as NPA.

5. Mr. Gupta submits that the petitioner company is not a defaulter and had made payments to the bank regularly, whether it is interest or penal interest. He submits that the bank has never sent any notice of default that the account of the petitioners becomes NPA on 28th January, 2025. He submits that accounts of the petitioners were having enough amount to suggest that the petitioners have not committed any default for continuous 90 days. He submits that the Petitioner Company has made regular monthly interest payments to the bank and a significant amount has already been paid to the bank but despite of the same, the bank has declared the account of the petitioners as NPA.

6. Ms. Soni Ojha, Learned Advocate representing the respondent nos. 2 and 3 bank, submits that last renewal sanction letter dated 29th December, 2023, the cash limit of Rs. 150 lakhs was mutually agreed to be reduced by Rs. 1 lakh per month during the entire period of renewal and the writ petitioner was obliged to utilize the amount as per the reducing cash credit limit and to serve interest regularly without any default. She submits that till the month of September, 2024, the limit continued to be reduced by Rs. 1 lakh as per agreed terms of sanction.

7. Ms. Ojha submits that as per the terms and conditions of the sanction, the borrower was obliged to submit the stock and book debts and creditor's statements on a monthly basis containing details of the debtors and stocks or WIP to be received preferably by 10th of every month and in the event of non-deposit of such stock statement within the stipulated period, the same would also affect the credit limit under the agreement. She submits that the petitioners failed to submit monthly stock statement within the stipulated period which is a pre-requisite for maintaining the regular status in the account resultantly causing the drawing limit to be reduced by Rs. 4 lakhs in the month of September, 2024, alone. She submits that in the month of September, 2024, the drawing power was of Rs. 1.37 crores which was further reduced to Rs. 1.35 crores in the month of November, 2024.

8. Ms. Ojha submits that during the period of October, 2024, the drawing limit was only 1.36 crores, the account was overdrawn during most of the period and further dipped to a debit balance of Rs. 1,37,26,522.02 as on 31st October, 2024, on account of application of interest for the month of October, 2024 to the tune of Rs. 1,26,585.00 as on 31st October, 2024 as per the statement of the account. She submits that the overdrawn status continued for the month of November, 2024, December, 2024 and January, 2025 wherein no further payment was received to maintain regularity in the account.

9. Ms. Ojha submits that since the account of the petitioners was liable to be classified as NPA, a last opportunity was granted to the petitioners by an email dated 29th January, 2025, but the petitioners failed to pay the requisite amount within the date and accordingly, the loan account was classified as NPA. She further submits that subsequent to classification of the loan acount as NPA, the bank has issued a notice on 19th June, 2025, under Section 13(2) of the SARFAESI Act, calling upon the petitioners to pay the entire outstanding but inspite of receipt of notice, the petitioners failed to pay the said amount.

10. Heard the Learned Counsel for the respective parties and perused the materials on record. Admittedly, the petitioner no. 1 is a MSME. As per Clause 2.1.2.(i) of the Master Circular dated 2nd April, 2024, issued by the RBI, interest and/or installment of principal remains overdue for a period of more than 90 days in respect of a term loan, the account will be declared as NPA. As per Clause 2.1.2.(ii) the account remains 'out of order' as indicated at paragraph 2.2 below, in respect of an Overdraft/

Cash Credit (OD/CC). Clause 2.2 defines 'Out of Order' status. Clause 2.2.1 of the Master Circular reads as follows :

> *"**2.2.1.** A CC/OD account shall be treated as 'out of order' if:*
>
> *i) The outstanding balance in the CC/OD account remains continuously in excess of the sanctioned limit/drawing power for 90 days, or*
>
> *ii) The outstanding balance in the CC/OD account is less than the sanctioned limit/ drawing power but there are no credits continuously for 90 days, or the outstanding balance in the CC/OD account is less than the sanctioned limit/drawing power but credits are not enough to cover the interest debited during the previous 90 days period."*

11. On 29th January, 2025, the bank has advised the petitioners to deposit Rs. 7 lakhs failing which the account would be declared as "NPA". But as per the notice dated 19th June, 2025, the bank has already declared the account of the petitioners as NPA on 28th January, 2025, i.e. prior to issuance of email dated 29th January, 2025. The petitioners have deposited the total amount of Rs. 3,19,000/- in the account in the month of October, 2024. In the month of December, 2024, the petitioners have further deposited an amount of Rs. 45,000/-. In the month of January, 2025, the petitioners have deposited an amount of Rs. 50,000/- on 9th January, 2025, and Rs. 1,00,000/- on 28th January, 2025, total amounting to Rs. 1,50,000/-.

12. The bank has declared the account of the petitioners as NPA on 28th January, 2025, but the petitioners have deposited total amount of Rs.

9,14,000/-, from 30th October, 2024 to 28th January, 2025, thus no interest and/or installment of the principal remains overdue for a period of 90 days. As the petitioners have deposited the amount of Rs. 9,14,000/- on and from 30th October, 2024 to 28th January, 2025, thus it cannot be said that the status of the account of the petitioners was 'out of order'.

13. The bank in their supplementary affidavit, made out a case that in the event of non-deposit of stock statement within the stipulated period, the same would also affect the credit limit under the agreement. As per the Clause 4 of the terms and conditions of the sanction letter, reckoning of default of stock and book debits statement, the default interest rate per annum is 2% over and above, prevailing rate for irregular period. The case made out by the bank is contrary to the correspondence made by the bank with the petitioners. The bank by an email dated 29th October, 2024, informed the petitioners that the stock statement of the petitioners has been processed and the drawing power is now Rs. 4,20,86,250/-. By an email dated 5th November, 2024, it was informed to the petitioners that the stock statements of the petitioners is processed and the drawing power is Rs. 40,612,500/- and by an email dated 21st March, 2025, the bank has informed the petitioners that the stock statements of the petitioners has been processed and the drawing power is Rs. 47,137,500/-. There is no agreement produced by the bank that in the event of non-deposit of stock statements within the stipulated period, the same would affect the credit limit under the agreement. As per Clause 4 of the sanction letter, the bank can only charge 2% over and above, the prevailing rates for the irregular period for the stock and book debits statement.

14. Considering the above, this Court finds that the bank has declared the account of the petitioners as NPA on 28th January, 2025, but on 29th January, 2025, the bank has advised the petitioners to pay Rs. 7 lakhs. From the statement of accounts relied by the petitioners, it is found that from 30th October, 2024 to 28th January, 2025, the petitioners have deposited the total amount of Rs. 09,14,000/- and as per the Master Circular dated 2nd April, 2024, neither any amount was overdue more than 90 days, neither the account of the petitioners can be treated as 'NPA' or 'out of order'.

15. In view of the above, the order dated 19th June, 2025, issued by the respondent nos. 2 and 3 are set aside and quashed. The bank is directed to act in accordance with the Master Circular dated 2nd April, 2024.

16. **WPA No. 23190 of 2025** is **allowed**.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)