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ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/440/2026

M/S. DUSAP PHARMACEUTICALS AND ANR
VS
INDIAN BANK (e-ALLAHABAD BANK AND ANR)

BEFORE:
The Hon'ble JUSTICE RAI CHATTOPADHYAY
Date : 14th October, 2026.

Appearance
Mr. Jishnu Chowdhury, Sr. Adv.
...for the petitioner

Ms. Amrita Pandey, Adv.
Ms. Sangita Mishra, Adv.
...for Indian Bank

The Court: The petitioner's grievance in the instant writ petition is that the respondent bank has proceeded in the SARFAESI action, without granting the petitioner any scope or opportunity to move the committee constituted under MSME Revival and Rehabilitation Framework Instructions dated 29.05.2015, as revised by RBI notification dated 17.03.2016.

Mr. Chowdhury, learned Senior Counsel appearing for the petitioner has contended with reference to various judgments of the Supreme Court as well as this Court that irrespective of the proceeding under the SARFAESI Act being initiated against the petitioner and subject to the said proceeding having not been concluded as yet, the petitioner shall have entitlement for being considered by the said committee. It is submitted that under the framework for Revival and Rehabilitation the banks or creditors are duty-bound to identify the incipient stress in the account of the MSME before such account can be turned to be a non-performing asset. It is submitted further that the framework has provided the mode and manner to identify such incipient stress in the account and authority to the MSME to voluntarily initiate proceeding under the said framework, by filing

application along with affidavit of an authorized person. It is submitted that the Constitutional Court have time and again identified such identification by the designated committee to be a very crucial stage in the entire proceeding.

Allegedly, several writ petitions of the petitioner has been turned down by the respondent bank itself without considering the proposal of the petitioner. Mr. Chowdhury, learned senior counsel has submitted that firstly the bank is not authorized under the framework as stated to consider petitioner's representations and should have redirected it to the committee concerned for consideration thereof in terms of the framework. Secondly, he says that such action of the respondent bank is not only unauthorized but also against the letter and spirit of the beneficial scheme and legislations provided by the State for welfare of the MSMEs.

The following judgments have been referred to :-

1. ***In the matter of: Proknits Versus Board of Directors of Canara Bank and Others*** reported at ***(2024) 10 SCC 292*;**
2. ***In the matter of: Shri Shri Swami Samarth Construction and Finance Solution and Another Versus Board of Directors of NKGSB Co-op. Bank Ltd. and others*** reported at ***(2025) 258 Comp Cas 163 : 2025 SCC Online SC 1566;***
3. ***In the matter of: Mahua Bhaumik Versus Union of India and Others*** reported at ***2025 SCC OnLine Cal 9990;***
4. **In the matter of: Bizitza Retail Ventures Private Limited and Others Versus Central Bank of India and Others** reported at **2026 SCC OnLine Cal 405.**

The respondent's contention inter alia is that the petitioner has not at all made any application before the committee. Therefore, according to the

respondent/bank the instant writ petition by the petitioner is a pre-matured one. With reference to the letters issued by the respondent bank during pendency of the instant writ petition, one of which has been issued in pendency of the present writ petition that is letters dated August 24, 2026 and dated September 11, 2026, the bank has duly and sufficiently explained the reasons for which the representations of the petitioner could not have been accepted or conceded to by the bank.

At this juncture Mr. Chowdhury, learned Senior Counsel appearing for the petitioner seeks leave to withdraw the present writ petition and further seeks that the petitioner may be granted liberty to move the committee with an appropriate application.

It appears that in letter dated September 11, 2026, the respondent bank has mentioned that the petitioner may submit the requisite financial/business information and revival proposal, for consideration in accordance with the applicable norms. Having perused the facts and circumstances in the present case and the respective submissions of the learned Counsels appearing for the petitioner as well as bank, the Court finds it proper to grant liberty to the petitioner for submission of representation regarding revival proposal and financial/business information, if any, before the committee constituted under the RBI notification dated 17.03.2026, within a period of 48 hours from today. In that event the committee shall proceed for consideration of such application by the petitioner in accordance with law.

Since the Court has not entertained into the merits of the present writ petition, all points and disputes therein are kept open.

Eventually, it is directed that the present writ petition is disposed of as withdrawn.

(RAI CHATTOPADHYAY, J.)

S. Mandi