

LEGAL UPDATES

BOMBAY HC: HC RBI MASTER CIRCULARS PERTAINING TO WILLFUL DEFAULTERS, NOT APPLICABLE TO NON-SCHEDULED UCBS

Three former directors of a company (the "Petitioners") filed writ petitions with the High Court challenging a show-cause notice ("SCN") and order issued by Respondent-Bank designating the Petitioners as willful defaulters which were consequently allowed. The Bench was headed by Makarand Subhash Karnik, N. J. Jamadar. The document mentioned that the Respondent is a Non-Scheduled Urban Co-operative Bank (UCB), which sent an SCN to the Petitioners. In their response, the Petitioners particularly questioned whether the Respondent was authorized to send such a notice. The Court took notice of RBI's position that the provisions for designating a person as a wilful defaulter only apply to Scheduled UCBs and not to Non-Scheduled UCBs, despite the fact that the two most recent master circulars on wilful defaulters, dated July 1, 2015, are applicable to All Scheduled Commercial Banks (excluding RRBs), All India Notified Financial Institutions, and Scheduled UCBs. In light of RBI's declaration that these master circulars do not apply to Non-Scheduled UCBs, such as the 2nd Respondent, the HC considered that the question must conclusively be resolved at that point, and the Petition must be allowed. The HC continued by stating that since RBI has made its position crystal apparent, it is hard to support the Respondent's actions in issuing the show cause notice or the order that followed. As a result, the HC allowed petitions while emphasizing that it has simply provided an interpretation of the RBI circular and has not addressed the validity of the Respondent's claim or limited its access to legal remedies.