

## LEGAL UPDATES

### **TELANGANA HC: HC UPHOLDS THE CONSTITUTIONALITY OF RBI MASTER DIRECTIONS ON FRAUD**

In a writ filed by the Director and Promoter of a Company (“Petitioner”), the question raised before the division bench constituting of Chief Justice S.C. Sharma and Justice N. Tukaramji of Telangana HC was the validity of RBI circular dated 01.07.2016, titled “Reserve Bank of India (Frauds – Classification and Reporting by Commercial Banks and Select FIs) Directions, 2016”(“RBI circular on Fraud”). The Petitioner raised the issue that RBI's circular on Fraud is in contravention of Art.14 & 21 of the Indian Constitution and the act of classification of the Petitioner’s bank accounts as fraud is illegal and violates the principle of natural justice; thereby seeking to set aside the actions of Banks against Petitioner. HC took notice of the comprehensive procedure laid down by RBI for the detection of fraud vide RBI circular on fraud. Additionally, Banks undertake forensic audit wherein the documents as supplied by the borrower are meticulously scrutinized and it is not the case where Banks procures any foreign documents which were not supplied by the borrowers. The HC also took note that the borrowers are well informed of the examination of the documents being supplied by them. The Hon’ble Court relied on its earlier decisions on similar facts and laws wherein the court failed to observe any provisions wherein an opportunity of being heard is provided to the borrowers and further observed that the issue is still lis-pendis before the Apex Court and hence need not be dealt herein. Thereby, the HC rejected the Petitioner’s contention of opportunity of hearing before classifying accounts as fraud. The HC also noted that the classification of Petitioner’s accounts is based on the forensic audit report and hence there is no illegality or irregularity in the actions of Respondent. Therefore, the court did not interfere in the classification of Petitioner’s accounts as fraudulent. Hence, the petition was rejected.