Case Citation: (2026) taxcode.in 1672 HC

IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SANDEEP N. BHATT

ON THE 6th OF OCTOBER, 2026

WRIT PETITION No. 40821 of 2026

CNR No.: MPHC020394092026

M/S SA INFRASTRUCTURE THROUGH PROPRIETOR SAYYED AFSAR ALI

Versus

BANK OF INDIA AND OTHERS

Appearance:

Shri Vivek Dalal - Advocate for the petitioner.

Shri Arpit Guru, learned counsel for the respondent .

WITH

WRIT PETITION No. 41448 of 2026

CNR No.: MPHC020399072026

SAIYYED OWAIS ALI AND OTHERS

Versus

BANK OF INDIA AND OTHERS

Appearance:

Shri Vivek Dalal - Advocate for the petitioner.

Shri Arpit Guru, learned counsel for the respondent .

WRIT PETITION No. 41453 of 2026

CNR No.: MPHC020399222026

VR CONSTRUCTION THROUGH ITS PRPIETOR SAIYYED MOHABBAT ALI

Versus

www.taxcode.in

Appearance:

Shri Vivek Dalal - Advocate for the petitioner.

Shri Arpit Guru, learned counsel for the respondent .

ORDER

1. All the aforesaid three petitions are having similar issue and are interconnected with each other, therefore all the petitions are heard together.

2. Present petitions have been filed under Article 226 of the Constitution of India seeking following prayers:

WP no. 40821/2026

A) Issue a writ of Certiorari or any other appropriate wit, order or direction quashing and setting aside the Impugned Order dated 24.08.2026 declaring SA Infrastructure as “Fraud”;

(B) That, the Respondents be directed to follow the principles of natural justice in terms of the law laid down by Apex court in Rajesh Agrawal (Supra);

(C) Pass any other order or orders as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case

(D) That the Respondents be directed to permit the Petitioner firm to submit the reply to the show cause notice 01/07/2026 along with all the documents to adjudicate the show cause notice dated. 01/07/2026.

WP no. 41448/2026

(A) Issue a writ of Certiorari or any other appropriate writ, order or direction quashing and setting aside the Impugned Order dated 10.09.2026 declaring the account of M/s SMO Ferro Alloys Ltd. And the names of Petitioners as "Fraud";

(B) Direct the Respondents to follow the principles of natural justice in terms of the law laid down by the Hon'ble Supreme Court in State Bank of India v. Rajesh Agarwal (supra) and the RBI Master Directions on Fraud Risk Management, 2024, including grant of adequate time to submit a complete reply and opportunity of personal hearing, before taking any decision on classification of the account as

fraud;

(C) Pass any other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

WP no. 41453/2026

A) Issue a writ of Certiorari or any other appropriate writ, order or direction quashing and setting aside the Impugned Order dated 10.09.2026 declaring the account of M/s V R Construction as "Fraud":

(B) The Respondents be directed to follow the principles of natural justice in terms of the law. laid down by the Apex Court in Rajesh Agarwal (Supra) and the RBI Master Directions, 2024, including grant of adequate time and personal hearing;

(C) Pass any other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case;

3. Learned counsel for the petitioners have submitted that in the present petitions, on the basis of forensic audit, the accounts have been classified as fraud, which is not permissible in view of the settled position of law as in support of his contention, he has placed reliance upon the judgment delivered by Hon'ble Supreme Court in the case of ***State Bank of India & Ors. v. Rajesh Agarwal & Ors.***, reported in ***(2023) 6 SCC page 1*** and submitted that in the factual scenario, where the entire record is seized by the GST Department, the petitioners have prayed to grant some more time. He has further contended that the notices have been issued by respondent no. 3 /Zonal Manager, Bank of India, Ujjain and and the impugned order is passed by the respondent no. 2 / The Fraud Monitoring Group, therefore, on that count also, he has submitted that the principle of natural justice is not properly followed, therefore, he is challenging the decision making process, which is not in consonance with the law as the Authority has not properly given opportunity to collect the documents and to file reply. Without filing

of that reply, the impugned order is passed. He further submitted that even that flagging is not done by the respondent regarding such suspicious entries and therefore, he has submitted that the impugned action of the respondent / Authority is bad in law and requires to be interfered with by exercising the powers under Article 226 of the Constitution of India and granting prayers in the present petitions.

4. *Per-contra,* learned counsel for the respondent / Bank has opposed the prayers made by the petitioners and submitted that in view of the latest judgment delivered by H)on'ble Supreme Court in the case of ***State Bank of India Vs. Amit Iron Private Limited and Ors [Civil Appeal nos. 4243-4244 of 2026 decided on 07/04/2026],*** the judgment delivered in the case of ***State Bank of India & Ors. v. Rajesh Agarwal & Ors*** has been further clarified, more particularly, specifying that an opportunity of personal hearing is required to be given. He has further submitted that as per the circular, the minimum period of 21 days is required to be granted to such persons, however, in the present case, 31 days time is granted. Lastly, he has relied upon the judgment delivered by the Division Bench of the High Court of Judicature at Bombay in the case of ***Urvil Akshaya Jani Vs. Punjab National Bank [Writ Petitoin (L) no. 42763 of 2025 decided on 10/07/2026],*** more particularly referring to para no. 5 , which is reproduced as under :

> 5. The second ground on which the impugned Order was assailed is that it is an unreasoned Order and hence violates Clause 2.1.1.4 of the Fraud Master Circular of 2024. This argument is premised on the basis that the response given by the Petitioner has not been referred to or considered in the impugned Order. At the outset, we must note that the Respondent Bank has held the Petitioner guilty of fraud on all the grounds that were alleged in its Show Cause Notice on 28th April,

2025. Whilst entertaining a Writ Petition challenging the Order classifying the account of the Petitioner as fraud, the Court under Article 226 of the Constitution of India, is not concerned with the merits of the decision but the decision making process. In Writ Jurisdiction, this Court does not sit in Appeal over the correctness of the decision taken by the Respondent Bank in classifying the account of the JULY 10, 2026 Mansi shelke sr.15-wp(l)-42763-2025.doc Petitioner as fraud. This apart, even if in respect of any one of the grounds for classifying the account as fraud, due process is followed, then the Order cannot be assailed on the alleged ground that the process is not followed with reference to the other grounds. This is for the simple reason that an account can be classified as fraud on multiple grounds. In the facts of the present case, one of the grounds for classifying the account of the Petitioner as fraud was that the company, namely, the borrower, was guilty of entering into transactions of ostensible purchases and sales and that most of the turnover comprises of these ostensible purchases and sales not supported by physical movement of goods. On this aspect, the relevant portion of the impugned Order dated 19th December, 2025 are reproduced hereunder :

"Factor of Fraud 2:

The company operated with 3 different groups for the ostensible purchases and sales by way of circular trading wherein no gross margin / surplus were booked.

Response of Director Mr Urvil A Jani:

The bank had alleged that certain companies operated with three different groups and that's purchase and sales by way of circular trading had taken place. Accordingly details of the name of such companies as well as the details of the purchase and sales transactions were sought. In the letter dated 01.12.2025 the bank as produced a list while a list of vendors has been produced, debtor and creditors has been produced no details of transactions are given. Furthermore, it is un clear as to how on what basis these vendors have been set out or whether they are in part of the Forensic Audit Report being relied upon by the bank in the show cause notice. Therefore, it would be necessary that further details JULY 10, 2026 Mansi shelke sr.15-wp(l)-42763-2025.doc clarifying and specifying the transaction found to be suspicious are set out and furnished.

Committee's Views :

The details of the parties involved in the ostensible purchases and sales through

circular trading have already been furnished to the borrower, with further particulars clearly set out in Annexure 4 of the Forensic Audit Report (FAR) provided earlier. The Forensic Auditor has categorically observed that the proof of genuine transactions produced by the borrower, in the form of Lrs, accounts for less than 0.14% of the total transactions claimed, thereby casting serious doubt on the authenticity of the operations. When requested to provide invoices, LRs, and other supporting documents, the borrower admitted that they were not in possession of the same, citing seizure by the GST Department.

However, upon verification on 19.07.2019 at the Directorate of GST, the Forensic auditor found 17 box files of sales invoices, of which 9 contained only 13 LRs, while LRs in the remaining 8 boxes appeared dubious sceptic as (a) it did not bear telephone no and email ID of transporter, (b) even drivers copy appeared to have been prepared subsequently with a view to create evidence, at one point, considering Hand writing (c) same vehicle managed 3 round trips from Bhiwandi to vashi and another trip from Bhiwandi to Vikroli, all trips in one day Furthermore, regarding sale of goods in the account, The Honorable Additional Sessions Judge in the Court of Sessions at Greater Bombay, while considering Mr. Urvil Jani's Bail Application (No. 196 of 2019 in CNR No. MHCC02-001002- 2019) observed that "It is vehemently argued by the Learned Advocate for the applicant (Mr. urvil Jani) that as per Section 9 of the GST Act, the respondent (the GST Department) can levy and recover the taxes only on the supply of goods and services but when there is no supply of goods and services, then there is no question of payment of GST. upon consideration of aforesaid arguments, it appears to me that the applicant has not disputed that no actual sale and purchase transaction took place.' In light of these findings, the borrower has failed to establish the genuineness of the transactions or rebut the clear indicators of fraud, and the Bank's position that the purchases and sales were ostensible and fraudulent stands fully justified. Factor of Fraud 3:

JULY 10, 2026 Mansi shelke sr.15-wp(l)-42763-2025.doc Most of the turnover comprised ostensible purchases and sales not supported by physical movement of goods. These purported purchases and sales were recorded for inflating turnover so as to get higher working capital credit limits from the banks.

Response of Director Mr Urvil A Jani:

details of the purchase sale transaction considered as suspicious were sought

however instead of providing details of such purchase sales transactions the bank has stated that "Only few bills/LRs were made available to the auditors by the company. Rest bills were without any supporting documents and parties with whom such business was done belong to the same group, list of which is being shared under the debtors and creditors sheet:" Considering and given the response issued by the bank and since it is now admitted that the bank did not have sufficient documents in relation to the allegation, the bank is called upon to clarify the basis on of which the said allegation in Sr No 3 was made in the first place in the show cause notice and also provide copy of such material which the allegation was made. You will appreciate that any response to such an allegation can only be made once the details sought by our letter dated 04.06.2025 are provided, or at least the document material basis which such an allegation in sr 4 is made may furnished.

Committee's Views:

The Bank's view on the given factor has already been explained under Factor of Fraud 3. In light of the same, the borrower has failed to provide any justification."

5. Relying upon the aforesaid judgment, he has submitted that the prayers in the present petitions are not required to be considered, more particularly, when the representation is made before the Authority under the Master Circular.

6. I have considered the rival submissions made by the parties and also considered the fact that all the aforesaid petitions are interconnected and are having common and specific grievance about identifying the respective account as fraud. It is needless to observe that Hon'ble Apex Court, while considering the aspect of principle of natural justice in the case of ***State Bank of India & Ors. v. Rajesh Agarwal & Ors.***, reported in ***(2023) 6 SCC page 1*** has observed in para nos. 49 and 50 which read as under :

49. Clause 8.12 of the Master Directions on Frauds deals with the penal measures for borrowers. Clause 8.12.1 provides that penal provisions as applicable to wilful defaulters would apply to fraudulent borrowers, including the promoters and

Directors of the borrower company. The consequences that apply to a wilful defaulter under the Master Circular on Wilful Defaulters have been culled out in *Jah Developers* [*SBI* v. *Jah Developers (P) Ltd.*, (2019) 6 SCC 787 : (2019) 3 SCC (Civ) 412] : (SCC p. 795, para 9)

"*9.* … serious consequences follow after a person has been classified as a wilful defaulter. These consequences are as follows:

(*a*) No additional facilities to be granted by any bank/financial institution [Para 2.5(*a*)].

(*b*) Entrepreneurs/Promoters would be barred from institutional finance for a period of 5 years [Para 2.5(*a*)].

(*c*) Any legal proceedings can be initiated, including criminal complaints [Para 2.5(*b*)].

(*d*) Banks and financial institutions to adopt proactive approach in changing the management of the wilful defaulter [Para 2.5(*c*)].

(*e*) Promoter/Director of wilful defaulter shall not be inducted by another borrowing company [Para 2.5(*d*)].

(*f*) As per Section 29-A of the Insolvency and Bankruptcy Code, 2016, a wilful defaulter cannot be a resolution applicant."

50. In addition to the above consequences, borrowers are also liable to suffer the following consequences under the Master Directions on Frauds:

50.1. No restructuring may be made in the case of an RFA or fraud accounts (Clause 8.12.2).

50.2. No compromise on settlement involving a fraudulent borrower is allowed unless the conditions stipulate that the criminal complaint will be continued (Clause 8.12.3).

50.3. The above consequences show that the classification of a borrower's account as fraud under the Master Directions on Frauds has difficult civil consequences for the borrower. The classification of an account as fraud not only results in reporting the fact to investigating agencies, but has other penal and civil consequences as specified in Clauses 8.12.1 and 8.12.3.

7. It also transpires that in para no. 94, the Court has observed the requirement of passing reasoned order by the Authority. The relevant para. is

reproduced as under :

> **94.** Before concluding, we also want to address the argument by the borrowers that the requirement of passing a reasoned order must be read into the Master Directions on Frauds. The borrowers also relied on *Jah Developers* [*SBI* v. *Jah Developers (P) Ltd.*, (2019) 6 SCC 787 : (2019) 3 SCC (Civ) 412] wherein it was held that a final decision of the Review Committee declaring the borrower as a "wilful defaulter" must be made by a reasoned order. We agree with this contention of the borrowers because : (*i*) a reasoned order allows an aggrieved party to demonstrate that the reasons which persuaded the authority to pass an adverse order against the interests of the aggrieved party are extraneous or perverse; and (*ii*) the obligation to record reasons acts as a check on the arbitrary exercise of the powers. [*Kranti Associates (P) Ltd.* v. *Masood Ahmed Khan*, (2010) 9 SCC 496 : (2010) 3 SCC (Civ) 852] The reasons to be recorded need not be placed on the same pedestal as a judgment of a court. The reasons may be brief but they must comport with fairness by indicating a due application of mind.

8. It is also relevant to refer to the subsequent judgment of Hon'ble Apex Court delivered the case of ***State Bank of India Vs. Amit Iron Private Limited and Ors.*** The relevant para no. 126 is reproduced as under for the sake of reference :

> 126. In view of the discussion hereinabove, we hold: -
>
> a) Rajesh Agarwal (supra) did not recognize any right in the borrower to a personal hearing by the banks before classifying their account as a fraud account;
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> b) The RBI in its Master Directions of 15.07.2024 correctly understood the scope of Rajesh Agarwal (supra) and incorporated Clause 2.1.1.1, 2.1.1.2, 2.1.1.3, and 2.1.1.4 as the procedure to be followed before classifying an account as a fraud account;
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> c) The procedure set out in Rajesh Agarwal (supra) which has been incorporated in the Master Directions of 2024 strikes a fair balance between promptitude and fairness and duly comports with the principles of natural justice ensuring fairness to the borrower whose account is likely to be classified as a fraud account.
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> d) Wherever audit reports are available, including forensic audit reports, the same shall be furnished to the borrower and their representation on the report, including

on the findings and conclusions be elicited, in case the banks consider the audit report relevant for classifying the account as fraud account. In view of the same, disclosure by furnishing copies of the audit report, including the forensic audit report to the borrower is mandatory. Supply of reports in digital form will be valid compliance;

e) As held in T. Takano (supra), if the banks, for reasons to be recorded establish that the disclosure of any part of the report would effect the privacy of third parties, in that exceptional situation banks would be justified to withhold those portions of the report which concern third party rights;

f) We reiterate that the rule is to supply the audit reports, including the forensic audit reports since even under Clause 4 of Chapter IV of the 15.07.2024 Master Directions post the red-flagging of the account banks use the audit mechanism for further investigation. Even in the exceptional cases we hope and expect that the banks will not unreasonably use the power of redaction since that will only end up delaying the culmination of proceedings. Clause 4.1.4 also reiterates that banks shall ensure the principles of natural justice. That this was the legal position even under the 2016 Master Directions is clear from para 95 of Rajesh Agarwal (supra);

g) The judgments of the High Courts which have taken a contrary view to what we have held hereinabove would stand overruled.

9. I have considered the material available on record. It transpires that as per the Master Circular, 21 days' time is required to be granted, however, 31 days' time has already been granted to the petitioners and thereafter, the impugned order is passed. As it is right that the petitioners have failed to produce the reply, it is contended that the entire documents of the petitioners by way of record of years together are lying with the GST Department /Authority, therefore, it cannot be said that the respondent / Authority has not followed necessary procedure as prescribed under the law. Moreover, the accounts of the petitioners have been identified as fraud in view of the observations made in the forensic audit by the Authority. It

cannot be said that any observations made in forensic audit is merely on suspicion and on the basis of particular document. *Prima-facie,* I am of the view that it is settled position of law. It cannot be said also that though respondent no. 3/ the Zonal Manager, Bank of India, Ujjain has issued notice and respondent no. 2/ The fraud Monitoring Group, Bhopal has decided such issue by giving decision pursuant to the same notice, is not permissible. Such issues are required to be decided on the basis of the material available on record and when the person, who is having charge of deciding such issues, more particularly, regarding the fraudulent transaction made by the parties, it cannot be said that the person, who has passed the order, is not having any valid authority under the law and has not applied his / her mind. On the contrary, the material available with the respondent / Authority is appreciated by the parties and thereafter passed appropriate order in accordance with the law. Otherwise also, it is now well settled position that by way of writ petition/s, the petitioner/s cannot challenge the decision, but can challenge during the decision making process. I found no arbitrariness, impropriety or illegality in the process obtained by the Authority. It is needless to observe that if such accounts to the tune of Rs. 43 Crores are identified as fraud, it is certainly on the basis of some diversion of funds by the concerned borrower/s and thereafter, on minute scrutiny of the accounts by forensic audit, the respondent / Authority has come to such conclusion. On that basis also, I found that the action taken by the respondent / Authority cannot be considered as unjust and improper or against the settled principle of law, more particularly, the principle of natural justice, therefore, no

interference is called for.

10. In view of the aforesaid observations, all the present petitions are dismissed.

11. A copy of this order be placed on the record of connected writ petitions.

CC as per rules.

(SANDEEP N. BHATT)
JUDGE

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