HC-KAR

NC: 2026:KHC:46639
WP No. 5209 of 2026

CNR: KAHC010115872026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 5209 OF 2026 (GM-DRT)

BETWEEN:

1. M/S ADDITIVE 3D
ADDRESS: NEAR GOODWILL
GANGA APARTMENT
N-14, CHANDRA LAYOUT,
GROUND FLOOR, 2ND MAIN ROAD
2ND CROSS, ATTIGUBE BINY LAYOUT
BENGALURU, BENGALURU URBAN,
KARNATAKA-560 040
REPRESENTED BY ITS PARTNER AND
AUTHORISED SIGNATORY
MR. PRAKASAM ANAND
AGED ABOUT 53 YEARS

2. MR. PRAKASAM ANAND
AGED ABOUT 53 YEARS
S/O LATE SHRI S. PRAKASAM,
R/O VILLA NO. 1, CHAITANYA RAKUEN,
SWAMY VIVEKANANDA ROAD, WHITEFIELD-
BANGALORE-560 066

...PETITIONERS

(BY SMT.GEETA LUTHRA, SENIOR COUNSEL FOR
SRI. SHOWRI H.R., ADVOCATE)

AND:

1. ICICI BANK LIMITED
A BANKING COMPANY INCORPORATED
UNDER THE COMPANIES ACT,
HAVING ITS CORPORATE OFFICE
AT ICICI BANK TOWERS,

BANDRA KURLA COMPLEX,
MUMBAI – 400 051

(REPRESENTED BY
THE AUTHORISED OFFICER,
ICICI BANK LIMITED,
4/10, MYTHREE TOWER,
BOMMANAHALLI, HOSUR MAIN ROAD,
BENGALURU -560 068)

2. RESERVE BANK OF INDIA,
REPRESENTED BY ITS GOVERNOR,
CENTRAL OFFICE,
SHAHID BHAGAT SINGH MARG,
MUMBAI -400 001

3. UNION OF INDIA,
THROUGH THE SECRETARY,
MINISTRY OF MICRO,
SMALL AND MEDIUM ENTERPRISES,
UDYOG BHAWAN, RAFI MARG,
NEW DELHI – 110 011

…RESPONDENTS

(BY SRI.B.S.JEEVAN KUMAR, ADVOCATE FOR R1
SRI.BHEEMAIAH, CGSC FOR R3)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ACTION TAKEN BY RESPONDENT NO.1 UNDER SECTION 13(4) OF THE SARFAESI ACT, 2002 PRODUCED HEREWITH AS ANNEXURE-A AND ALL CONSEQUENTIAL PROCEEDINGS.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED ON 15.04.2026, COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CAV ORDER

The present writ petition is filed seeking the following prayer:

"PRAYER

WHEREFORE, it is most respectfully prayed that this Hon'ble Court be pleased to:

1. ***ISSUE A WRIT of certiorari or any other appropriate writ quashing the action taken by Respondent No.1 under Section 13(4) of the SARFAESI Act, 2002, dated 06.01.2026 produced herewith as ANNEXURE-A and all consequential proceedings.***
2. ***ISSUE A WRIT of mandamus directing Respondent No.1 to constitute a Stressed MSME Committee and consider the Petitioner strictly in accordance with Government of India Notification 29.05.2015 at Annexure-C and binding RBI directions.***
3. ***AND ALSO ISSUE any other order, direction to meet the ends of justice and the same may kindly be considered in the interest of justice and equity."***

2. It is the case of the petitioners that the petitioner is a duly registered micro enterprise within the meaning of Section 7 of the Micro, Small and Medium Enterprises Development Act, 2006 (for short 'MSMED Act'). The petitioner holds a valid UDYAM Registration dated 30.06.2021 and commenced business operations on 21.02.2020. The petitioner is engaged in specialized industrial and technical activities and constitutes

a viable MSME unit. By virtue of such registration and operational viability, the petitioner is statutorily entitled to the protections, safeguards and revival and rehabilitation mechanisms envisaged under the MSMED Act. It is stated that the petitioner acting bonafide and in strict conformity with the statutory framework governing Micro, Small and Medium Enterprises, formally invoked the revival and rehabilitation mechanism as mandated under law. It is stated that the petitioner submitted a detailed written representation dated 10.07.2025 to respondent No.1 expressly seeking the constitution of Stressed MSME Committee in terms of Government of India Notification dated 29.05.2015 issued under Section 9 of the MSMED Act. The said representation comprehensively set out the petitioner's financial position and sought consideration under the mandatory statutory process for revival and reconstruction applicable to MSMEs.

3. It is stated that the Government of India Notification dated 29.05.2015 issued under Section 9 of the MSMED Act, 2006, mandatorily requires lending institutions to identify financial stress in MSME accounts, constitute a stressed MSME

Committee, consider appropriate corrective action plans including restructuring or revival and expressly prohibits resort to any coercive recovery measures, including proceedings under the SARFAESI Act. Despite receipt of the petitioner's detailed representation dated 10.07.2025, respondent No.1, while ostensibly purporting to act in discharge of their public and statutory functions, have proceeded to issue illegal, arbitrary and coercive recovery measures vide notice dated 15.09.2025. In the said notice, the respondent/Bank has alleged that the petitioner approached the bank for sanction of a credit overdraft facility against purported "secured assets" and on the alleged non-servicing of dues for a period of exceeding 90 days, classified the account as a non-performing asset. On this basis, the respondent has wrongly sought to fasten joint and several liability upon petitioner for an alleged outstanding amount of Rs.5,44,25,820.93/- as on 02.09.2025 with a demand to repay the entire sum within 60 days.

4. It is stated that the issuance of aforesaid notice is ex-facie unlawful and without jurisdiction, having been undertaken in complete derogation of the mandatory MSME revival and

rehabilitation framework and in direct violation of the binding Government of India Notification dated 29.05.2015. It is stated that the petitioner is a bonafide MSME entitled to statutory protection and rehabilitation under the Government of India Notification dated 29.05.2015. Despite this, the respondent/bank issued a notice under Section 13(2) of the SARFAESI Act, 2002 making arbitrary demands. In response to which, the petitioner submitted a detailed reply under Section 13(3A) of the SARFAESI Act, 2002 dated 15.10.2025, categorically demonstrating that the SARFAESI proceedings are ultra vires for non-compliance with the mandatory MSME revival framework and for the arbitrary imposition of a conditional No Objection Certificate in respect of overdraft account No.317005000922. In the reply dated 15.10.2025, it is specifically brought to the respondent's notice that the petitioner had earlier submitted a formal written request dated 10.07.2025 seeking constitution of a stressed MSME Committee along with a detailed revival roadmap, debtor-creditor particulars, GST filings and material evidencing recovery efforts and had repeatedly expressed willingness to facilitate inspection and restructuring. Despite the same, no committee was constituted, no bonafide attempt at revival or restructuring was undertaken, in clear derogation of the statutory mandate, rendering such actions ex-facie arbitrary and unreasonable.

5. It is stated that despite the petitioner having raised detailed and substantive objections under Section 13(3A) of the SARFAESI Act, specifically highlighting the mandatory applicability of the MSME revival and rehabilitation framework and the consequent lack of jurisdiction to proceed with coercive measures, respondent No.1, without adverting to or dealing with the allegations, has issued a symbolic possession notice under Section 13(4) of the SARFAESI Act and the said action is arbitrary and illegal. It is stated that the petitioner has been threatened with imminent coercive steps under the SARFAESI Act, including auction of the secured assets with a stated deadline of 09.02.2026, thereby exposing the petitioner to grave, irreparable and irreversible prejudice. It is stated that once the petitioner had invoked the statutory MSME revival and rehabilitation mechanism prior to the issuance of the notice under Section 13(2) of the SARFAESI Act, the respondent/bank stood denuded of jurisdiction to proceed under the SARFAESI

Act without first strictly complying with the mandatory statutory framework governing stressed MSMEs. It is stated that the maintainability of the writ petition is no longer res integra in view of the authoritative pronouncement by the Hon'ble Supreme Court in case of ***Pro Knits Vs. Board of Directors of Canara Bank***[1]. It is further stated that respondent/Bank's failure to identify financial stress, constitute the mandatory stressed MSME Committee, consider revival or restructuring measures, and adhere to the prescribed procedure prior to initiating coercive recovery under the SARFAESI Act, constitutes a clear breach of statutory obligations and public duties having the force of law. Hence, this Court shall put the Reserve Bank in strict proof of its compliance with the mandatory MSME revival and rehabilitation framework which forms the very foundation of the proceedings and directly vitiates the actions complained of therein.

6. Learned Senior Counsel representing the learned counsel for the petitioner submits that the initiation and continuation of the proceedings under Sections 13(2) and 13(4)

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[1] 2024 10 SCC 292

of the SARFAESI Act are ex-facie illegal, without jurisdiction, and contrary to the Government of India notification dated 29.05.2015. It is submitted that the notification dated 29.05.2015 issued under Section 9 of the MSMED Act, 2006, laid before both Houses of Parliament has statutory force and is binding on all banks, public and private and cannot be treated as advisory or directory. The petitioner has given representation dated 10.07.2025 much prior to the issuance of Section 13(2) notice thereby placing respondent No.1 under binding legal obligation to first constitute the stressed MSME Committee. Despite such prior invocation, respondent No.1 failed to constitute the committee.

7. Learned Senior Counsel has relied on several judgments. He relied on the judgment in ***Pro Knits***'s case referred supra, paragraph Nos.20 which reads thus:

> ***"20. Therefore, the stage of identification of incipient stress in the loan account of MSMEs and categorisation under the Special Mention Account category, before the loan account of MSME turns into NPA is a very crucial stage, and therefore it would be incumbent on the part of the MSME concerned also to produce authenticated and verifiable documents/material for substantiating its claim of being MSME, before its account is classified as NPA. If that is not done, and once the account is classified as NPA, the banks i.e. secured creditors would be***

entitled to take the recourse to Chapter III of the Sarfaesi Act for the enforcement of the security interest."

8. Learned Senior counsel had relied ***A.K. Karthikeyan v. The Authorized Officer, Canara Bank***[2], paragraph Nos.20 to 22 reads as follows:

"20. The banks are back bone of India's economy and it is the duty of the banks not to kill the business units. The bank ought to recover the loans as well as allow the business units to thrive. At the same time, the business units also ought to understand that without banks they cannot do business and banks are their silent partners in the business and are bound to repay the loans, for the thriving of banking business also. Therefore, there is mutual support system for both the banks and the business units and it is for this mutual support system the Notification 2015 was issued. Before recovery the banks were granted power to work out the chance of reviving the business of MSME and also for repayment. Therefore, without exhausting the said benefits granted under Notification, 2015, the attitude of the bank to proceed for sale of the property is as good as killing the business units. The Court with heavy heart is recording the fact that the banks cannot act like "Shylock-pound of flesh".

21. The next contention that there is alternative remedy before DRT is outrightly rejected since the issue raised in the present writ petition is whether the bank can proceed under Sarfaesi Act without formulating revival scheme under notification 2015, which is a jurisdictional issue. Further the issue is not under Sarfaesi but under the section 9 of MSME Act read with Notification 2015. Therefore the other judgments relied on by the bank for maintainability of writ is not applicable to the present facts of the

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[2] 2025 SCC OnLine Mad 3785

case. Consequently this Court is holding that the writ petition is maintainable.

22. The petitioner further submitted that their request to revive their units are also considered by the Central Government by the Department of Finance and the Department of MSME and they rely on the communication dated 26.06.2023 wherein it is specifically stated as

"4. The request regarding stopping the legal proceedings and regarding resolution of accounts has been examined and it is informed that enabling regulations for resolution of stressed accounts under the RBI's Prudential Frame work for Resolution of Stressed Assets dated June 7, 2019 and the Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises (MSMEs) dated March 17, 2016 are available."

As rightly pointed out in the aforesaid communication that the petitioners being MSMEs are entitled to be considered under the Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises. Therefore, the banks are under mandatory obligation to consider the petitioner's loan account to the Committee as per the RBI guidelines. Before referring the loan account to the Committee, the banks are not empowered to take any proceedings under Sarfaesi Act for the recovery of loan amount alone."

9. She relied on the judgment in case of ***Mahua Bhaumik v. Union of India & Others***[3], in paragraph Nos.21, 22 and 23 which reads thus:

"21. In the present case, the grievance of the petitioner for initiation of proceeding for Rehabilitation and Revival under the Reserve Bank of India Framework as the petitioner is MSMEs. The Instructions/Directions for the Framework for

[3] 2025 SCC OnLine Cal 9990

> ***Revival and Rehabilitation of MSMEs notified by the Central Government dated 29th May, 2015 and the revised Notification dated 17th March, 2016 having statutory force and binding to all Commercial Banks, licensed to operate in India by the Reserve Bank of India, as stated in the said Directions. The respondent nos. 3 to 14 being the financial institutions violates the said statutory provisions by not considering the request of the petitioner for initiation of proceeding for Rehabilitation and Revival under the Framework of the Reserve Bank of India, thus the writ petition is maintainable.***
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> ***22. In such view of the matter, the respondents are directed to consider the representations of the petitioner for initiation of Revival and Rehabilitation process with respect of the loan accounts of the petitioner in accordance with the Reserve Bank of India's Framework for Revival and Rehabilitation of MSMEs Notification dated 17th March, 2016 and to take appropriate decision in accordance with law.***
>
> ***23. Till the final decision is taken, the respondents nos. 3 to 14 are restricted from giving any effect or further effect to the letters dated 20th November, 2025; 10th October, 2025; 19th September, 2025; 11th November, 2025 and 14th October, 2025, issued by the respondent nos. 6, 9 to 12. This Court further restrain the respondent nos. 3 to 14 from classifying the loan accounts as mentioned in paragraphs 14 above as Non-Performing Assets (NPAs) till final decision is taken under the Reserve Bank of India's Framework for Revival and Rehabilitation of MSMEs Notification dated 17th March, 2016."***

10. Learned Senior Counsel has also relied on the judgment in case of ***Olive Tree Retail Private Limited v.***

South Indian Bank Limited[4], paragraph No.20 which reads as follows:

> ***"20. It is also without dispute that RBI Circulars have statutory force having been issued by the RBI under The Reserve Bank of India Act, 1934. These Circulars are binding on the constituent Bank and banks are under a statutory obligation to comply with the mandate of the Circulars. This was recognised in Central Bank of India v. Ravindra, (2002) 1 SCC 367 where the Supreme Court held that the power conferred by sections 21 and 35-A of the Banking Regulation Act, 1949 is coupled with a duty to act and further that the Reserve Bank of India, as the prime banking institution in the country, is entrusted with a supervisory role and is conferred with the authority of issuing binding directions having statutory force in the interest of the public."***

11. Relying on these judgments, learned Senior counsel submits that the initiation of the proceedings under the SARFAESI Act without constituting the committee is bad and the same needs to be set aside.

12. The respondent No.1/bank has filed its objections. The first and foremost objection raised by the Bank is that when there is an effective alternative remedy under Section 17 of the SARFAESI Act, the writ petition is not maintainable. Further, it is stated that the bank is a private bank. As such,

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[4] 2023 SCC OnLine Cal 143

the writ petition is not maintainable. It is submitted that the petitioner has suppressed material facts before this Court. The petitioner has failed to produce the entire e-mail correspondence exchanged between the petitioner and the respondent/bank and has selectively produced only certain notices such as the symbolic possession notice and a vacation notice dated 15.10.2025. By suppressing the relevant correspondence and material facts, the petitioner has approached the Court with unclean hands. Hence, the petition has to be dismissed with exemplary costs. It is stated that the petitioner and its partners have availed various credit facilities from the respondent/bank. They have furnished as many as 12 accounts. One is the credit card account, three auto loan accounts, two personal loan accounts, credit card, Insta OD, 3 home loan accounts. Only one account i.e., Account No.317005000922 is the MSME account. The petitioner has clubbed all such facilities together and attempted to portray the entire exposure as MSME lending, which is factually incorrect.

13. It is stated that only in respect of the loan account as referred above, they have sanctioned an overdraft facility to

the extent of Rs.530 Lakhs. The remaining facilities do not fall within the ambit of MSME credit facilities and the petitioner has incorrectly represented before this Court that all the facilities availed are under the MSME category. Hence, he cannot seek the benefit of MSME restructuring framework for facilities which are not MSME-related. It is stated that the petitioner has submitted an application dated 10.07.2025 seeking constitution of a stressed MSME committee pursuant to the said application, a meeting was convened by the respondent/bank on 14.07.2025 in which the petitioner was also present and they have placed before the Court the minutes of the meeting. During the said meeting, the petitioner was requested to submit various documents required for considering the request under the MSME framework and was also informed that the constitution of the MSME Committee would be subject to compliance with the applicable guidelines including security and perfection as per the relevant circulars. However, he has failed to furnish the necessary documents.

14. It is stated that as per the MSME revival framework, the enterprise is required to submit details of all liabilities

including liabilities owned to State Government, Central Government and other creditors. Further, restructuring under the MSME framework can be considered only in respect of accounts classified as standard asset. It is submitted that the petitioner's unit has not been operational since April, 2025. The e-mail correspondence between the petitioner and the respondent/bank clearly indicates that the petitioner had stopped business operations and was unable to demonstrate any viable revival plan. The respondent/bank had also requested the petitioner to permit a site visit for assessment of working capital, requirements and viability of the business. However, the petitioner failed to co-operate with the said process. It is stated that in the e-mail correspondence, the petitioner has clearly admitted that no billing was generated during the months of April, May and June, which clearly indicate that the unit was not operational. In the absence of operational activity and viability, the question of revival or rehabilitation under the MSME framework does not arise and they have placed the e-mail correspondence before the Court. It is stated that due to persistent default in repayment of obligations and failure to regularise the loan accounts, the account was classified as non-performing asset on 15.07.2025 in accordance with the RBI guidelines. Subsequently, notice under Section 13(2) of the SARFAESI Act was issued on 15.09.2025 calling upon the petitioner to discharge outstanding liability in their overdraft facility.

15. It is stated that the petitioner submitted a reply dated 11.11.2025, which was duly considered by the respondent/bank. After examining the reply and the financial condition of the borrower, the respondent/bank rejected the same and proceeded further under the SARFAESI Act. It is further stated that in respect to housing loan, the partner Mr. Prakash Anand in the partnership firm has availed three housing loans which turned NPA on 15.07.2025 and subsequently, the bank issued Section 13(2) notice dated 04.10.2025 to the petitioner. A reply was also furnished by the petitioner on 02.12.2025. After considering the reply, the Bank has replied on 15.12.2025. It is stated that the petitioners failed to comply with the notice issued under Section 13(2) of the SARFAESI Act. Consequently, respondent No.1 issued a possession notice under Section 13(4) of the SARFAESI Act on

06.01.2026. The notice was also published in newspapers on 09.01.2026 in accordance with the provisions of the SARFAESI Act and the relevant rules. It is submitted that the loans involved in the present case represent public funds and the petitioners cannot seek equitable relief from the Court without discharging the repayment obligations. The classification of the account as non-performing asset has been done strictly in accordance to RBI Master Circular on Income Recognition, Asset Classification and Provisioning norms.

16. Learned counsel appearing for respondent No.1 has argued in line with the objections and also drawn the attention of the Court to the various correspondence between petitioner and the Bank. He has particularly referred to the e-mail dated 29.05.2015 which finds the minutes of the meeting, wherein it is observed that the following points were discussed and below details need to be shared:

- ***Client to submit the road map for business revival***
- ***Confirmation on O/S amount clearance***
- ***Salary has not paid for 2-3 months and client is in discussion to onboard them to facilitate the business***
- ***Payment pending from Alliance University and NMIT***
- ***Clarification on High Business Creditor and O/S as on date***

- ***Current order book and projection for FY26 and onwards***
- ***Total borrowing including all financial institutions***
- ***Claim to liquidate commercial property and proceeds are expected to receive in 2 months' time. Further, also in discussion to liquidate Residential Villa.***
- ***GST for last 1 year to be documented***
- ***Bank statement other than ICICI Bank of last 6 months***
- ***Advance tax paid for FY 25***

Constitution of MSME Committee shall be subject to Security Perfection.

17. Learned counsel submits that in spite of the letter addressed by the bank, they have not received any proper communication or response. He relied on the judgment of the Co-ordinate Bench of this Court in case of ***M/s. Metro Steel Section Vs. The Deputy General Manager, State Bank of India*** arising out of ***WP.No.10305/2024 dated 29.04.2025***, paragraph Nos.12 and 13 which reads thus:

> ***"12. During the pendency of the petition, communication by the firm to the Bank assumes complete significance. The firm clearly indicated that it has wound up the business and closed the operation two years ago. If the firm has wound up the business and closed the operations two years ago, in the considered view of the Court, it cannot take the benefit of the firm being a MSME and the notifications issued under the MSMED Act or even the judgment of the Apex Court in PRO KNITS's case supra. As observed, PRO KNITS would become applicable in a case where the account has slipped into NPA but the unit is functioning. Restructuring or revival or rehabilitation of the account is a permissible exercise is what the Apex Court holds.***

> ***13. In the case at hand, since the unit is closed, any direction for revival or restructuring the account would be asking the Bank to flog a dead horse. Therefore, no fault can be found with the Bank initiating steps to recover the amount. It is not a crore or two as on today, but ₹18.56 crores, that is in due. As submitted by the learned counsel for the respondent/Bank public money is to be recovered by initiating proceedings under the Act. Therefore, I find no merit in the submissions of the learned counsel for the petitioner/firm."***

18. Relying on this, it is submitted that the petitioner cannot seek the constitution of a revival committee and has not made out any grounds. Further, it is submitted that, in the light of the alternative remedy available to the petitioner under Section 17 of the SARFAESI Act, the present writ petition is not maintainable. Further, as he has come before the Court by suppressing material facts, the writ petition has to be dismissed with costs.

19. Having heard the learned Senior counsel for the petitioner and learned counsel for the respondent, perused the material on record. In the light of the contentions raised, it is the specific case of the petitioner that, when he made a representation for the constitution of a Committee, the respondent did not adhere to it. The petitioner has also advanced arguments on the MSME, the protection given to the

MSME, and different circulars issued by the Government, the Reserve Bank of India, including how they are protected and they are mandatory. There can be no dispute about the protection given to the MSMEs. The very purpose of the revival and rehabilitation mechanism is to identify such stress at an early stage and, whenever possible, give the enterprise an opportunity to recover instead of immediately pushing it toward closure. The Apex Court, in several cases, has emphasized that the framework cannot simply be ignored by banks where an eligible MSME is in financial stress and the requirements of the framework are satisfied. The bank is expected to act in accordance with the guidelines and the circulars issued from time to time. But it does not mean that the moment a borrower produces an MSME registration, all proceedings for recovery must necessarily stop. Revival is a process that requires participation from both sides. The bank has to consider the case fairly. The borrower, in turn, has to place before the bank the material necessary to show the financial position of the unit and the possibility of its revival. A bank cannot be expected to prepare a revival proposal in the absence of basic information from the borrower itself. The Apex Court, in ***Pro Knits's case***, referred to Supra, has clarified that an enterprise which seeks the benefit of the framework also has a role to play and cannot remain passive and thereafter complain that the bank did not initiate or complete the process.

20. In this case, the bank did not refuse to consider the petitioner's request. It asked the petitioner to furnish particulars. Those particulars were necessary to examine the unit's financial position and whether any meaningful corrective or revival measure could be considered. The petitioner did not furnish the required information. In the given situation, this fact assumes importance. Having failed to provide the material required by the bank for considering revival, the petitioner cannot now contend that the subsequent proceedings are illegal merely because the Committee was not constituted. When the bank filed its objections, no rejoinder was filed. The constitution of a committee cannot be treated as an empty formality. The purpose of the exercise is to examine whether the enterprise can be revived and, if so, what corrective steps can reasonably be taken. Therefore, there must be something before the bank on the basis of which such an exercise can be undertaken.

21. There is one more circumstance that cannot be ignored. The MSME unit is admittedly not functioning at present. This Court would not go so far as to say that every unit that has stopped functioning is incapable of revival. A temporarily closed unit may, in a given case, still be capable of revival. But in such a situation, the borrower must at least place before the bank material showing a genuine possibility of restarting the unit. There must be a proposal, financial particulars, business projections, or other material that would enable the bank to consider whether revival is commercially possible and viable. Nothing of that nature has been placed before the bank in the present case. Even before this Court, the petitioners have not shown exactly what their proposal for revival is, when they intend to restart the unit, what funds would be available to do so, or how the outstanding liability is proposed to be dealt with. In the absence of such material, a direction to the bank to constitute a committee would serve no purpose. The Court cannot direct the performance of a formality merely for the sake of completing a formality.

22. This Court also finds force in the contention of the learned counsel for the bank regarding the nature of different loan accounts. Admittedly, only one account relates to the MSME. The other accounts are personal accounts of the petitioner. The benefit available to an MSME must be considered in relation to the enterprise and the credit facility covered by the framework. Independent personal borrowings do not acquire the character of MSME borrowings merely because the borrowers are also connected with an MSME. Hence, the petitioner cannot seek to bring all their liabilities within the MSME framework on the strength of one MSME account. The petitioners are essentially seeking to use the alleged non-compliance with the MSME framework to invalidate the proceedings already initiated under the SARFAESI Act. Such a contention may deserve consideration where a borrower has furnished all the necessary material, sought consideration under the framework at the appropriate stage, and the bank, without considering it, proceeded straightaway under the SARFAESI Act. But the facts of this case are not the same. The bank called for the particulars, and the petitioner did not furnish them. The unit is presently not functioning, as stated by

the bank, and no rejoinder has been filed to that. No concrete proposal for revival has been shown. In these circumstances, it would be difficult to accept the contention that the entire SARFAESI proceedings must fail.

23. The petitioner cannot rely on the revenue failure to cooperate with the process to invalidate the bank's subsequent actions. The MSME framework must be implemented in its true spirit. Banks cannot ignore it where it applies. At the same time, borrowers seeking its protection must also cooperate and submit the necessary materials to the bank. The framework is meant to revive a viable enterprise. It does not intend to keep recovery proceedings indefinitely in abeyance when the unit has stopped functioning, no workable revival proposal is placed before the bank, and the information sought by the bank itself is not provided.

24. In the facts and circumstances of the case, this Court finds no ground to hold that the SARFAESI proceedings initiated are invalid merely on account of the non-constitution of the Committee under the MSME framework. In those circumstances, this Court finds no reason to interfere with the

SARFAESI proceedings. Hence, this Court is passing the following order:

ORDER

i. Accordingly, the writ petition is ***dismissed***.

ii. No order as to costs.

iii. All I.As. in this petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

MEG
List No.: 1 Sl No.: 8