NEUTRAL CITATION

2026:GUJHC:56769

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 1152 of 2026
With
CIVIL APPLICATION (FOR DIRECTION) NO. 1 of 2026
In R/SPECIAL CIVIL APPLICATION NO. 1152 of 2026
With
R/SPECIAL CIVIL APPLICATION NO. 1711 of 2026
With
CIVIL APPLICATION (FOR DIRECTION) NO. 1 of 2026
In R/SPECIAL CIVIL APPLICATION NO. 1711 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE NIKHIL S. KARIEL

==========

Approved for Reporting	Yes	No

==========

BHARAT CHATRABHUJ VEDANT & ORS.
Versus
BANK OF INDIA

==========

Appearance:
KURVEN K DESAI(7786) for the Petitioner(s) No. 1,2,3,4
TIRTH NAYAK(8563) for the Petitioner(s) No. 1,2,3,4
MR AS PANESAR(5390) for the Respondent(s) No. 1

==========

CORAM:**HONOURABLE MR. JUSTICE NIKHIL S. KARIEL**

Date : 25/08/2026

ORAL JUDGMENT

Heard learned advocate Mr.Tirth Nayak for the petitioners in both these petitions and learned advocate Mr.A.S.Panesar for the respondent - Bank in Special Civil Application No.1152 of 2026 and

Uploaded by () on IBC Laws | www.ibclaw.in Downloaded on : Sat Sep 12 10:31:21 IST 2026

learned advocate Ms.Ashvi Shah for learned advocate Mr.Vishwas K.Shah for the respondent Bank in Special Civil Application No.1711 of 2026 and Civil Application No.1 of 2026.

2. By way of these petitions, the petitioners challenge action of the respondent banks of classifying the account of the petitioners as fraud. The case of the petitioners being that the show-cause notice and the final order, being completely based on a Forensic Audit Report which has been later set aside by the NCLT in a different proceedings, the basis of the action taken against the petitioner, no longer remaining, the order classifying the account as fraud, should be set aside by this Court.

3. It is submitted by learned Advocate Mr.Tirth Nayak on behalf of the petitioners that the petitioners were directors of one M/s.Ashapura Garments Limited, a company incorporated under the Companies Act and whereas it had been provided financial assistance from the respondent banks i.e. M/s. Bank of India in Special Civil Application No.1152 of 2026 and M/s.Canara Bank in Special Civil Application No.1711 of 2026. It is the case of the petitioner that over a period of time, since the petitioner, could not

Uploaded by () on
IBC Laws | www.ibclaw.in
Downloaded on : Sat Sep 12 10:31:21 IST 2026

undertake the repayment as per the terms and conditions settled between the parties, actions in consonance with the I.B.Code etc. were being taken.

4. It is also the case of the petitioners that the interregnum, it appears that action was initiated against the directors for being declared as wilful defaulters, basis action which had been initiated by another bank i.e. M/s. Indian Overseas Bank. It further appears that the petitioners were declared as such by the Identification Committee and later on, the Review Committee had confirmed such action of declaring the petitioners as a wilful defaulters. It is further the case of the petitioners that the said action being based upon the Forensic Audit Report, and since the said Forensic Audit Report had been set aside by the NCLT, Ahmedabad, the petitioners had approached this Court by preferring Special Civil Application No.4329 of 2026 and whereas vide oral judgment dated 10.07.2026, this Court, having considered the issue had set aside the decision of the Identification Committee and the Review Committee, holding the petitioners as wilful defaulters and whereas the observations of this Court, apply on all fours in the present issue,

Uploaded by () on
IBC Laws | www.ibclaw.in
Downloaded on : Sat Sep 12 10:31:21 IST 2026

the order of declaring the account of the petitioners as a fraudulent account also, may be set aside by this Court on the same consideration.

5. As against the same, the present petitions have been vehemently objected to by learned Advocate Mr.A.S.Panesar and Ms.Ashvi Shah on behalf of respondent – Banks. Learned advocate Mr.A.S.Panesar would submit that while the show-cause notice, had been basis the audit report yet, in the reply filed by the petitioners to the show-cause notice, the transactions which were fraudulent, were attempted to be justified and whereas considering the same, independent of the Forensic Audit Report, the order passed by the bank could survive. Learned advocate would submit that merely because the Forensic Audit Report has been set aside by the learned NCLT, this Court may not set aside the final decision passed by the respondent bank.

Learned advocate Ms.Ashvi Shah on behalf of the respondent – Canara Bank, would also contest this petition inter-alia submitted that the order passed by the learned NCLT was in context of an application filed by the Resolution Professional under Section 66 of I.B.Code and whereas learned

Uploaded by () on
IBC Laws | www.ibclaw.in
Downloaded on : Sat Sep 12 10:31:21 IST 2026

advocate would submit that since the context of the application in which the report of the Forensic Auditor, had been set aside was totally different from the proceedings whereby the account was declared as a fraud account, the findings of the NCLT, would not *mutatis mutandis* apply to the facts of the present case. Learned advocate would submit that independently also since the banks have taken a decision as regards the transaction being fraudulent, this Court may not intervene.

6. In conclusion, learned advocates would submit that in case this Court were to set aside the order passed by the respondent - Bank, more particularly considering that the setting aside would be on technical grounds not on substantive grounds, this Court may reserve liberty in favour of the banks to reinitiate the proceedings afresh basis whatever material is available with the respondent – Banks.

7. Heard the learned advocates for the respective parties and perused the documents on record.

8. At the outset, it would be pertinent to mention that while the show-cause notice in case of M/s.Bank of India, had been issued to the

Uploaded by () on
IBC Laws | www.ibclaw.in
Downloaded on : Sat Sep 12 10:31:21 IST 2026

petitioner on 22nd April, 2025, the show-cause notice issued to the petitioners by M/s. Canara Bank, was dated 22.11.2024. Perusal of both the show-cause notices, clearly reveals that the show-cause notices, predominantly relies only on the Forensic Audit Report by one M/s. C.P. Jain and Company dated 22.06.2026. The show-cause notice by the Bank of India and Canara Bank are completely based upon the said the Forensic Audit Report. While it would appear that the petitioner had replied to both the show-cause notices, vide decision dated 5.3.2026, the Bank of India had clarified the account of the petitioners as a fraudulent account, whereas vide decision dated 1.11.2025, the account had been classified as fraud by the Canara Bank. Again perusing the orders, it would clearly appear that the banks, have predominantly relied upon the Forensic Audit Report and whereas it would not appear to this Court that the final order could be segregated in parts, that a separate part where the bank has relied upon the Forensic Audit Report and remaining parts where the bank has taken an independent decision on the merits / facts of the issue. Thus, the submission on part of the learned Counsels for the respondents that the final decision, is not solely based on the Forensic Audit Report, could not be countenanced

Uploaded by () on
IBC Laws | www.ibclaw.in
Downloaded on : Sat Sep 12 10:31:21 IST 2026

more particularly the same not appearing from the orders in question.

9. In so far as the submission made by learned advocate Ms.Shah as regards the order of the NCLT being in a different set of proceedings, while it would appear to this Court that the order of the NCLT was in a proceeding under Section 66 of the I.B.Code initiated at the behest of the Resolution Professional, yet, it requires to be noted that the NCLT, after having discussed about the report in great detail, had inter-alia, ordered that the report, could not be relied upon or could not be accepted as it is. It would also required to be stated at this stage that the observations of this Court in judgment dated 10.07.2026 as regards how the NCLT has dealt with the report of the Forensic Auditor, being relevant, paragraph no.8 thereof, is reproduced hereinbelow for benefit.

> *"8. This Court has also perused the judgment passed by the learned NCLT dated 13.03.2026, albeit, under the Insolvency and Bankruptcy Code, whereby the Liquidator had sought for relief against the respondents therein i.e. inter alia the petitioners herein, more particularly to direct the respondents therein to contribute proportionally to the assets of the corporate debtor, the proportion being with regard to the wrongful transaction entered into by them. It also appears that the application was primarily*

Uploaded by () on
IBC Laws | www.ibclaw.in
Downloaded on : Sat Sep 12 10:31:21 IST 2026

filed on basis of the Forensic Audit Report referred to hereinabove. It would appear in this regard that the learned NCLT had evaluated the Forensic Audit Report and had come to a conclusion that the Forensic Auditor had not conducted the Forensic Audit as per the prescribed procedure and has not given any opinion. It would thus, appear that when the Forensic Audit Report based upon which the action of declaring the petitioners as willful defaulters had been taken and whereas the validity and veracity of the report has been deemed as reasonable by the competent forum, then it would necessarily imply that the Forensic Audit Report could not have been material, based upon which the petitioners could have been declared willful defaulters by the respondent."

10. Considering the above, it could clearly appear to this Court that the gist of the order of the NCLT being that the report of the Forensic Auditor, could not be made the basis for the application under Section 66. Furthermore, the decision of the NCLT also clearly reveals that the report of the Forensic Auditor was full of lacunas and whereas the NCLT has clearly stated that the Forensic Auditor, has not given any perfect opinion. It would, thus, appear to this Court that the submissions as regards the observations, being confined to the order in question or the proceedings in question would not stand the scrutiny of the Court. Once, a competent Court or a Forum, has declared a report

Uploaded by () on
IBC Laws | www.ibclaw.in
Downloaded on : Sat Sep 12 10:31:21 IST 2026

to be unreliable and inadmissible based upon the lacunas therein and the said report is made the basis of action against the petitioner, then consequentially the action against the petitioners based on such report could not be permitted to continue. Furthermore as noticed hereinabove, the action of the respondents of classifying the account of the petitioners as fraud being based solely on the Forensic Audit report and there being not trace of any observations in the classification order, independent of the Forensic Audit Report, therefore the order of classification of fraud by the respondent Banks would not be sustainable in the law.

11. Considering the above observations, discussions and the conclusions, to this Court, the following directions would meet with the ends of Justice :-

1. The show-cause notice dated 22.04.2025 and the final order dated 05.03.2026 impugned in Special Civil Application No.1152 of 2026 are quashed and set aside.

2. The show-cause notice dated 22.11.2024 and the final order dated 01.11.2025

Uploaded by () on
IBC Laws | www.ibclaw.in
Downloaded on : Sat Sep 12 10:31:21 IST 2026

impugned in Special Civil Application No.1711 of 2026 are quashed and set aside.

3.The respondent banks are at liberty to initiate fresh proceedings, in so far as declaring the account of the petitioners as a fraudulent account. It is further clarified that the above exercise would be at the discretion of the bank and whereas it should not be construed as if this Court has directed the banks to take such an action. It is also clarified that all rights and contentions of all parties are kept open in this regard.

12. With these observations and directions, the present petitions stand disposed of as allowed. Civil Applications, consequently, are disposed of.

(NIKHIL S. KARIEL,J)

MOHMMEDSHAHID

Uploaded by () on
IBC Laws | www.ibclaw.in
Downloaded on : Sat Sep 12 10:31:21 IST 2026