



# INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

(Company formed by ICAI under Section 8 of the Companies Act 2013)

## IBC Case Law Capsule

No. 208

(January 27, 2025)

**Ankit Bhuwalka Vs. IDBI Bank Ltd. & Union of India**  
**Writ Petition no.12 of 2025**  
**Date of High Court Judgement: January 16, 2025**

### Facts of the Case

This petition is filed by Mr. Ankit Bhuwalka, the erstwhile Director of Bhuwalka Steel Industries Limited (BSIL) (hereinafter referred as 'Petitioner') against the IDBI Bank Ltd. and Ors. (hereinafter referred as 'Respondents') challenged the issuance of a Show Cause Notice (SCN) dated 05.04.23 and subsequent orders by the Wilful Defaulters Committee (WDC) on 14.09.23 and the Wilful Defaulters Review Committee (WDRC) on 25.10.24, declaring him a wilful defaulter. These actions were based on findings in a Transaction Audit Report (TAR) prepared by M/s G.D. Apte & Co. during BSIL's Corporate Insolvency Resolution Process (CIRP), initiated by the AA in 2019.

The TAR alleged fraudulent transactions, including diversion of ₹74.27 crore between BSIL and its group company, Shree Durga Trade Links Pvt. Ltd. (SDTL). The report indicated that receivables from BSIL were transferred to SDTL despite pending dues, suggesting diversion of funds. The petitioner argued that the TAR relied on assumptions and was deemed inconclusive by the AA in its order dated 10.03.21, which directed the RP to conduct a more thorough inquiry.

The petitioner claimed that the Respondent Bank failed to provide the complete TAR or supporting documents despite repeated requests, depriving him of a meaningful opportunity to respond to the SCN. Only an extract of the TAR was provided, which was insufficient for him to prepare a defense. He also cited his inability to access BSIL's records from the new management or the RP after the resolution process.

A personal hearing was held on 28.02.24, where the petitioner reiterated his lack of access to documents. Despite this, the WDC declared him a wilful defaulter on 13.06.24, and the WDRC confirmed the decision on 25.10.24. The petitioner contended that these actions violated principles of natural justice and relied on a TAR previously found unreliable by the AA. He highlighted the severe repercussions of being declared a wilful defaulter, including reputational damage and restrictions on business activities.



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## High Court observations:

The Bombay High Court noted significant procedural lapses by the Respondent Bank, particularly its failure to provide the full Transaction Audit Report (TAR) and supporting documents despite repeated requests via emails on 22.04.23, 25.05.23, and 17.10.23. Relying solely on an extract of the TAR, the Bank violated the principles of natural justice by denying the petitioner a meaningful opportunity to defend himself. The court highlighted that the AA, in its 10.03.21 order, found the TAR inconclusive and based on assumptions, directing further inquiry into the flagged transactions.

The court further emphasized that the RBI's Master Circular on Wilful Defaulters dated 01.07.15 requires transparency, disclosure of evidence, and a fair hearing, which were not adhered to. Referring to Supreme Court rulings in *Jah Developers Pvt. Ltd. vs. State Bank of India (2019)* and *Rajesh Agarwal vs. State Bank of India (2023)*, it stressed the serious repercussions of being declared a wilful defaulter, including reputational harm and restrictions on business under Article 19(1)(g). It also cited *Milind Patel v. Union Bank of India (2024)*, emphasizing the need to disclose all material relevant to the case.

The maintainability of the writ petition was affirmed under *Kaushal Kishore vs. State of Uttar Pradesh 2023*, establishing that fundamental rights can be enforced against non-state actors. The court concluded that the SCN and orders were procedurally flawed, relying on an inconclusive TAR and denying the petitioner fair representation. It quashed the SCN and orders, allowing the Bank to issue a fresh SCN only if it follows due process and ensures adherence to the principles of natural justice.

**Order/Judgement:** The Bombay High Court quashed and set aside the SCN dated 05.04.23 and the orders dated 14.09.23, and 13.06.23, and 25.10.24 issued by the WDC and WDRC. The court granted liberty to the Respondent Bank to initiate fresh proceedings against the petitioner, provided it adheres to procedural norms and principles of natural justice.

**Case Review:** The petition was *allowed*, with no order as to costs.