



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.11392 of 2026

Date of Decision: 25.09.2026

M/s Nanal Hydro Power Consultancy Pvt. Ltd.Petitioner

Versus

Himachal Pradesh State Co-operative Bank & another
... Respondents

Coram:

Hon'ble Mr. Justice Sandeep Sharma, Judge.Whether approved for reporting? ¹ Yes.

For the Petitioner: Mr. Suneet Goel, Senior Advocate with Mr. Vivek Negi, Advocate.**For the Respondents:** Mr. Sushant Vir Singh, Advocate.

Sandeep Sharma, Judge(oral):

By way of instant petition filed under Article 226 of the Constitution of India, petitioner has prayed for following main reliefs:-

- (i) *Quash and set aside the decision/wrong categorization of the loan account of the petitioner as NPA on 6.11.2021 in the Core Banking System(CBS) of the Bank Contrary to the opinion of Statutory Credit Support Agency(CSA) as well as opinion of independent Chartered Accountant obtained by the petitioner(Annexure P-34);*
- (ii) *Quash and set aside the decision of the respondents in rejecting the OTS proposal of the petitioner vide communication dated 9.12.2024(Annexure P-21) and subsequent communication(s) dated 31.12.2024, 10.02.2026, 25.5.2026(Annexures P-23, P-31 and P-35 respectively);*
- (iii) *Direct the respondents to consider the One Time Settlement Proposal of the petitioner under their One Time Settlement Scheme, 2024, applicable for all NPAs classified as doubtful*

¹Whether the reporters of the local papers may be allowed to see the judgment?

(D1, D2, D3) and loss assets as on 31.12.2023 without any limit by classifying /categorizing its account as NPA during November 2020”

(iv) Quash and set aside notices dated 4.10.2022 and 20.11.2023(Annexures P-8 and P-10, respectively) as being wrong, incorrect and void.”

2. Quintessential facts, as emerge from the pleadings as well as material adduced on record by the respective parties are that petitioner, which is engaged in development of Hysrund 3.30 MW run of the river Small Hydro Electric Project (SHEP) in District Chamba, applied for loan from respondent No. 2 in the year 2012 for sum of Rs. 20.41 crores against the total project cost of Rs. 27.22 crores. Vide sanction letter dated 22.11.2016, a term loan of Rs. 20.41 crore was sanctioned for a period of 12 years with effect from April 2019. First installment was disbursed in November 2016. Since execution of hydro project got delayed for various reasons, which may not be relevant for adjudication of the case at hand, loan liability was increased to Rs. 31.11 crore against the loan amount of Rs. 22.48 crores, which included additional loan of Rs. 1.87 crore and Rs. 20 lakh in favour of petitioner vide letter dated 22.07.2019. Thereafter, repayment tenure of loan was rescheduled to 144 months with effect from November 2019 to October 2031, having EMIs of Rs. 36.69 lakh. In the month of October/November 2019, Unit-1 and Unit 2 of the petitioner's project were commissioned.

3. Since on account of outbreak of COVID-19, business activity in entire world including India had come to grinding halt, Reserve Bank of India with a view to give some respite to borrowers issued circulars dated 27.03.2020 and 23.05.2020, declaring moratorium of six months with effect from March 2020 till August 2020., as a consequence of which, borrowers including petitioner were saved from liability of paying installments qua the loan, if any availed, during the aforesaid period. However, in the case at hand, prior to issuance of circulars, as detailed hereinabove, loan account of petitioner had become overdue on account of its having not paid outstanding two EMIs of Rs. 72.97 lakh and by November 2020, there were three continuous defaults, as a result thereof, loan account of the petitioner was required to be categorized as NPA.

4. It also emerges from the pleadings as well as other material adduced on record that during March 2020 to August 2020 certain payments were credited in the loan account, including deposit of Rs. 5 lakh on 31.03.2020, Rs. 23.89 lakh on 29.04.2020, Rs. 10 lakh on 04.05.2020, Rs. 26.61 lakh on 11.05.2020 and Rs. 10.55 lakh on 13.05.2020 from the Escrow account managed by respondent No.1-Bank.

5. At this stage, it is apt to take note of the fact that at the time of sanction of loan amount in favour of petitioner, tripartite

agreement was executed *inter se* petitioner, respondent-Bank and HPSEBL, pursuant to which EMIs of the loan amount was to be recovered straightaway from the Escrow Account, in which amount was being received on account of sale of electricity to HPSEBL. There was continuous default of repayment of loan in the month of November 2020, but petitioner's loan account was wrongly declared as NPA in November, 2021. In the year 2024, respondent-Bank circulated One Time Settlement Scheme, 2024 (Annexure P-11), providing therein that all NPAs classified as Doubtful (D1, D2, D3) and Loss assets as on 31.12.2023, without any limit, can apply for One Time Settlement. As per aforesaid Scheme, cases which could be settled under One Time Settlement Scheme were also to be identified by the Bank Branch Managers of the Branches from where facility of loan was availed. However, account of the petitioner, which was also declared NPA, was not identified by the Bank concerned under aforesaid One Time Settlement Scheme, as such, it approached respondent-Bank by way of communications dated 05.07.2024 (Annexure P-19) and 29.11.2024 (Annexure P-20), specifically stating therein that its loan account ought to have been classified/marked as NPA in the month of November 2020, when it had made default of three installments.

6. To substantiate its aforesaid claim, petitioner placed heavy reliance upon report of statutory auditor of the respondent-Bank, wherein he opined as under:-

“ Subject:- Office order regarding NPA Classification and Eligibility under OTS Scheme- M/s Nanal Hydro Power Consultancy Pvt. Ltd.

This is in reference to the case of M/s Nanal Hydro Power Consultancy Pvt. Ltd and the scrutiny of documents pertaining to its proposed One Time Settlement (OTS) application.

The matter was placed before this office vide Letter No. StCB/BO/Shimla/376/2025-26 dated 19.05.2025, requesting opinion on the eligibility of the said account under the OTS Scheme.

Upon detailed examination of the physical loan documents, repayment history, and verification of the system records, it has come to our notice that the loan account of M/s Nanal Hydro Power Consultancy Pvt. Ltd. was incorrectly classified as Non-Performing Asset (NPA) in the CBS system w.e.f. 06.11.2021.

However, as per the actual repayment record and norms prescribed under the extant RBI guidelines for NPA classification, the account should have been categorized as NPA as on November 2020. This error in classification led to an incorrect system marking, thereby initially affecting the eligibility status under the OTS Scheme.

In view of the above, and after due diligence and verification, it is opined that the said account rightfully falls under the D2 category, and is eligible for consideration under the current OTS Scheme as per the applicable guidelines.

This may be noted for necessary action and record.”

7. However, despite there being definite opinion rendered by statutory auditor as reproduced hereinabove, respondent-Bank referred the matter to a private Chartered Accountant for opinion, who opined as under:-

“ Note:- The exact status depends on whether any old over dues were cleared with the deposits made and how the bank appropriated these payments. If uncleared, earlier due would add to the September onwards overdue potentially accelerating the classification deterioration.

5. Opinion and conclusion

Based on the transactions, information & Explanation provided:-

It was explained to us that the bank received and explicitly approached sufficient funds to clear all past dues(including the two EMIs overdue as of February 29,2020 and any accrued interest the account likely remained classified as “Standard”(per RBI moratorium guidelines) on August, 31, 2020.

By December 31, 2020 approximately two EMIs were overdue as of December 31, 2020(i.e., overdue 60-89 days from September 1), the account would be classified as SMA-2, remaining a “Standard” asset.

It is crucial for the bank to verify the exact appropriation of payments made by the borrower to accurately determine the number of days the account has been overdue post moratorium.

We trust this opinion clarifies the asset classification status of aforementioned loan account. Please feel free to contact us or any further clarification or assistance.”

8. Though, careful perusal of opinion rendered by private Chartered Accountant hired by the respondent-Bank suggests that same was inconclusive, but yet respondent-Bank insisted that loan account of the petitioner cannot be considered to have been classified/marked as NPA in the month of November, 2020, rather

same came to be categorized as NPA in the month of November 2021. In the aforesaid background, petitioner with a view to prove its case also obtained an opinion from the private Chartered Accountant, who after having examined the case in detail, opined as under:-

“ In my considered opinion, based upon the available loan records, bank statements, restructuring documents, borrower representations, CSA opinion and the applicable RBI IRAC and Covid-19 regulatory framework, the loan account of M/s Nanal Hydro Power Consultancy Pvt. Ltd. appears to have been correctly classifiable as NPA during November 2020 and not on 06.11.2021 as subsequently treated by the bank. The material on record clearly indicates that as on 29.02.2020 two monthly EMIs aggregating to approximately Rs. 72.07 Lakh were already overdue and the account had entered SMA-2 category prior to commencement of the RBI moratorium period. The RBI circulars dated 27.03.2020 and 23.05.2020 merely granted temporary deferment and regulatory standstill in asset classification and did not extinguish or regularize the overdue installments already existing on 01.03.2020. Further, the bank itself has admitted that the original monthly EMI structure of approximately 36.69 lakh continued upto January, 2021 and that the revised half yearly repayment structure became operative only from February 2021. In the absence of any demonstrated regularization or extinguishment of the overdue liability existing on 29.02.2020, the overdue aging and DPD computation necessarily continued after expiry of the moratorium on 31.08.2020. Accordingly, the overdue liability appears to have exceeded the RBI-prescribed 90 Days Past Due threshold during November 2020 under RBI IRAC norms. The subsequent classification adopted by the bank treating the account as NPA only on 06.11.2021 appears inconsistent with the factual repayment history, continuity of the original EMI structure and the underlying IRAC principles governing

overdue recognition. The CSA opinion reportedly supporting November 2020 as the correct NPA period further strengthens this conclusion. Consequently, the borrower's contention that the account attained D-1 category by November 2023 appears legally sustainable and, in my opinion, the account qualifies for consideration under the HPStCB One Time Settlement Scheme 2024. Therefore, the rejection of the borrower's OTS claim solely on the basis of the NPA date recorded as 06.11.2021 appears factually and legally unsustainable and warrants reconsideration by the competent authority.

This opinion has been prepared solely on the basis of the documents, records, representations, bank statements, internal communications and other material made available for examination and the visible facts emerging therefrom. The conclusions expressed herein are based upon the interpretation of the applicable RBI IRAC norms, Covid-19 regulatory framework and the factual matrix reflected in the available records. Since the opinion is dependent upon the correctness and completeness of the documents produced and no independent audit or judicial adjudication has been undertaken, the same should be treated as a reasoned professional and technical analysis rendered in good faith for advisory purposes and not as a final or binding judicial determination of rights and liabilities between the parties”.

9. After having received aforesaid opinion, petitioner forwarded the same to the respondent-Bank, but fact remains that vide communication dated 25.05.2026 (Annexure P-35), respondent-Bank reiterated as under:-

“III. Since the loan account was not eligible to fall under NPA on November, 2020 hence no reason to mark it as NPA. Further on account of non-payment of half yearly installment, that was payable upto July 2021, the

account was marked NPA on 06.11.2021. Further, the OTS policy states that in case discrepancy in the NPA categorization between the CBS and the Statutory Auditor's Report the report/MOC of the CSA is considered as final. As such, there was no discrepancy in NPA marking of the account and the Central Statutory Auditor has also not pointed out any discrepancy nor issued MOC to the effect.

As per revised OTS scheme, only those accounts which were classified as Doubtful (D1, D2, D3) or Loss accounts as on 31.03.2025 were eligible for consideration/settlement under the One Time Settlement Scheme of the Bank. Therefore, since your loan account became NPA on November, 2021 and Doubtful(D1) on 30.11.2024 therefore your loan account is eligible to fall under OTS Scheme of the bank. OTS offer letter has already been provided to you on dated 24.03.2026.

In context of above you are requested to settle your loan account at the earliest to avoid legal proceedings. As on date sum of Rs. 33, 59,25,400/- is outstanding in your loan account. This is for your information and necessary action please."

10. In the aforesaid background, petitioner has approached this Court in the instant proceedings, praying therein for reliefs, as have been reproduced hereinabove.

11. Pursuant to the notice issued in the instant proceedings, respondents No. 1 and 2 have filed reply, wherein facts as have been noticed have not been disputed, rather stand admitted and as such, this Court need not to take note of the same herein- below for the sake of brevity.

12. In nutshell, case of the petitioner, as has been highlighted in the petition and further canvassed by Mr. Suneet Goel, learned Senior Advocate duly assisted by Mr. Vivek Negi, Advocate representing the petitioner, is that once on account of three continuous defaults in repayment of installments, loan account of petitioner had become irregular in the month of November 2020, it ought to have been classified/marked as NPA in the month of November 2020 itself, as per guidelines framed by Reserve Bank of India. Mr. Goel further submitted that though an attempt has been made by the respondents to prove that during the period starting from March 2020 to August 2020, certain amounts were received in the loan account of the petitioner, but those were adjusted against the amount which had become due for a period prior to September 2020. Mr. Goel submitted that statutory auditor of the Bank concerned, after having noticed certain recoveries made from the escrow account, vis-a-vis default made by the petitioner in paying installments in the month of September, October and November 2020, categorically opined that loan account of the petitioner ought to have been classified/ marked as NPA in the month of November 2020 in terms of guidelines issued by Reserve Bank of India, but yet respondent-Bank ignoring opinion of its own auditors, proceeded to take opinion from the private Chartered Accountant, which is otherwise inconclusive.

13. Mr. Goel further submitted that if the opinion rendered by the Chartered Accountant hired by the petitioner is perused juxtaposing opinion rendered by statutory auditor, this Court would find merit in the contention of learned counsel for the petitioner. While fairly admitting that now petitioner's loan account has been classified/ marked as NPA with effect from 6th November 2021 by the respondent-bank, Mr. Goel contended that in case petitioner's loan account is considered to have been classified/ marked as NPA in the month of November 2020, he would be saved from paying interest liability for at least one year.

14. To the contrary, Mr. Sushant Vir Singh, learned counsel representing respondent-Bank duly assisted by Ms. Shakuntla Devi, Senior Law Officer, supported the impugned action of respondent-Bank inasmuch as declaring petitioner's loan account as NPA in the month of November 2021. Learned counsel for the respondent submitted that though there was default in paying installments for three months, i.e., September, October and November 2020, but since petitioner itself, after having cleared liability for months prior to September 2020, requested for extension of period of moratorium and such prayer of its was accepted, there was otherwise no occasion, if any, for the respondent-Bank to mark loan account of petitioner as NPA in the month of November 2020, whereafter petitioner kept on

paying loan amount. Mr. Sushant Vir Singh, further argued that since auditor, which at relevant time had audited the records with regard to repayment of loan, never pointed out with regard to omission, if any, on the part of the Bank to declare petitioner's loan account as NPA in the month of November 2020, there was no occasion, if any, for respondent-Bank to do so. While referring to the opinion rendered by statutory auditor, which is being relied heavily upon by petitioner, learned counsel for the respondents submitted that same was rightly not considered because same was not based upon the audit reports given by the earlier auditors, who at relevant time had dealt with the matter.

15. Lastly, learned counsel for the respondent submitted that even otherwise, petitioner can avail the benefit of OTS on account of declaration of its account as NPA in the month of November 2021. He submitted that in case prayer made on behalf of the petitioner, which is not tenable in the given facts and circumstances, is accepted, huge loss would be caused to the public exchequer.

16. Having heard learned counsel representing the parties and perused material available on record, this Court finds that precise question which needs to be determined in the case at hand, is that "whether loan account of the petitioner was required to be classified/ marked as NPA in the month of November, 2020 on account of its

default in making three installments in continuity for the months of September, October and November 2020, or it was rightly classified as NPA in the month of November 2021?”. Second question which also requires to be considered is that “whether respondent-Bank could have overruled the opinion rendered by statutory auditor, that too on the basis of opinion rendered by the Private Chartered Accountant?”.

17. Admittedly, in the case at hand, petitioner applied for loan from the respondent-Bank for Rs. 20.41 crore against total project cost of Rs. 27.22 crore, which was further enhanced to Rs. 2.07 crore. It is also not in dispute that aforesaid amount was to be repaid in 144 installments with effect from November 2019 to October 2031, having EMI of Rs. 36.69 lakh of each month. Unit 1 and Unit 2 of petitioner's project were commissioned in the month of October/November 2019, whereafter there was outbreak of COVID-19, pursuant to which Reserve Bank of India issued circulars dated 27.03.2020 and 23.05.2020, declaring moratorium of six months with effect from March 2020 till August 2020, as a consequence of which, borrowers including petitioner were not required to pay installment for the facility of loan availed by it during the period of moratorium. It is also not in dispute, rather stands admitted that pursuant to tripartite agreement *inter se* petitioner, respondent-Bank and HPSEBL, one escrow account was created, which was managed by respondent No. 1. The

money generated from the sale of electricity by the petitioner to HPSEBL was being deposited in escrow account, from which respondent No. 1 was itself withdrawing money on account of monthly installments. Since on account of winter, whereby flow of water reduces, production of electricity was affected, as a consequence of which, less amount was received in escrow account, as a result of which, respondent-Bank was not able to recover monthly installment. Admittedly, loan account of the petitioner became irregular with effect from February 2020 till November 2020. Though, during aforesaid period, certain amount came to be recovered from the escrow account by the respondent-Bank, but there is no dispute that there was a complete default of repayment of loan for a period of three months i.e. September, October and November 2020.

18. In nutshell, case of the petitioner is that once there was continuous default of payment of three months, its loan account ought to have been marked/classified as NPA in terms of guidelines issued by Reserve Bank of India, which fact has not been disputed by the respondent-Bank. However, claim of the respondent-Bank is that once after expiry of moratorium granted vide circulars dated 27.03.2020 and 23.05.2020 issued by the Reserve Bank of India, petitioner itself sent a communication to the respondent-Bank to extend the period of moratorium and such prayer of its was accepted, there was no

occasion, if any, to declare loan account of the petitioner as NPA in the month of November 2020. However, this Court is not persuaded to accept the aforesaid contention raised on behalf of the respondent-Bank. Once circular/instruction issued by the RBI with regard to declaration of loan account as Non Performing Asset (NPA), coupled with the fact that no permission, if any, was sought from the Reserve Bank of India by respondent-Bank to waive off such condition on account of its having extended the period of moratorium, there was no option for the respondent-Bank but to declare loan account of the petitioner as classified/marked as NPA in the month of November 2020 on account of its having made continuous default for three months in repayment of installment.

19. True it is that certain amount from the escrow account was recovered by respondent No. 1 between 1st March, 2020 and 31st August 2020 to the tune of Rs. 74,01,276/-, but it is also not in dispute that aforesaid amount was adjusted for the amount which had become payable by petitioner prior to month of September 2020. It is admitted case of the respondent-Bank that with effect from September 2020 till November 2020, there was continuous default in repayment of loan installment. If it is so, there appears to be merit in the contention of learned Senior Counsel for the petitioner that loan

account of the petitioner ought to have been classified/marked as NPA in the month of November 2020.

20. At this stage, learned counsel for the respondent, on instructions of Law Officer, submitted that after the moratorium period, schedule of installment was revised from one month to half yearly, as such there was otherwise no occasion to declare loan account of the petitioner as NPA in the month of November, 2020 because thereafter next installment was to become due in the month of May 2021, but this Court is not impressed with aforesaid submission of learned counsel for the petitioner for the reason that in terms of guidelines/Master Circular - prudential norms on income recognition, asset classification and provisioning and other related matters issued by Reserve Bank of India, loan account becomes irregular after 90 days of continuous default of three months and thereafter same is essentially required to be declared as NPA.

21. As has been observed hereinabove, loan account of the petitioner had actually become irregular in the month of November 2020 on account of its having not paid three installments regularly and as such, respondent-Bank had otherwise no option, but to mark/classify the same as NPA. Mere acceding to the request, if any made by the petitioner for extension of moratorium period after expiry of moratorium period granted by Reserve Bank of India vide circulars

dated 27.03.2020 and 23.05.2020 cannot be a ground for the respondent-Bank to claim that petitioner by asking for a period of moratorium, itself waived off its right, if any, of its being declared as NPA in terms of instruction issued by RBI, which is the apex body as far as banking is concerned.

22. Though, this Court is of the definite view that after expiry of moratorium period granted by Reserve Bank of India vide circulars dated 27.03.2020 and 23.05.2020, there was no authority, if any, with the respondent-Bank to extend the same, but even if it is presumed that Bank as per its own policy had an authority to extend moratorium, which admittedly in the case at hand came to be extended, may not be of much relevance, especially in light of definite instructions issued by Reserve Bank of India with regard to declaration of Non-Performing Assets. Once regulations issued by RBI clearly provide that loan account becomes irregular on account of continuous default for three months, coupled with the fact that petitioner herein failed to pay three installments for the month of September, October and November 2020, it was bounden duty of the respondent-Bank to classify/mark the same as NPA.

23. Interestingly, in the case at hand, statutory auditor of the respondent-Bank opined that on account of continuous default for three months, loan account of the petitioner ought to have been

declared NPA, but respondent-Bank ignored the same and proceeded to obtain opinion from private Chartered Accountant, whose opinion, if read in its entirety, nowhere contradicts the opinion rendered by statutory auditor, rather same is inconclusive and as such, could not have been taken into consideration by the Bank, while deciding the issue at hand.

24. The notings of the respondent-Bank, which have been placed on record (Annexure P-27), if read in its entirety, this Court finds that at first instance, authorities were in agreement with the opinion rendered by statutory auditors, but thereafter, for totally unjustified reasons, matter was referred to the opinion of private Chartered Accountant, whose opinion being totally inconclusive, could not have been taken into consideration. To the contrary, opinion obtained by the petitioner in its independent capacity, as has been placed on record, if read juxtaposing opinion rendered by statutory auditor, there appears to be merit in the contention of the petitioner that loan account of petitioner was required to be classified/marked as NPA in the month of November 2020 itself.

25. At this stage, it is apt to take note of relevant features of Scheme:-

SALIENT FEATURES OF THE SCHEME

Sr. No.	Parameters	Details of the Scheme
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1.	Amount	All NPAs classified as Doubtful (D1, D2, D3) & Loss Assets as on 31.12.2023, without any limit.
2.	IRAC Classification	1. All NPAs classified as Doubtful (D1, D2, D3) and Loss Assets as of 31.12.2023. II. If there is a discrepancy in the NPA date or the NPA Category, between the CBS and the Statutory Auditor's report/MOC, the date provided in the Statutory Auditors/MOC report will be deemed final. III. Additionally, in the event of up-gradation of NPA on different dates, the last NPA date will be considered as the eligible date.
3.	Eligibility	1. NPA in all sectors Irrespective of the nature of business/ activity/ purpose, which had become doubtful or loss as of 31.12.2023, where all possible avenues for recovery have been exhausted Including Invocation of government guarantee, If any. II. These guidelines will cover cases in which the bank has Initiated action under SARFAESI Act 2002 and also cases pending before courts/DRTs/BIFR subject to consent decree being obtained from court/DRTs /BIFR. III. Restructured / Rescheduled loans. IV. Legal Heirs and Guarantors can also apply. V. In suit filed cases, the proceedings may be kept in abeyance temporarily, subject to the condition that the borrower applicant deposits at least 25% of the settlement amount at Branch or with the legal authority (Arbitrator/DRO). The request for keeping suit filed cases in abeyance shall emanate from Branch Manager under certification that 25% of the

		settlement amount has been credited by the applicant borrower. VI. In NPA cases involving willful defaulters and fraud, where the Bank has exhausted all legal avenues, the Bank shall pursue compromise settlements in such cases, without prejudice to the criminal proceedings underway against such debtors. (Ref: RBI/2023-24/40 DOR. STR. REC. 20/21.04.048/2023-24 dated June 08, 2023) Thus, the bank shall undertake compromise settlements and such settlements will not affect, undermine, or have any bearing on the ongoing criminal proceedings against the debtors.
4.	Exclusions	I. Loans availed by Bank staff, employees of Govt./Semi Govt. departments/ Boards/ Corporations/ Statutory Bodies etc. II. Loans guaranteed by the Govt., loans due from Govt. Departments/ undertakings, will also be outside the purview of this scheme. III. All Loans against TDRs/NSC/KVP/LIC etc. IV. Loans availed or guaranteed by Directors of the Bank. V. Loans with tie-up arrangement for recovery (eg. Salary earners societies) VI. Loans of Govt. departments / undertakings VII. Loans under Govt. directed programmes like PDS.

26. Clause 2 of aforesaid Scheme clearly provides that if there is a discrepancy in the NPA date or the NPA category between Core Banking System and statutory auditor's report/MOC

(Memorandum of Change), the date provided in statutory auditor's report/MOC report will be deemed final. However, in the instant case, respondent-Bank conveniently ignored aforesaid provision contained in the Scheme and proceeded to rely upon the opinion rendered by Private Chartered Accountant, which is otherwise inconclusive.

27. No doubt, in the case at hand, petitioner is eligible for availing benefit of OTS Scheme on account of the fact that its loan account has been declared NPA with effect from 06.11.2021, but in that event, it may have to bear additional interest component with effect from November 2020 to November 2021. In case petitioner's loan account is considered to be marked/ classified as NPA in the month of November 2020, it shall be liable to pay interest, if any, upon the settled amount from that date.

28. No doubt, on account of grant of relief as per the instant petition, respondent-Bank may lose interest of one year, but that cannot be a ground to reject the rightful claim of the petitioner. Once there is ample material on record suggestive of the fact that petitioner's loan account had become irregular on account of non-payment of three installments in continuation in the month of November 2020 and there are guidelines issued by Reserve Bank of India that after 90 days of continuous default, loan account shall be declared NPA, coupled with the fact that statutory auditor of Bank

itself has opined that loan account of petitioner is required to be declared as NPA with effect from November 2020, prayer made in the instant petition deserves to be allowed.

29. At this stage, Mr. Sushant Vir Singh, learned counsel representing respondent-Bank, invited attention of this Court to paragraphs 11 to 14 of the judgment passed by Hon'ble Apex Court in (2023) 2 SCC 805, tilted as **Bijnor Urban Cooperative Bank Limited vs. Meenal Aggarwal and others**, to state that no borrower can as a matter of right pray for grant of benefit under One Time Settlement Scheme. There cannot be any quarrel with the aforesaid proposition of law laid down by Hon'ble Apex Court, but in the case at hand, admittedly, loan account of petitioner has been declared as NPA, may be with effect from November 2021, and as per One Time Settlement Scheme, 2024, it is otherwise eligible to be considered under aforesaid Scheme.

30. At this stage, it would be apt to take note of Clause 11 of Scheme, which reads as under:

11	Incentive for upfront payment	100%	(i) To incentive faster payments of OTS amount, an incentive/rebate on the interest to be calculated as per the settlement formula, would be allowed to those borrowers who make full payment at the time of submission of application as given below:- <table><tr><td>Full payment of OTS amount</td><td>Incentive on interest*</td></tr></table>	Full payment of OTS amount	Incentive on interest*
Full payment of OTS amount	Incentive on interest*				

		100% upfront payment	0.5%
		Simple interest @ 0.5% on the base amount will be calculated till the date of submission of application.	

Sanctioning Procedure

- i. The Scheme is non-discretionary and non-discriminatory.
- ii. Branches will identify eligible cases and send written intimations to all eligible borrowers for availing this facility, detailing the dues, payment, modalities, last date for submission application of compromise/OTS etc. Intimations to all eligible borrowers should be sent immediately on notification of the scheme.
- iii. The proposal for OTS shall invariably emanate at the Branch level. The concerned Branch Manager after receiving the OTS proposal from the borrower/guarantor etc., will examine whether the proposal falls under the ambit of the guidelines and thereafter forward the proposal in the prescribed format alongwith the required enclosures and information to the concerned DM, with detailed comments. AGM branches shall submit applications to Recovery Section at Head Office, which are beyond their sanctioning powers.
- iv. The District Managers shall scrutinize and examine the proposals received from the Branches minutely, assessing the following (AGM head Branches to follow the same in respect of cases pertaining to their own branches):
 - (a) Proposal is eligible for consideration as per the guidelines.
 - (b) It contains prescribed information complete in all respects.

31. Aforesaid provision provides that Scheme is non-discretionary and non-discriminatory, rather a duty has been cast upon branches to identify eligible cases and send written intimations to all eligible borrowers for availing this facility, detailing the dues, payment morality, last date of submitting application of compromise/OTS, etc. Admittedly, in the instant case, petitioner has not yet applied under OTS Scheme, but it is not in dispute that in terms of aforesaid Scheme, it has option to apply till 30th September 2026. Since respondent-Bank was not ready to consider the case of the petitioner considering it to be NPA as of November 2020, it was compelled to approach this Court in the instant proceedings.

32. In view of the above, this Court, having scanned entire material vis-a-vis instructions issued by the RBI and the Scheme of One Time Settlement, has arrived at a definite conclusion that loan account of petitioner ought to have been classified/marked as NPA in the month of November 2020. Since aforesaid judgment is not applicable in the given facts and circumstances, there appears to be no justification to deal the same in detail.

33. Similarly, reliance placed by Mr. Sushant Vir Singh, learned counsel for the respondent on the judgment passed by Hon'ble Apex Court in **State Bank of India v. Arvindra Electronics Pvt. Ltd.**, (2023) 1 SCC 540, may not be of much help to the case of

the respondent. In the aforesaid case also, Hon'ble Supreme Court held that no borrower can as a matter of right pray for grant of benefit of One Time Settlement Scheme and no writ of mandamus can be issued by High Court in exercise of Article 226 of Constitution of India, directing the financial institution/Bank to positively grant a benefit of OTS to a borrower, rather grant of benefit of OTS Scheme is subject to eligibility criteria and guidelines issued from time to time as has been clarified hereinabove. It is none of the prayer of petitioner that respondent-Bank be directed to consider the case of the petitioner under OTS Scheme, rather its specific prayer is that case of the petitioner be considered under OTS Scheme, which is still operational, considering its loan account to have been classified/ marked as NPA in the month of November, 2020 instead of November, 2021.

34. Once Scheme is still operational, as has been noticed hereinabove, coupled with the fact that no prayer has been made by the petitioner to issue mandamus to the respondent-bank to consider its case under OTS, rather dispute was only with regard to date of declaration of loan account of the petitioner as NPA, which now stands settled/decided in the instant proceedings, there is no applicability of aforesaid judgment and as such, same is also not required to be taken note of.

35. Consequently, in view of the detailed discussion made hereinabove as well as law taken into consideration, this Court finds merit in the present petition and accordingly, same is allowed with a direction to the respondent-bank to consider the case of the petitioner for One Time Settlement under OTS Scheme, 2024, considering its loan account to have been declared/marked as NPA in the month of November 2020, subject to making application, if any, by the petitioner for One Time Settlement under One Time Settlement Scheme. Pending applications, if any, also stand disposed of.

**(Sandeep Sharma),
Judge**

September 25, 2026
(shankar)