

“Reserve Bank of India by its circular dated May 7, 2014 dealt with the levy of foreclosure charges/prepayment penalty on floating rate term loans. The circular referred to in Part B of the first bi-monthly monetary policy statement, 2014 announced on April 1, 2014. It noted that, such bi-monthly monetary policy statement indicated that, in the interest of the consumers, bank should consider allowing their borrowers the possibility of prepaying floating rate term loans without any penalty. The Reserve Bank of India by such circular advised the banks that, they will not be permitted to charge foreclosure charges/ prepayment penalties on floating rate term loans sanctioned to individual borrowers with immediate effect.

Therefore, at least with effect from May 7, 2014, banks are not entitled to charge foreclosure/prepayment penalties on floating rate term loan sanctioned to individual borrowers from such date notwithstanding the terms of the sanction.

It has been contended that, the petitioner being a sole proprietorship firm cannot be considered to be an individual borrower coming within the purview of the circular dated May 14, 2014.

A natural person and his sole proprietorship firm are the same legal entity. The liability of the sole proprietorship firm is that of the natural person carrying on business under its name. The sole proprietorship firm of a natural person and the natural person owning the firm do not enjoy the benefit of being treated as separate legal entities

They are the one and the same legal entity. In the facts of the present case, although the loan was sanctioned in the name of a sole proprietorship firm, the natural person owning the sole proprietorship firm is liable. In law, therefore, the respondent no. 1 sanctioned credit facility to a natural person, albeit in the name of the sole proprietorship firm owned by such natural person. ”

High Court of Calcutta (Kolkata) in the Writ Petition No.5521 (W) of 2017 titled as *Devender Surana v. Bank of Baroda*