

NPA – Incorrect to presume that once an NPA is always an NPA – Prudential Norms and Master Circular issued by RBI – It also cannot be disputed that even assuming that particular had become NPA, the subsequent payments by the borrower entitled a borrower to upgrade the said account and may come out of the said classification of his account as NPA – Therefore, it is incorrect to presume that once an NPA is always an NPA and it is precisely for the said reason that the clause 4.2.4 of the prudential norms specifically states that if interest and principal are paid by the borrower in case of loans classified as NPA, the said account should no longer be treated as NPA and may be classified as sub-standard account – (4.2.4 Upgradation of loan accounts classified as NPAs : *If arrears of interest and principal are paid by the borrower in the case of loan accounts classified as NPAs, the account should no longer be treated as non-performing and may be classified as standard accounts*) – After declaration of account as an NPA, substantial subsequent payments made which establishes that the petitioners account is not an NPA – Classification of an account as NPA must be in accordance with the directions or guidelines relating to asset classification issued by the RBI – The said aspect of classification of the account as NPA, therefore, assumes any amount of importance and is the first step that is necessary to be satisfied by the creditor bank for invoking the provisions of the SARFAESI Act – It would, therefore, be open for the borrower to invoke the jurisdiction of this Court seeking judicial review of such decision of a creditor declaring his account as NPA, in view of the fact that such classification by itself leads to serious consequences of invocation of the SARFAESI Act against the borrower – Grievance of a borrower regarding asset classification and consequential invocation of the SARFAESI Act by issuing notice under Section 13(2) of the SARFAESI Act, cannot be redressed under section 17 of the sarfaesi act in the absence of invocation of Section 13(4) of the SARFAESI Act and judicial review under Article 226 is the only remedy – Consequently, therefore, the action under the SARFAESI Act with regard to the said account would not be tenable, as jurisdictional fact under Section 13(2) of the SARFAESI Act would remain unsatisfied – Banking.

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