



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 03rd JULY, 2023

IN THE MATTER OF:

+ **W.P.(C) 7487/2023 & CM APPL. 29068/2023**

RAJNEESH BHASKAR GUPTA

..... Petitioner

Through: Mr. Sandeep P Agrawal, Senior Advocate with Mr. Rishikesh Kumar, Mr. Priyankar Tiwary, Mr. Tanya Chanda, Mr. Tushar Sannu, Advocates with Petitioner-in-person

versus

RESERVE BANK OF INDIA & ANR

..... Respondents

Through: Mr. Parag P Tripathi, Senior Advocate with Mr. Ramesh Babu M R, Ms. Nisha Sharma, Ms. Manisha Singh, Ms. Tanya Choudhary, Mr. Rohan Srivastava, Ms. Vasundhara Bhakru, Advocates for R-1
Mr. Chetan Sharma, ASG with Mr. Apoorv Kurup, CGSC, Mr. Saurabh Tripathi, Mr. Vikramaditya Singh, Mr. Akhil Hasija, Advocates for UOI

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

SATISH CHANDRA SHARMA, CJ

1. The present Public Interest Litigation has been filed by the Petitioner seeking an appropriate writ, order or direction for quashing the Notification issued by the Reserve Bank of India (*hereinafter referred to as 'the RBI'*) vide press release dated 19.05.2023, bearing RBI/2023-24/32 DCM(Plg) No.S-236/10.27.00/2023-24 (*hereinafter referred to as 'the Notification in*



question'), and all other subsequent notifications in this regard. The Petitioner has prayed for the following prayers:

“(a) Allow the present writ petition and subsequently issue the writ of mandamus/certiorari or any other appropriate writ or order or direction quashing the RBI Notification/press release vide RBI/2023-24/32 DCM(Plg) No.S- 236/10.27.00/2023-24 dated May 19, 2023 and all other subsequent notifications in this regard whereby the RBI has taken arbitrary unreasonable decision to withdraw the Rs.2000 denomination banknotes from circulation under the clean note policy or otherwise.

(b) Pass an order directing to the Respondent no.1 & 2 i.e. RBI and Ministry of Finance, Govt, of India to issue notification/circular for public at large clarifying the estimated life span of each denomination banknote which are presently on circulation and also estimated time/year of being withdrawn from circulation in future by RBI under Clean Note Policy or otherwise.

(c) Pass an order directing to the Respondent no.1 & 2 i.e. RBI and Ministry of Finance, Govt, of India not only to mention year of printing on each banknote but also estimated life span of such banknote in view of the Clean Note Policy of the RBI.

(d) Pass an order directing to the Respondent no. 1 & 2 i.e. RBI and Ministry of Finance, Govt, of India to inform the public at large by appropriate notification/circular at least one year before as and when any banknote of any denomination is to be withdrawn from circulation by the Central Govt, or RBI under Clean Note Policy or otherwise.

(e) Pass an order directing to the Respondent no.1 & 2 i.e. RBI and Ministry of Finance, Govt, of India to issue notification/circular to all the banks removing the



deadline/last date of depositing/exchanging the denomination of Rs. 2000/- banknote from circulation under Clean Note Policy or otherwise, which is now 30th September, 2023.

(f) Pass any other order (s) as deemed fit and proper in the interest of the public at large.”

2. The Notification in question reads as under:

*“RBI/2023-24/32
DCM(Plg) No.S-236/10.27.00/2023-24*

May 19, 2023

*The Chairman / Managing Director/ Chief Executive
Officer
All Banks*

Dear Sir/Madam,

*₹2000 Denomination Banknotes – Withdrawal from
Circulation; Will continue as Legal Tender*

₹2000 denomination banknote was introduced in November 2016 under Section 24(1) of RBI Act, 1934 primarily to meet the immediate currency requirement of the economy after withdrawal of the legal tender status of all ₹500 and ₹1000 banknotes in circulation at that time. With fulfilment of the objective of introduction of ₹2000 denomination and availability of banknotes in other denominations in adequate quantity, printing of ₹2000 banknotes was stopped in 2018-19.

2. Further, majority of the ₹2000 denomination notes were issued prior to March 2017, have completed their estimated lifespan and are not observed to be commonly used for transactions anymore. Therefore, it has been decided that, in pursuance of the “Clean Note



Policy” of the Reserve Bank of India, the ₹2000 denomination banknotes shall be withdrawn from circulation. The ₹2000 banknotes will continue to be legal tender.

3. Accordingly, to implement the decision stated above, the following plan of action has been formulated which, the banks shall follow meticulously:

A. Handling of existing stock and receipts

All banks shall discontinue issue of ₹2000 denomination banknotes with immediate effect. ATMs/Cash Recyclers may also be reconfigured accordingly.

Banks holding Currency Chests (CCs) shall ensure that no withdrawal of ₹2000 denomination is allowed from the CCs. All balances held in the CCs shall be classified as unfit and kept ready for dispatch to respective RBI offices.

All banknotes in this denomination received by the banks shall be sorted immediately through Note Sorting Machines (NSMs) for accuracy and genuineness and deposited in the currency chests under the Linkage Scheme or kept ready for dispatch to the nearest Issue Office of RBI.

The instructions contained in our Master Direction dated April 03, 2023 on detection, reporting and monitoring of counterfeit notes shall be meticulously followed.

B. Facility for Deposit and Exchange

The facility for deposit and/or exchange of ₹2000 banknotes shall be available for members of the public up to September 30, 2023.



Deposit of ₹2000 banknotes into accounts maintained with all banks can be made in the usual manner, that is, without restrictions and subject to compliance with extant Know Your Customer (KYC) norms and other applicable Statutory requirements. The banks shall also be required to comply with Cash Transaction Reporting (CTR) and Suspicious Transaction Reporting (STR) requirements, where applicable.

The facility for exchange of ₹2000 banknotes shall be provided to all members of the public by all banks through their branches.

With a view to minimise inconvenience to the public, to ensure operational convenience and avoid disruption of the regular activities of bank branches, all banks may exchange ₹2000 banknotes upto a limit of ₹20,000/- at a time.

Business Correspondents (BCs) may also be allowed to exchange ₹2000 banknotes upto a limit of ₹4000/- per day for an account holder. For this purpose, banks may, at their discretion, enhance the cash holding limits of BCs.

To give time to the banks for preparatory arrangements, members of the public have been requested to approach the banks/branches from May 23, 2023 for availing exchange facility. Deposit of ₹2000 banknotes may continue as per the normal banking practice.

For providing deposit / exchange facility to people residing in remote/ unbanked areas, banks may consider using mobile vans, if necessary.



While crediting the value of ₹2000 notes to Jan Dhan Yojna Accounts / Basic Savings Bank Deposit (BSBD) Accounts, the usual limits will apply mutatis mutandis.

The banks shall to the extent feasible make special arrangements to reduce inconvenience to the senior citizens, persons with disabilities and women seeking to exchange/deposit ₹2000 notes.

C. Replenishment of Stock of Other Denominations for Exchange

Branches / CCs should estimate their cash requirement and obtain banknotes of other denominations from the linked / nearby currency chest / RBI well in time.

CC holding branches shall extend required support to the linked / non-linked branches in accepting ₹2000 notes and distribution of banknotes in other denominations. In case of any difficulty in obtaining cash, the banks may contact the concerned Issue Office of RBI.

D. Dissemination of Information

The banknotes in ₹2000 denomination will continue to be legal tender.

A document on Frequently Asked Questions (FAQs) in the matter has been prepared and given in the Annex. A copy of the same may be provided to the staff manning the exchange counters as well as displayed in the banking hall, ATM kiosks, etc.

A Press Release informing the public of the exercise and soliciting their co-operation is being issued separately. A copy of the same is enclosed for ready reference which may also be displayed in the banking hall, ATM kiosks, etc.



Banks may also consider advising their customers suitably in the matter.

4. The above instructions will be effective until September 30, 2023.

5. You are requested to issue suitable instructions to the branches and advise them to extend all cooperation to members of the public so that the exercise is conducted in a non-disruptive manner, without any inconvenience to the public.

6. Please acknowledge receipt.

Yours faithfully

(Suman Ray)

Chief General Manager in-Charge

Encl: As above”

3. The RBI has also brought out a press release of even date and the same reads as under:

“The ₹2000 denomination banknote was introduced in November 2016 under Section 24(1) of RBI Act, 1934, primarily to meet the currency requirement of the economy in an expeditious manner after the withdrawal of legal tender status of all ₹500 and ₹1000 banknotes in circulation at that time. The objective of introducing ₹2000 banknotes was met once banknotes in other denominations became available in adequate quantities. Therefore, printing of ₹2000 banknotes was stopped in 2018-19.

2. About 89% of the ₹2000 denomination banknotes were issued prior to March 2017 and are at the end of their estimated life-span of 4-5 years. The total value of these banknotes in circulation has declined from ₹6.73 lakh crore at its peak as on March 31, 2018



(37.3% of Notes in Circulation) to ₹3.62 lakh crore constituting only 10.8% of Notes in Circulation on March 31, 2023. It has also been observed that this denomination is not commonly used for transactions. Further, the stock of banknotes in other denominations continues to be adequate to meet the currency requirement of the public.

3. In view of the above, and in pursuance of the “Clean Note Policy” of the Reserve Bank of India, it has been decided to withdraw the ₹2000 denomination banknotes from circulation.

4. The banknotes in ₹2000 denomination will continue to be legal tender.

5. It may be noted that RBI had undertaken a similar withdrawal of notes from circulation in 2013-2014.

6. Accordingly, members of the public may deposit ₹2000 banknotes into their bank accounts and/or exchange them into banknotes of other denominations at any bank branch. Deposit into bank accounts can be made in the usual manner, that is, without restrictions and subject to extant instructions and other applicable statutory provisions.

7. In order to ensure operational convenience and to avoid disruption of regular activities of bank branches, exchange of ₹2000 banknotes into banknotes of other denominations can be made upto a limit of ₹20,000/- at a time at any bank starting from May 23, 2023.

8. To complete the exercise in a time-bound manner and to provide adequate time to the members of public, all banks shall provide deposit and/or exchange facility for ₹2000 banknotes until September 30, 2023. Separate guidelines have been issued to the banks.



9. The facility for exchange of ₹2000 banknotes upto the limit of ₹20,000/- at a time shall also be provided at the 19 Regional Offices (ROs) of RBI having Issue Departments¹ from May 23, 2023.

10. The Reserve Bank of India has advised banks to stop issuing ₹2000 denomination banknotes with immediate effect.

11. Members of the public are encouraged to utilise the time up to September 30, 2023 to deposit and/or exchange the ₹2000 banknotes. A document on Frequently Asked Questions (FAQs) in the matter has been hosted on the RBI website for information and convenience of the public.

(Yogesh Dayal)
Chief General Manager
Press Release: 2023-2024/257”

4. Along with the press note, the RBI has also issued Frequently Asked Questions (FAQ) regarding the press note and the same reads as under:

“1. Why are ₹2000 denomination banknotes being withdrawn?

The ₹2000 denomination banknote was introduced in November 2016 under Section 24(1) of RBI Act, 1934 primarily with the objective to meet the currency requirement of the economy in an expeditious manner after withdrawal of the legal tender status of all ₹500 and ₹1000 banknotes in circulation at that time. With fulfilment of that objective and availability of banknotes in other denominations in adequate quantities, printing of ₹2000 banknotes was stopped in 2018-19. A majority of the ₹2000 denomination notes were issued prior to March 2017 and are at the end of their estimated life-span of 4-5 years. It has also been observed that this denomination is not commonly used



for transactions. Further, the stock of banknotes in other denominations continue to be adequate to meet the currency requirement of the public.

In view of the above, and in pursuance of the “Clean Note Policy” of the Reserve Bank of India, it has been decided to withdraw the ₹2000 denomination banknotes from circulation.

2. What is Clean Note Policy?

It is a policy adopted by RBI to ensure availability of good quality banknotes to the members of public.

3. Does the legal tender status of ₹2000 banknotes remain?

Yes. The ₹2000 banknote will continue to maintain its legal tender status.

4. Can ₹2000 banknotes be used for normal transactions?

Yes. Members of the public can continue to use ₹2000 banknotes for their transactions and also receive them in payment. However, they are encouraged to deposit and/or exchange these banknotes on or before September 30, 2023.

5. What should the public do with the ₹2000 denomination banknotes held by them?

Members of the public may approach bank branches for deposit and/or exchange of ₹2000 banknotes held by them.

The facility for deposit into accounts and exchange for ₹2000 banknotes will be available at all banks until September 30, 2023. The facility for exchange will be



available also at the 19 Regional Offices (ROs) of RBI having Issue Departments¹ until September 30, 2023.

6. Is there a limit on deposit of ₹2000 banknotes into a bank account?

Deposit into bank accounts can be made without restrictions subject to compliance with extant Know Your Customer (KYC) norms and other applicable statutory / regulatory requirements.

7. Is there an operational limit on the amount of ₹2000 banknotes that can be exchanged?

Members of the public can exchange ₹2000 banknotes upto to a limit of ₹20,000/- at a time.

8. Can ₹2000 banknotes be exchanged through Business Correspondents (BCs)?

Yes, exchange of ₹2000 banknotes can be made through BCs upto a limit of ₹4000/- per day for an account holder.

9. From which date will the exchange facility be available?

To give time to the banks to make preparatory arrangements, members of the public are requested to approach the bank branches or ROs of RBI from May 23, 2023 for availing exchange facility.

10. Is it necessary to be a customer of the bank to exchange ₹2000 banknotes from its branches?

No. A non-account holder also can exchange ₹2000 banknotes up to a limit of ₹20,000/- at a time at any bank branch.



11. What if someone needs more than ₹20,000/- cash for business or other purposes?

Deposit into accounts can be made without restrictions. The ₹2000 banknotes can be deposited into bank accounts and cash requirements can be drawn thereafter, against these deposits.

12. Is there any fee to be paid for the exchange facility?

No. The exchange facility shall be provided free of cost.

13. Will there be special arrangements for senior citizens, persons with disabilities, etc. for exchange and deposit?

Banks have been instructed to make arrangements to reduce inconvenience to the senior citizens, persons with disabilities, etc., seeking to exchange/deposit ₹2000 banknotes.

14. What will happen if one cannot deposit / exchange ₹2000 banknote immediately?

To make the entire process smooth and convenient for the public, a period of over four months has been given for deposit and/or exchange of ₹2000 banknotes. Members of the public, are therefore, encouraged to avail this facility at their convenience within the allotted time.

15. What will happen if a bank refuses to exchange / accept deposit of ₹2000 banknote?

For redress of grievance in case of deficiency of service, the complainant / aggrieved customer may first approach the concerned bank. If the bank does not



respond within a period of 30 days after lodging of the complaint or if the complainant is not satisfied with the response/resolution given by the bank, the complainant can lodge the complaint under the Reserve Bank - Integrated Ombudsman Scheme (RB-IOS), 2021 at the Complaint Management System portal of RBI (cms.rbi.org.in)."

5. Mr. Sandeep P Agrawal, learned Senior Counsel appearing for the Petitioner, contends that the Notification in question has been purportedly issued in pursuance to the clean note policy of the RBI but is actually contrary to the purpose for which the clean note policy has been framed by the RBI. It is contended that the RBI does not have the power to issue any directions regarding discontinuance of banknotes which the Notification in question purports to do. It is the contention of the learned Senior Counsel for the Petitioner that by way of the Notification in question, the RBI has withdrawn the circulation of Rs.2000 denomination notes, which it cannot. It is contended that the power to issue banknotes or to withdraw the same is within the domain of the Central Government and the RBI does not have the power to issue any such directions. He states that under Section 27 of the Reserve Bank of India Act, 1934 (*hereinafter referred to as 'the RBI Act'*), a direction from the RBI not to re-issue banknotes can only be given for such notes which are torn, defaced or excessively spoiled. He placed reliance on Dharani Sugars and Chemicals Ltd. v. Union of India, (2019) 5 SCC 480, contending that Court must strike down the directions issued by RBI for which it does not have any power. In Dharani Sugars and Chemicals Ltd. v. Union of India, (2019) 5 SCC 480, the Apex Court has held as under:

"64. Stressed assets can be resolved either through the Insolvency Code or otherwise. When resolution through the Code is to be effected, the specific power



granted by Section 35-AA can alone be availed by RBI. When resolution de hors the Code is to be effected, the general powers under Sections 35-A and 35-AB are to be used. Any other interpretation would make Section 35-AA otiose. In fact, Shri Dwivedi's argument that RBI can issue directions to a banking company in respect of initiating insolvency resolution process under the Insolvency Code under Sections 21, 35-A and 35-AB of the Banking Regulation Act, would obviate the necessity of a Central Government authorisation to do so. Absent the Central Government authorisation under Section 35-AA, it is clear that RBI would have no such power."

6. *Per contra*, Mr. Parag Tripathi, learned Senior Counsel appearing for the RBI, contends that another Writ Petition, being W.P.(C) 7129/2023, had been filed against the Notification in question. He states that the said Writ Petition was dismissed by an Order dated 29.05.2023 and repeated public interest litigations cannot be filed on the same subject. Mr. Tripathi relies on the Judgment of the Apex Court in State of Karnataka v. All India Manufacturers Organisation, (2006) 4 SCC 683, to substantiate his contention. He further states that the notification in question is regarding the currency and currency management system is within the domain of the RBI. He relies on the Judgment of the Apex Court in Vivek Narayan Sharma (Demonetisation Case-5 J.) v. Union of India, (2023) 3 SCC 1, to contend that the RBI Act was enacted to regulate the issue of banknotes and that it was constituted for the purpose of taking over the management of currency from the Central Government. He further submits that the decision of the RBI to withdraw the circulation of Rs.2000 note is a part of the currency management system which is the domain of the RBI. He submits that the present decision is not one of demonetization of currency note of Rs.2000



denomination as it continues to be legal tender. He states that the purpose of the circular is only for the purpose of exchange of Rs.2000 denomination notes. Mr. Tripathi draws the attention of this Court to the Notification in question and submits that Rs.2000 denomination notes continues to be a legal tender. He states that Section 35A of the Banking Regulation Act, 1949 gives power to the RBI to give such directions. He further states that the direction to the Banks not to issue Rs.2000 denomination notes does not mean discontinuance of the said notes. He states that the term '*issue*' in the notification has to be understood in the context that a direction has been issued to the Banks not to circulate Rs.2000 denomination notes to its customers and the same is a part of the currency management system of the RBI.

7. Learned Senior Counsel appearing for the Petitioner in rejoinder submits that W.P.(C) 7129/2023 was filed on entirely different context. He states that the challenge in that Writ Petition was to the policy by which exchange of Rs.2000 denomination notes was permitted without obtaining any requisite slip and identity proof and it did not deal with the power of the RBI to issue directions for discontinuance of bank notes of Rs.2000 denomination. He reiterates that the direction to the banks not to issue notes of Rs.2000 denomination is in reality a direction to discontinue notes which is not within the domain of the RBI.

8. Heard learned Counsels for the parties and perused the material on record.

9. A perusal of the Notification in question gives the background as to why the said Notification was issued. It is stated in the said Notification that Rs.2000 denomination notes were introduced in November 2016 primarily



to meet the immediate currency requirement of the economy after demonetization of Rs.500 and Rs.1000 banknotes which were in circulation at that time. Notes of Rs.500 and Rs.1000 denomination ceased to be legal tender thereupon. The Notification further states that the objective of introducing Rs.2000 bank notes has been achieved and the bank notes of other denomination are available in adequate quantity. The Notification also notes that printing of Rs.2000 bank notes was stopped in 2018-19 and a majority of the Rs.2000 denomination notes were issued prior to March 2017 and have completed their estimated lifespan and are not commonly used for transactions anymore. It is in this background that the Notification dated 19.05.2023 was issued.

10. A perusal of the Notification in question shows that the RBI has not taken any decision for discontinuance of Rs.2000 bank notes. It is not a decision to demonetize Rs.2000 bank notes and this circular is only a direction to the banks to desist from issuing Rs.2000 denomination notes to its customers and to ensure that no withdrawal of Rs.2000 denomination notes is allowed from the banks holding currency chests.

11. As contended by Mr. Tripathi this decision is a part of the currency management system which is in the domain of the RBI. The RBI Act was brought in to regulate the issue of bank notes and the keeping of reserves with a view to securing monetary stability in India and generally to operate the currency any credit system of the country to its advantage. The contention of the learned Counsel for the Petitioner that a direction from the RBI not to re-issue bank notes can only be given for such notes which are torn, defaced or excessively spoiled is not applicable in the facts of the present case. As stated above, the Notification in question is a direction to



the banks not to issue notes of Rs.2000 denomination to its customers and information of the public to exchange the notes of Rs.2000 denomination to currency notes of other denominations. The Notification in question and the press release state in no uncertain terms that the bank notes of Rs.2000 denomination will continue to be a legal tender. The press release only states that the members of the public may deposit Rs.2000 banknotes into their bank accounts and/or exchange them into banknotes of other denominations at any bank branch. The press release further states that deposit of Rs.2000 bank notes into bank accounts can be made in the usual manner, that is, without restrictions subject to instructions and other applicable statutory provisions. It is stated that in order to ensure operational convenience and to avoid disruption of regular activities of bank branches, exchange of Rs.2000 banknotes into banknotes of other denominations can be made up to a limit of Rs.20,000/- at a time at any bank starting from 23.05.2023.

12. The contention of Mr. Tripathi that the Judgment dated 29.05.2023, passed by this Court in W.P.(C) 7129/2023, titled as Ashwini Kumar Upadhyay v. Union of India & Ors. will operate as *res judicata* cannot be accepted as has rightly been pointed out by the learned Counsel for the Petitioner that the said Writ Petition was filed challenging the notification which permits exchange of Rs.2000 notes without obtaining any requisition slip or without any identity proof. The judgment passed by the Apex Court in State of Karnataka (supra) is not applicable to the present case because in that case a second PIL had been filed on the very same grounds seeking the same relief which is not the case in the present case.

13. Reliance placed by the learned Senior Counsel appearing for the Petitioner on Dharani Sugars (supra) is misplaced and is not applicable to



the present case. In that case challenge was made to the constitutional validity of Sections 35-AA and 35-AB of the Banking Regulation Act, 1949 which was introduced by way of amendment with effect from 4-5-2017 and the challenge therein was to a Circular issued by the RBI on 12-2-2018 promulgating a revised framework for resolution of stressed assets. In the present case the question is whether the Notification in question, which has been issued by the RBI to the banks directing them not to issue Rs.2000 banknotes to its customers, as a part of its currency management system, is valid or not and could the RBI issue such circulars.

14. Till the time Rs.2000 banknotes continues to be a legal tender, it cannot be said that the directions issued by the RBI to various banks not to issue Rs.2000 banknotes from its currency chests or a request to the public to deposit Rs.2000 banknotes in their accounts in as much quantity without their being any restriction, is a decision to demonetize Rs.2000 banknotes. The said decision by the RBI is only to manage the currency notes which are under circulation.

15. The Apex Court in Vivek Narayan Sharma (supra) has analysed the statutory scheme of the RBI Act and has observed as under:

“99. Before we proceed to consider the various issues reframed by us, we find it appropriate to refer to the scheme of the RBI Act.

100. The Preamble to the RBI Act would itself reveal that the RBI Act was enacted since it was found expedient to constitute a Reserve Bank of India to regulate the issue of bank notes and for the keeping of reserves with a view to securing monetary stability in India and generally to operate the currency and credit system of the country to its advantage. The Preamble to the RBI Act would also show that it was amended in



the year 2016 with effect from 27-6-2016 by Act 28 of 2016. Post amendment, it was stated in the Preamble that, whereas it was essential to have a modern monetary policy framework to meet the challenge of an increasingly complex economy, and whereas the primary objective of the monetary policy is to maintain price stability while keeping in mind the objective of growth and whereas the monetary policy framework in India shall be operated by RBI, the RBI Act was enacted.

101. Section 3 of the RBI Act would reveal that the RBI was constituted for the purposes of taking over the management of the currency from the Central Government and of carrying on the business of banking in accordance with the provisions of the RBI Act.

104. Section 22 of the RBI Act would reveal that the RBI shall have the sole right to issue bank notes in India and may, for a period which shall be fixed by the Central Government on the recommendation of the Central Board, issue currency notes of the Government of India supplied to it by the Central Government. It further provides that the provisions of the RBI Act applicable to bank notes shall, unless a contrary intention appears, apply to all currency notes of the Government of India issued either by the Central Government or by RBI in like manner as if such currency notes were bank notes. Sub-section (2) of Section 22 of the RBI Act specifically provides that on and from the date on which Chapter III of the RBI Act comes into force, the Central Government shall not issue any currency notes.”

16. As pointed out by the Apex Court in paragraph No.104 of the abovementioned judgment, RBI has the sole right to issue bank notes in India. The RBI has, therefore, the right to advise banks not to circulate notes



of a particular denomination for the purpose of currency management. Undoubtedly, the Apex Court has held that it is only the Central Government, on the recommendation of the Central Board, can direct for issuance or discontinuance of banknotes. The term ‘non-issue’ occurring in Section 24(2) of the RBI Act is the issuance of notes from the currency note printing presses where notes are printed and are then circulated to the banks. The RBI has only instructed the banks not to issue to its customers notes of Rs.2000 denomination in order to ensure that Rs.2000 banknotes are not in circulation though they remain to be legal tender. The fact that the permission to exchange Rs.2000 notes is available only till 23.09.2023 does not mean that RBI has issued a direction that from 23.09.2023 Rs.2000 banknotes will be demonetized. The RBI has, therefore, not exceeded the powers conferred to it under the RBI Act or has violated the Banking Regulation Act, 1949.

17. The scope of judicial interference in matters relating to economic policy has been settled in a number of judgments passed by the Apex Court. The Apex Court in Prag Ice & Oil Mills v. Union of India, (1978) 3 SCC 459, has held as under:

“24. We have listened to long arguments directed at showing us that producers and sellers of oil in various parts of the country will suffer so that they would give up producing or dealing in mustard oil. It was urged that this would, quite naturally, have its repercussions on consumers for whom mustard oil will become even more scarce than ever ultimately. We do not think that it is the function of this Court or of any Court to sit in judgment over such matters of economic policy as must necessarily be left to the Government of the day to decide. Many of them, as a measure of price fixation must necessarily be, are matters of prediction



of ultimate results on which even experts can seriously err and doubtlessly differ. Courts can certainly not be expected to decide them without even the aid of experts.” (emphasis supplied)

18. In R.K. Garg v. Union of India, (1981) 4 SCC 675, the Constitution Bench of the Apex Court has observed as under:

“8. Another rule of equal importance is that laws relating to economic activities should be viewed with greater latitude than laws touching civil rights such as freedom of speech, religion, etc. It has been said by no less a person than Holmes, J., that the legislature should be allowed some play in the joints, because it has to deal with complex problems which do not admit of solution through any doctrinaire or straitjacket formula and this is particularly true in case of legislation dealing with economic matters, where, having regard to the nature of the problems required to be dealt with, greater play in the joints has to be allowed to the legislature. The court should feel more inclined to give judicial deference to legislative judgment in the field of economic regulation than in other areas where fundamental human rights are involved.

19. It is true that certain immunities and exemptions are granted to persons investing their unaccounted money in purchase of Special Bearer Bonds but that is an inducement which has to be offered for unearthing black money. Those who have successfully evaded taxation and concealed their income or wealth despite the stringent tax laws and the efforts of the tax department are not likely to disclose their unaccounted money without some inducement by way of immunities and exemptions and it must necessarily be left to the legislature to decide what immunities and exemptions would be sufficient for the purpose. It would be outside the province of the Court to consider if any particular



*immunity or exemption is necessary or not for the purpose of inducing disclosure of black money. That would depend upon diverse fiscal and economic considerations based on practical necessity and administrative expediency and would also involve a certain amount of experimentation on which the Court would be least fitted to pronounce. The Court would not have the necessary competence and expertise to adjudicate upon such an economic issue. The Court cannot possibly assess or evaluate what would be the impact of a particular immunity or exemption and whether it would serve the purpose in view or not. There are so many imponderables that would enter into the determination that it would be wise for the Court not to hazard an opinion where even economists may differ. The Court must while examining the constitutional validity of a legislation of this kind, “be resilient, not rigid, forward looking, not static, liberal, not verbal” and the Court must always bear in mind the constitutional proposition enunciated by the Supreme Court of the United States in *Munn v. Illinois* [94 US 13] , namely, “that courts do not substitute their social and economic beliefs for the judgment of legislative bodies”. The Court must defer to legislative judgment in matters relating to social and economic policies and must not interfere, unless the exercise of legislative judgment appears to be palpably arbitrary. The Court should constantly remind itself of what the Supreme Court of the United States said in *Metropolis Theater Company v. City of Chicago* [57 L Ed 730 : 228 US 61 (1912)] :*

“The problems of government are practical ones and may justify, if they do not require, rough accommodations, illogical it may be, and unscientific. But even such criticism should not be hastily expressed. What is best is not always discernible, the wisdom of any choice may be disputed or condemned.



Mere error of government are not subject to our judicial review.”

It is true that one or the other of the immunities or exemptions granted under the provisions of the Act may be taken advantage of by resourceful persons by adopting ingenious methods and devices with a view to avoiding or saving tax. But that cannot be helped because human ingenuity is so great when it comes to tax avoidance that it would be almost impossible to frame tax legislation which cannot be abused. Moreover, as already pointed out above, the trial and error method is inherent in every legislative effort to deal with an obstinate social or economic issue and if it is found that any immunity or exemption granted under the Act is being utilised for tax evasion or avoidance not intended by the legislature, the Act can always be amended and the abuse terminated. We are accordingly of the view that none of the provisions of the Act is violative of Article 14 and its constitutional validity must be upheld.”

(emphasis supplied)

19. Again, the Constitution Bench of the Apex Court in Shri Sitaram Sugar Co. Ltd. v. Union of India, (1990) 3 SCC 223, has observed as under:

“57. Judicial review is not concerned with matters of economic policy. The court does not substitute its judgment for that of the legislature or its agents as to matters within the province of either. The court does not supplant the “feel of the expert” by its own views. When the legislature acts within the sphere of its authority and delegates power to an agent, it may empower the agent to make findings of fact which are conclusive provided such findings satisfy the test of reasonableness. In all such cases, judicial inquiry is confined to the question whether the findings of fact are reasonably based on evidence and whether such findings are consistent with the laws of the land. As



stated by Jagannatha Shetty, J. in Gupta Sugar Works [Gupta Sugar Works v. State of U.P., 1987 Supp SCC 476] : (SCC p. 479, para 4)

‘4. ... the court does not act like a chartered accountant nor acts like an income tax officer. The court is not concerned with any individual case or any particular problem. The court only examines whether the price determined was with due regard to considerations provided by the statute. And whether extraneous matters have been excluded from determination.’ ”

(emphasis supplied)

20. Similarly, the Apex Court in BALCO Employees' Union (Regd.) v. Union of India, (2002) 2 SCC 333 has observed as under:

“93. Wisdom and advisability of economic policies are ordinarily not amenable to judicial review unless it can be demonstrated that the policy is contrary to any statutory provision or the Constitution. In other words, it is not for the courts to consider relative merits of different economic policies and consider whether a wiser or better one can be evolved. For testing the correctness of a policy, the appropriate forum is Parliament and not the courts. Here the policy was tested and the motion defeated in the Lok Sabha on 1-3-2001.

94. Thus, apart from the fact that the policy of disinvestment cannot be questioned as such, the facts herein show that fair, just and equitable procedure has been followed in carrying out this disinvestment. The allegations of lack of transparency or that the decision was taken in a hurry or there has been an arbitrary exercise of power are without any basis. It is a matter of regret that on behalf of the State of Chhattisgarh such allegations against the Union of India have been made without any basis. We strongly deprecate such



unfounded averments which have been made by an officer of the said State.

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98. In the case of a policy decision on economic matters, the courts should be very circumspect in conducting any enquiry or investigation and must be most reluctant to impugn the judgment of the experts who may have arrived at a conclusion unless the court is satisfied that there is illegality in the decision itself.”

21. The Apex Court in Directorate of Film Festivals v. Gaurav Ashwin Jain, (2007) 4 SCC 737 has observed as under:

“16. The scope of judicial review of governmental policy is now well defined. Courts do not and cannot act as Appellate Authorities examining the correctness, suitability and appropriateness of a policy, nor are courts advisors to the executive on matters of policy which the executive is entitled to formulate. The scope of judicial review when examining a policy of the Government is to check whether it violates the fundamental rights of the citizens or is opposed to the provisions of the Constitution, or opposed to any statutory provision or manifestly arbitrary. Courts cannot interfere with policy either on the ground that it is erroneous or on the ground that a better, fairer or wiser alternative is available. Legality of the policy, and not the wisdom or soundness of the policy, is the subject of judicial review (vide Asif Hameed v. State of J&K [1989 Supp (2) SCC 364] , Sitaram Sugar Co. Ltd. v. Union of India [(1990) 3 SCC 223] , Khoday Distilleries Ltd. v. State of Karnataka [(1996) 10 SCC 304] , BALCO Employees' Union v. Union of India [(2002) 2 SCC 333] , State of Orissa v. Gopinath Dash [(2005) 13 SCC 495 : 2006 SCC (L&S) 1225] and Akhil Bharat Goseva Sangh (3) v. State of A.P. [(2006) 4 SCC 162])”



22. In Small Scale Industrial Manufactures Assn. v. Union of India, (2021) 8 SCC 511, the Apex Court has observed as under:

“69. What is best in the national economy and in what manner and to what extent the financial reliefs/packages be formulated, offered and implemented is ultimately to be decided by the Government and RBI on the aid and advice of the experts. The same is a matter for decision exclusively within the province of the Central Government. Such matters do not ordinarily attract the power of judicial review. Merely because some class/sector may not be agreeable and/or satisfied with such packages/policy decisions, the courts, in exercise of the power of judicial review, do not ordinarily interfere with the policy decisions, unless such policy could be faulted on the ground of mala fides, arbitrariness, unfairness, etc.

70. There are matters regarding which the Judges and the lawyers of the courts can hardly be expected to have much knowledge by reasons of their training and expertise. Economic and fiscal regulatory measures are a field where Judges should encroach upon very warily as Judges are not experts in these matters.

71. The correctness of the reasons which prompted the Government in decision taking one course of action instead of another is not a matter of concern in judicial review and the court is not the appropriate forum for such investigation. The policy decision must be left to the Government as it alone can adopt which policy should be adopted after considering of the points from different angles. In assessing the propriety of the decision of the Government the court cannot interfere even if a second view is possible from that of the Government.



72. Legality of the policy, and not the wisdom or soundness of the policy, is the subject of judicial review. The scope of judicial review of the governmental policy is now well defined. The courts do not and cannot act as an appellate authority examining the correctness, stability and appropriateness of a policy, nor are the courts advisers to the executives on matters of policy which the executives are entitled to formulate.”

23. As stated earlier, the RBI was well within its power to issue the Notification in question which is only a part of the currency management system. The Notification in question is only a direction to the banks not to issue Rs.2000 banknotes which is well within the right of the RBI. The Circular in question is not a direction to print or discontinue to print Rs.2000 banknotes which is the domain of the Central Government and Courts generally do not interfere in policy matters unless the decision is completely arbitrary.

24. In view of the above, the Writ Petition is dismissed, along with the pending application(s), if any.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J

JULY 03, 2023

Rahul