

GAHC010140012024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/3599/2024

AXIS BANK LTD.
HAVING ITS CORPORATE OFFICE AT AXIS HOUSE, C-2, WADIA
INTERNATIONAL CENTRE, PANDURANG BUDHKAR MARG, WORLI,
MUMBAI-400025 AND HAVING ITS BRANCH AT AXIS BANK LTD.,
PITAMPURA BRANCH, PLOT NO.06, LOCAL SHOPING CENTRE, D.P.
BLOCK, PITAMPURA, NEW DELHI-110034, THE BANK IS REPRESENTED BY
/THROUGH THE BRANCH MANAGER, AXIS BANK LTD., GUWAHATI
BRANCH, GROUND FLOOR, CHIBBER HOUSE, CHRISTIAN BASTI, G.S.
ROAD, GUWAHATI, KAMRUP(M), ASSAM, PI- 781005.

VERSUS

ENFORCEMENT DIRECTORATE AND 3 ORS
THROUGH ITS ASSISTANT DIRECTOR, DIRECTORATE OF ENFORCEMENT,
DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, C-BLOCK,
PRAVARTAN BHAWAN, DR. A.P.J. ABUL KALAM ROAD, NEW DELHI-110011.

2:ENFORCEMENT DIRECTORATE
THROUGH ITS ASSISTANT DIRECTOR
GUWAHATI ZONE-I
RAJGARH ROAD
BYE LANE NO. 1
HOUSE NO. 20
2ND FLOOR
GUWAHATI-781003
DIST. KAMRUP(M)
ASSAM

3:THE AUTHORISED OFFICER/ DEPUTY DIRECTOR

ENFORCEMENT DIRECTORATE
DIMAPUR SUB- ZONAL OFFICE

MAINAAK TOWER
7TH FLOOR
CHRISTIAN BASTI
G.S. ROAD
GUWAHATI-05
DIST. KAMRUP(M).

4:OFFICER-IN-CHARGE
SHYAM NAGAR POLICE STATION
JAIPUR (SOUTH)
KINGS ROAD
SHANTI NAGAR
BRIJALPUR
JAIPUR
RAJASTHAN
PIN- 302019

For the Petitioner(s) : Mr. P. Das, Advocate
For the Respondent(s) : Mr. R. K. D. Choudhury, Dy. S.G.I.

Date of Hearing : **12.08.2024**
Date of Judgment : **12.08.2024**

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

JUDGMENT AND ORDER (ORAL)

Heard Mr. P. Das, the learned counsel appearing on behalf of the Petitioner and Mr. R. K. D. Choudhury, the learned Dy. S.G.I. appearing on behalf of the Respondent Nos. 1, 2 and 3.

2. The Petitioner in the instant proceedings have approached this Court seeking an appropriate writ, direction and/or order in view of the various authorities on one hand directing the Petitioner Bank to keep the account

frozen of a particular customer and on the other hand, the Respondent No.3 had directed the Petitioner Bank to make a demand draft of the frozen amount along with the interest accrued thereon in favour of the Joint Director, Enforcement Directorate, payable at Guwahati and hand over the same within five days from the date of receipt of the letter.

3. For appreciating the dispute involved, it is relevant to take note of that the Petitioner Bank maintains an account of a company in the name and style of "M/s Analytic Business Ventures Private Limited". The Cyber Crime Police Station Kohima, Nagaland had registered one FIR vide Crime No. 03/2021 dated the 08.10.2021 for offence committed under Sections 420/120B of the Indian Penal Code read with Section 66(D) of the Information Technology Act 2000. Taking into account that the offences under which the case being Crime No.03/2021 was registered falls within the ambit of scheduled offences under the Prevention of Money Laundering Act, 2002 (for short "the Act of 2002"), an ECIR was registered on 12.04.2002 for investigation under the Act of 2002. The Petitioner Bank's Branch at Pitampura in New Delhi wherein the account of M/s Analytic Business Ventures Private Limited is maintained, received a notice on 19.12.2022 from the Respondent No.4 whereby the Petitioner was instructed to mark "debit freeze" of the account bearing No.922020034999564 as it was required for investigation. Accordingly, the Petitioner Bank had followed the instruction of the said Respondent No.4 and marked the said account under "debit freeze".

4. In addition to that, the Enforcement Directorate had also been investigating the said M/s Analytic Business Ventures Private Limited and thereby the Respondent Nos. 1 and 2 had issued various communications to

keep the account of M/s Analytic Business Ventures Private Limited in "debit freeze" mode. While the Petitioner Bank kept the account of M/s Analytic Business Ventures Private Limited in the "debit freeze" mode, the Petitioner Bank received a communication issued by the Respondent No.3 dated 12.04.2024 whereby it was informed to the Petitioner Bank that the Adjudicating Authority, New Delhi had passed an order on the 02.08.2023 under section 8(3) of the Act of 2002. It was also mentioned that the balance amount lying in the said account were frozen by the Directorate which was later on confirmed by the Adjudicating Authority, New Delhi. Under such circumstances, the Manager of the Petitioner Bank was directed to make a Demand Draft of the frozen amount along with interest accrued thereon favouring the Joint Director, Enforcement Directorate payable at Guwahati and hand over to the Directorate within 5 (five) days from the date of receipt of the said letter.

5. The Petitioner upon receiving the said communication dated 12.04.2024, issued various communications to the Respondent No.4 as well as the other Branches of the Enforcement Directorate taking into account that there were directions to keep the account of M/s Analytic Business Ventures Private Limited in "debit freeze" mode. However, no reply was received. Under such circumstances, the Petitioner has approached this Court seeking appropriate writ, direction and/or order in view of the various authorities issuing conflicting directions.

6. The instant writ petition came up before the Court on 22.07.2024 and this Court issued notice and also directed Mr. R.K.D. Choudhury, the learned Dy. S.G.I. who represents the Respondent Nos. 1, 2 and 3 to obtain

necessary instructions in view of the conflicting directions. On 09.08.2024, when the matter was listed, Mr. R.K.D. Choudhury, the learned Dy. S.G.I. had placed an instruction before this Court issued by the Deputy Director of the Enforcement Directorate dated 07.08.2024 wherein it has been mentioned that the Respondent Nos. 1 and 2 had no objection if the possession of the "debit freeze" amount lying in the account bearing No. 922020034999564 in the name of M/s Analytic Business Ventures Private Limited is handed over to the Respondent No.3. The said instruction was kept on record and marked with the letter "X".

7. This Court had also taken note of the provisions of the Act of 2002 and more particularly to the provision of Section 8 whereby the Adjudicating Authority had been empowered to confirm a provisional attachment made in terms with Section 5 of the Act of 2002. It is also seen from a perusal of Section 8(3) and 8(4) of the Act of 2002 that after an order is passed by the Adjudicating Authority and the provisional order of attachment is confirmed, the Director or any other Officer authorized by him shall forthwith take possession of the property attached under Section 5 or frozen under Sub-Section 1(A) of Section 17 of the Act of 2002 in such manner as may be prescribed.

8. In that view of the matter, as the Respondent Nos. 1 and 2 had expressed their no objection in transferring the amount lying in the account in question and the statutory mandate contained in Section 8(4) of the Act of 2002, this Court is of the opinion that the direction so given in the communication dated the 12.04.2024 which was received by the Petitioner on 19.04.2024 is required to be complied with.

9. Accordingly, this Court therefore grants 7 (seven) days time to the Petitioner Bank to comply in terms with the directions so contained in the communication dated 12.04.2024.

10. It is however, made clear that that the amount so remitted to the Respondent No.3 by the Petitioner Bank shall be subject to the trial as mandated in Section 8(6) of the Act of 2002. In addition to that, this Court for the sake of clarity observes that the directions passed herein as well as the observations so made do not amount to confirming or adjudicating the order of the Adjudicating Authority. The observations and directions so passed shall be limited to the present lis before this Court.

11. With above observations and directions, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant