#R-23

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 30.08.2016

W.P.(C) 1391/2005

M/S TRANSMONEY EXPRESS P. LTD. ..... Petitioner

Through: Mr. Rajat Malhotra, Advocate with Mr. Jitender Kumar, Advocate

Versus

RESERVE BANK OF INDIA ..... Respondent

Through: Mr. H.S. Harihar, Advocate with Mr. K.S. Parihar, Advocate

CORAM:
HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

1. The present petition under Article 226 of the Constitution of India assails an order dated 08.01.2005 and seeks a writ of certiorari to set aside and quash the same.

2. The impugned letter dated 08.01.2005 is extracted hereinbelow:-

"**RESERVE BANK OF INDIA, NEW DELHI LETTER HEAD**
FE.DEL.FMX/8409MTSS (Transmoney)/2004-05 January 08, 2005
(Circular etc. issued under FEMA are available on our webside: www.fema.rbi.org.in)

REGISTERED POST

M/s Transmoney Express Pvt. Ltd.
D-4, Chander Shekhar Road,
Laxmi Nagar,
New Delhi-110092.

> Dear Sir,
>
> Money Transfer Service Scheme (MTSS) –
> In association with M/s Transcheq
> Express Inc., U.K.
> -------------------------
> Please refer to our letter EC.DEL.FMD No.418/Transmoney (MTS)/2002-03 dated 03.12.2002 vide which we had renewed our approval for carrying Money Transfer Services Scheme upto 10.11.2003. In this connection, we advise that the credit rating report of your overseas principal viz. Transcheq Express Inc. UK, is not found satisfactory and also in view of the grave irregularities observed during the inspection of your MTSS operations, you are advised to exit from the arrangement with M/s Transcheq Express Inc., UK, and wind up your operations with the overseas company by January 31, 2005 under advise to us. You are also advised to return to us the original MTSS approval letter dated November 11, 1999 issued to you by our Central Office, Mumbai.
>
> Yours faithfully,
> Sd/-
> (M. Mukherjee)
> Asst. General Manager
>
> PSN/C-6/fmd"

3. A plain reading of the impugned letter dated 08.01.2005 reveals that *inter alia* on the foundation of grave irregularities, observed by the Reserve Bank of India, during the inspection of Money Transfer Service Scheme (MTSS) operation of the petitioner, the latter were advised to exit from the arrangement that they had with M/s Transcheq Express Inc., U.K. and wind up their operations with the said overseas company by 31.01.2005. The approval granted to the petitioner to carry out MTSS operation was essentially withdrawn.

4. Mr. Kuldeep Parihar, learned counsel appearing on behalf of Reserve Bank of India invites my attention to the Payment and Settlement Systems Act, 2007 (hereinafter referred to as 'the said Act') to urge that the present petition has been rendered infructuous, inasmuch as, w.e.f. 12.08.2007 any person desirous of commencing or carrying of a payment system is required to apply afresh to the Reserve Bank of India for an authorization under the said Act.

5. Mr. Rajat Malhotra, learned counsel appearing on behalf of the petitioner states that he would be satisfied, if the Court were to direct the Reserve Bank of India to consider its proposed application, when filed, for authorization under the provisions of the said Act to commence a payment system, in accordance with law, without being influenced by the proceedings that led to the passing of the impugned letter dated 08.01.2005.

6. Mr. Kuldeep Parihar, learned counsel appearing on behalf of the Reserve Bank of India states that the petitioner is at liberty to apply afresh, in accordance with law, for authorization under the said Act, to commence a payment system and that such an application when filed, shall be disposed of, strictly in accord with the provisions of the said Act.

7. In view of the above, the present petition is disposed of, permitting the petitioner to apply for authorization to commence a payment system, in accordance with law, within a period of six months from today and the Reserve Bank of India is directed to dispose of that application, within the period stipulated in the said Act, without in any manner being influenced by the proceedings that culminated in the passing of the impugned letter dated 08.01.2005.

8. With the above directions, the writ petition is disposed of.

9. *Dasti*.

SIDDHARTH MRIDUL, J

AUGUST 30, 2016
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