

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-11339-2017

Date of Decision: July 12, 2017

State Bank of India

.....Petitioner

Versus

Union of India and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDHIR MITTAL**

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| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.Anil K.Ahuja, Advocate
for the petitioner.

Ms.Monika Thakur, Advocate for
Mr.Pankaj Gupta, Advocate
for respondent No.1-UOI.
Mr.Parateek Gupta, Advocate
for Union of India.
Ms.Anu Pal, AAG, Punjab.

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SURYA KANT, J.

Separate written statements filed on behalf of respondent Nos.3,
5, 6 & 8 and 9 & 10 as well as respondent No.2 are taken on record. Copies
given to Ld. counsel for the petitioner.

[2] One of the implication arising out of demonetisation is the
subject matter for consideration in the instant writ petition preferred by State
Bank of India.

[3] Pursuant to the applications moved by the prosecution/SHOs of
different police stations, the Special Courts/Judicial Magistrates in the State

of Punjab have passed judicial orders permitting the police authorities to deposit the demonetised currency in the shape of FDRs in the petitioner-Bank with a direction to the Bank Manager “to keep the currency notes intact till the decision of the competent court of jurisdiction or till further orders”. One of the said order, dated 20.12.2016, passed by Judicial Magistrate Ist Class, Rupnagar, reads as follows:-

“Keeping in view of the request of the concerned SHO forwarded by Ld.APP and further to prevent the monetary loss to the person/persons entitled for the same as per rules; the IO is directed to prepare the inventory of the currency notes and get the photostat of the above said currency notes and to attest the same to be correct after comparing the same with the original. The IO is further directed to deposit the above-said currency notes in the shape of Fixed Deposits (FDRs) with State Bank of Patiala in the name of the Court and then to produce the FDRs to be attached with the concerned file. The Bank Manager is also directed to keep the currency notes intact till the decision of the competent court of jurisdiction or till further orders. Ahlmad is directed to attach the FDs with the concerned file.”

[4] In deference to such like orders, the petitioner-Bank has put the amount in the shape of the FDRs but its predicament is how to keep the demonetised currency notes which have lost their complete value and validity after 30.12.2016? In fact retention of such demonetised notes has been subsequently notified as an offence. The petitioner-Bank cannot utilise the invalid currency notes for its banking business as well. Under these circumstances, an appropriate direction is sought from this Court.

alongwith Government of India, Ministry of Finance (Department of Economic Affairs) Notification, dated 12.05.2017, whereby the Specified Bank Notes (Deposit of Confiscated Notes), Rules, 2017, have been notified (for brevity, "the 2017 Rules"). Rule 2 of these Rules provides that where specified bank notes have been confiscated or seized by a law enforcement agencies or produced before a Court on or before 30.12.2016, such bank notes can be tendered at any specified office of the Reserve Bank for deposit in a bank account **or exchange of the value thereof with legal tender**, subject to certain conditions. Clause (c) of Rule 2 of the 2017 Act further reads as follows:-

“(c) in case specified bank notes are placed in custody of any other person by an order of the Court on or before the 30th day of December 2016, then, the person shall be entitled, on production of the direction of the court, to deposit or exchange such specified bank notes, the serial numbers of which-

(i) have been noted by the law enforcement agency which confiscated or produced them before the court; and

(ii) are mentioned in the direction of the court.”

(emphasis applied)

[6] Since the petitioner-Bank cannot exchange the confiscated invalid currency notes deposited with it under the Court orders with legal tender unless a specific order to this effect is passed by the Court concerned, we are of the considered view that it is imperative upon the Special Courts/Judicial Magistrates concerned to entertain the application(s) that may be moved by the petitioner-Bank to seek exchange of the confiscated

invalid currency notes with legal tender in terms of 2017 Rules, referred to

above. While doing so, the Special Courts/Judicial Magistrate shall ensure that Prosecuting agency has already prepared an inventory of the invalid currency notes and kept its photostat copies, duly attested, as case property for the purpose of ongoing trial.

[7] All the Special Courts/Judicial Magistrates/any other Court dealing with such matters are, therefore, directed to pass appropriate orders in terms of Rule 2(c) of 2017 Rules within a period of two weeks from the date an application for the said purpose is moved by the petitioner-Bank and/or any other Nationalised Bank.

[8] Registry is directed to communicate this order to all the District & Sessions Judges in the States of Punjab, Haryana and Union Territory, Chandigarh, for information and necessary compliance.

(SURYA KANT)
JUDGE

July 12, 2017
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(SUDHIR MITTAL)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |