

09 13.04.2022
rkd Ct.15

W.P.A. 4456 of 2020

Riddhi Portfolio Private Limited & Anr.

-vs-

The Union of India & Ors.

Mr. Abhrajit Mitra,
Mr. D. N. Sharma,
Ms. Noelle Dey,
Mr. Satadeep bBhattacharya,
Mr. Swetank Nigam

....for the petitioners.

Mr. L. K. Gupta,
Mr. D. K. Kundu,
Mr. Arjun Basu

....for the RBI.

In the writ petition challenge has been thrown to the order dated 20th July, 2018 issued by the Regional Director, Reserve Bank of India whereby the registration of the petitioner being Non-Banking Financial Company (NBFC) has been cancelled on the ground that the petitioner NBFC was not maintaining net owned fund of Rs.2 crores at the material point of time.

Mr. Mitra, learned senior advocate representing the petitioner has further submitted that a statutory appeal was preferred against the original order dated 20th July, 2018 and the Appellate Authority vide order dated 28th January, 2020 confirmed the original order dated 20th July, 2018. Petitioner NBFC is aggrieved by the original

order dated 20th July, 2018 and the order of the Appellate Authority dated 28th January, 2020.

It has been submitted on behalf of the petitioner NBFC by Mr. Mitra that had there been consideration of the report of the statutory auditor which was placed vide covering letter dated 2nd August, 2018 by the concerned authority of the Reserve Bank of India the fate of the issue would have been decided in different manner. It is also submitted that the original order was passed on 20th July, 2018 when the report of the statutory auditor was not considered by the authority of the Reserve Bank of India. It has further been submitted on behalf of the petitioner that if the report of the statutory auditor was relied upon at the time of consideration of the issue in that event it could be substantiated before the concerned authority of the Reserve Bank of India that at the material point of time the petitioner NBFC was maintaining net owned fund of Rs. 2 crores.

Mr. Gupta, learned senior advocate appears on behalf of the Reserve Bank of India being the principal respondent and has defended the decisions of the Reserve Bank of India which are impugned in the present writ petition.

Question crops up for consideration is

whether the petitioner NBFC was maintaining net owned fund of Rs.2 crores at the material point of time or not. It has been pointed out on behalf of the petitioner NBFC that if the reliance has been placed on the report of the statutory auditor then it would clarify the position on the fund owned by the petitioner NBFC.

This Court has considered submissions made on behalf of the rival parties and also perused the relevant materials available on record. Since it appears to this Court that at the time of passing the original order dated 20th July, 2018 the report of the statutory auditor was not considered by the Regional Director, Reserve Bank of India, Region Office, Kolkata, this Courts finds it proper to remit the issue to the appropriate authority of the Reserve Bank of India for revisiting the issue.

Accordingly, this Court directs the Regional Director, Reserve Bank of India, Regional Office, Kolkata, being the respondent no.5 to consider the issue *de novo* and pass a reasoned order within a period of six weeks from the date of communication of this order after granting opportunity of hearing to the petitioner.

It is made clear that all the points are kept open and the decision to be taken by the

respondent no.5 without being influenced by his earlier decision as emanates from his order dated 20th July, 2018 and the order of the Appellate Authority dated 28th January, 2020. Petitioners shall be at liberty to rely upon all the relevant documents and records for consideration by the said respondent no.5.

In view of the above direction the original order dated 20th July, 2018 and the order of the Appellate Authority dated 28th January, 2020 shall be kept in abeyance and shall abide by the decision to be taken by the respondent no.5 in terms of the direction as aforesaid.

With the above direction the writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)