IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-7200-2017 (O&M).
Date of Decision: 06.09.2022.

Nitin Modi

...Petitioner

Versus

Union of India and others

…Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

*****

Present: Mr. Rose Gupta, Advocate, and
Ms. Garima, Advocate,
for the petitioner.

Mr. Satya Pal Jain, ASGI with
Mr. Dheeraj Jain, Sr. Counsel for Union of India.

Sh. Deepak Suri, Advocate,
For respondent No.2 – Reserve Bank of India.

Mr. Vivek Chauhan, AAG, Haryana.

VINOD S. BHARDWAJ. J.

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India, 1950 seeking issuance of a writ of mandamus directing the respondents to exchange the amount of Rs.9,00,000/- in old currency notes seized by the Police Authorities under an order of seizure in terms of order dated 27.03.2017 (Annexure P-5) by respondent No.5.

2. Briefly the facts of the case are that the petitioner was carrying an amount of Rs.9,00,000/- in his car on 20.12.2016 when the same were seized by police under Section 102 of the Code of Criminal Procedure. The petitioner joined the investigation and submitted his Income Tax Returns for the Assessment Year 2015-16 along with Bank Statement. The authorities were satisfied with the documents but SHO said that the amount would be released after approval from the Income Tax Office. However, no action was taken despite numerous representations. Asstt. Director of Income Tax, however, finally passed an order on 23.03.2017 for release of the amount. The currency was thereafter released on 24.03.2017. The petitioner approached the respondents for exchange of the old currency notes but failed to do so. Hence, the present writ petition.

3. Learned counsel appearing on behalf of the respondents submit that they have no objection to the prayer being granted taking into consideration the judgment passed by the Bench of this Court in the matter of "***G. Tex Dyeing & Printing Mills Pvt. Limited Vs. State of Punjab and others," bearing CWP No.11984-2017 decided on 01.11.2017*** and also the stand of the Reserve Bank of India in its reply.

4. The relevant extract of the aforesaid reply filed by respondent No.2 – Reserve Bank of India is extracted as under:-

> *"3. That the petition had been filed seeking, inter alia, issuance of a Writ in the nature of mandamus directing the respondents to exchange the amount of Rs.9,00,000/- Specified Bank Notes (SBNs) into new currency notes in view of the order dated 27/03/2017 issued by respondent*

No.5 in favour of the respondent No.4. It has also been sought to direct Respondent no.4 to allow the petitioner to deposit the old demonetised currency amounting to Rs.9,00,000/- during the pendency of the present case.

4. That in compliance with the order dated 24.05.2017 passed by this Hon'ble Court directing RBI to file reply affidavit, the answering respondent file this reply affidavit for the limited purpose of placing on record the position in law as regards the provisions of the Specified Bank Notes (Deposit of Confiscated Notes) Rules, 2017 (hereinafter referred to as SBN Rules) issued by the Central Government on May 12, 2017 in exercise of the powers conferred by sub-section (1) of section 11, read with clause (c) of the proviso to section 5, of the Specified Bank Notes (Cessation of Liabilities) Act, 2017 (2 of 2017) and the position of the Reserve Bank on the issue under determination. This respondent reserves right to file a further detailed reply on merits in case so found necessary at a future date. A copy of the Specified Bank Notes (Cessation of Liabilities) Act, 2017 is annexed and marked as Annexure R-1 to this reply.

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9. That on 12th May 2017, the Government of India, Ministry of Finance (Department of Economic Affairs) issued a Notification No. GSR 460 (E)notifying the Specified Bank Notes (Deposit of Confiscated Notes) Rules, 2017 framed by the Central Government in exercise of the powers conferred by sub-section (1) of section 11, read with clause(c) of the proviso to section 5, of the Specified Bank Notes (Cessation of Liabilities) Act, 2017 (2 of 2017). A copy of the said Notification is annexed and marked as Annexure R-2 to this reply.

10. In terms of the Specified Bank Notes (Deposit of Confiscated Notes) Rules 2017 notified by the Central Government on May 12, 2017, where SBNs have been confiscated or seized by a law enforcement agencies or produced before a court on or before the 30th day of December 2016, such SBNs may be tendered for deposit in a bank account or exchange of the value thereof with legal tender, subject to the following conditions, namely:

(a) in case confiscated SBNs are returned by the court to a person who is a party in case pending before that court then, the person shall be entitled, on production of the direction of the court, to deposit or exchange such SBNs, 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;

(b) in case SBNs are forfeited in favour of the Central Government or the State Government by an order of the court, then, that Government shall be entitled, on production of the direction of the court, to deposit or exchange such SBNs; or

(c) in case SBNs are placed in the 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 SBNs, 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.

11. That the Specified Bank Notes (Deposit of Confiscated Notes) Rules 2017/ notified by the Central Government on May 12, 2017 do not apply to those SBNs confiscated or seized after the 30th day of December, 2016. Accordingly, instructions were issued by RBI vide Circular No. 5066 dated 25.05.2017 to its 19 Offices (Regional Offices viz. Ahmedabad, Belapur, Bengaluru, Bhopal, Bhubaneswar, Chandigarh, Chennai, Guwahati, Hyderabad, Jammu, Jaipur, Kanpur, Kolkata, Lucknow, Mumbai, Nagpur, New Delhi, Patna, Thiruvananthapuram) to accept SBNs subject to the fulfillment of conditions stated in the SBN Rules notified through Gazette notification dated May 12, 2017. A copy of the said Circular dated 25.05.2017 is annexed and marked as Annexure R-3 to this reply.

12. That in terms of the notification of the Central Government dated May 12, 2017, the case of the Petitioner for deposit or exchange of the SBNs can be considered provided he produces a direction of the court to deposit or exchange such SBNs. 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.

That in case the Petitioner produces the direction as stated in the notification of the Central Government dated May 12, 2017, the Respondent RBI shall consider the same and take a decision regarding exchange/deposit of the said SBNs."

5. In view of above, the present writ petition is disposed of. The petitioner shall approach the respondents within a period of 04 weeks of receipt of a certified copy of this order whereupon the

respondents shall exchange the old demonetized currency notes with new currency notes subject to the petitioner fulfilling the terms and conditions mentioned above, within a period of 04 weeks of the petitioner approaching the respondents.

September 06, 2022 **(VINOD S. BHARDWAJ)**
raj arora **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No