

AD-08
Ct No.09
28.08.2023
TN

WPA No. 22751 of 2022

Mackeil & Co. Pvt. Ltd.
Vs.
Reserve Bank of India and others

Mr. Sayan Datta

.... for the petitioner

Mr. Sarosij Dasgupta,
Mr. S. Ginodia,
Mr. Saturik Beriwalla

.... for the respondent nos.1, 2 & 3

Learned counsel for the petitioner challenges a Circular by the Reserve Bank of India dated October 29, 2021. The basic premise of the Circular was that in case of transactions of Rs.5 crore or above, the said transactions have to be routed by the borrower through the lender bank or an escrow account of the lender.

It is contended that the said Circular does not have any reasonable basis and does not satisfy the test of reasonableness. Moreover, the said Circular shall put borrowers in undue and unwarranted trouble.

Learned counsel for the Reserve Bank of India, (RBI) apart from taking the stand that the said Circular falls within the domain of policy decisions of the RBI, contends that the impugned Circular is one

of a series of Circulars, the parent Circular of which was issued sometime in August, 2020.

As such, the challenge in isolation is not maintainable in any event. It is further pointed out that since an option has been given to the borrower to canalize the transactions either through the lender bank or through an escrow account opened with the lender bank, there is no scope of any challenge to the same in any event.

Heard learned counsel for the parties.

The RBI is justified in arguing that the Circular, which has been impugned herein, falls categorically within the exclusive domain of policy decisions of the RBI, which is the ultimate authority in the field of financial transactions and banking in the country.

That apart, there is nothing in the Circular to indicate that the test of reasonableness has not been satisfied in any manner. Over and above the said reasons, the other reason furnished by the RBI in its defence is also justified as the impugned Circular is one of a series and the petitioner has not challenged the other Circulars of the said series, in particular, the parent Circular dated August 06, 2020.

In such view of the matter, there is no scope of interference.

Accordingly, WPA No.22751 of 2022 is dismissed without any order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)