$~**S-16**

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 293/2021 & CM APPL.760/2021**

ALPINE FINLEASE LIMITED ..... Petitioner

Through: Mr.Akshay Makhija, Sr.Advocate with Ms.Pavitra Kaur, Advocate.

versus

RESERVE BANK OF INDIA & ANR. ..... Respondents

Through: Mr.Ramesh Babu, Advocate with Ms.Manisha Singh, Ms.Nisha Sharma and Ms.Tanya Chowdhary, Advocates for R-1.
Ms.Manish Mohan, CGSC for R-2.

% Date of Decision: 30th January, 2023

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

MANMOHAN, J: (ORAL)

1. Present writ petition has been filed challenging the order dated 13th April, 2020 passed by the Appellate Authority whereby the appeal of the Petitioner filed against the cancellation of registration order dated 2nd August, 2018 passed by the Reserve Bank of India (Respondent No. 1) was dismissed. Petitioner also challenges the notification dated 27th March, 2015, gazetted on 11th March, 2016 issued by the Respondent No. 1.

2. Learned senior counsel for the petitioner states that the petitioner has been operating as a Non-Banking Financial Company ('NBFC') since

12th January, 1999. He states that vide the impugned notification dated 27th March, 2015 the Respondent No.1 in exercise of its power under Section 45-IA(1)(b) of the Reserve Bank of India Act, 1934 (‘the Act’) specified two hundred lakh rupees as the net owned fund ("NOF") required for an NBFC to commence or carry on the business of a non-banking financial institution. The notification further provided that an NBFC holding a Certificate of Registration and having the NOF less than two hundred lakh rupees, may continue to carry on the business of non-banking financial institution, if such company achieves NOF of one hundred lakh rupees before 1st April, 2016 and two hundred lakh rupees before 1st April, 2017.

3. Learned senior counsel for the petitioner states that the Petitioner had achieved the required NOF of two hundred lakh rupees by 30th March, 2017 as has been duly certified by its chartered accountant. He, however, states that more than one year after the due date of compliance, the Respondent No.1 issued a Show Cause Notice dated 2nd May, 2018 to the Petitioner asking it to reply as to why its Certificate of Registration should not be cancelled on account of failure to achieve the required NOF by 1st April, 2017.

4. Learned senior counsel for the petitioner states that the Respondent No.1 without giving the Petitioner an opportunity of personal hearing and without considering its reply dated 18th May, 2018 passed an order dated 2nd August, 2018 cancelling the Petitioner’s Certificate of Registration. He states that aggrieved by the cancellation of registration order, the Petitioner filed an appeal before the Appellate Authority stating that the Petitioner had achieved the required NOF by 30th March, 2017, however there was a dip in the NOF due to the untimely demise of the Director of the Petitioner,

namely, Smt.Kamla Agarwal. He states that the Petitioner also informed the Appellant Authority that it had re-achieved the requisite NOF of two hundred lakh rupees on 17th July, 2018 before the order cancelling the certificate of registration was passed by the Respondent No.1. He, however, states that the Appellate Authority without considering the submission of the Petitioner passed the impugned order dated 13th April, 2020 dismissing the appeal of the Petitioner and upholding the order of cancellation of registration passed by the Respondent No. 1. He lastly states that if this Court were to remand the matter to the Appellate Authority, the Appellant would not like to press the challenge to the notification dated 27th March, 2015, gazetted on 11th March, 2016.

5. Learned counsel for the Respondent No.1 states that the statutory auditor of the petitioner had, on the basis of audited financial statement, admitted that as on 30th March, 2017, the petitioner had not achieved the NOF of rupees two hundred lakhs. He contends that there is a clear contradiction in the chartered accountant's certificates dated 30th March, 2017 and 31st March, 2017.

6. This Court is of the view that every quasi-judicial order has to be supported by reasons, as reasons are the link between the order and the mind of its maker. Since in the present instance, the Appellate Authority has not dealt with the contentions and submissions advanced by the petitioner, this Court, without prejudice to the rights and contentions of the parties, remands the matter back to the Appellate Authority to pass a reasoned order specifically dealing with the contentions and submissions advanced by the petitioner.

7. Due to passage of time, it is directed that the Appellate Authority shall decide the matter afresh, after giving an opportunity of hearing to the petitioner, within a period of eight weeks of receipt of the order. Needless to state that the Appellate Authority shall decide the appeal uninfluenced by any observation made by this Court. With the aforesaid directions, the present petition along with pending application stands disposed of.

MANMOHAN, J

SAURABH BANERJEE, J

JANUARY 30, 2023
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