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13.03.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 26753 of 2023

Arindam Das
Vs.
Union of India

Mr. Arindam Das
... petitioner in person

Mr. N.L. Singhania,
Ms. Sarda Sha,
Ms. Sanchari Chakraborty
...for the respondent

1. The petitioner, appearing in person with leave of Court, contends that his DIN (Director Identification Number) was deactivated all on a sudden, upon which the petitioner made enquiries and came to know that apparently his KYC (Know Your Customer) documents, which were submitted by the petitioner in due time, were not treated to be submitted.

2. It is contended that the petitioner made at least three attempts on April 22, 2023, June 24, 2023 and September 30, 2023 to upload online the KYC compliance on the official portal. However, when the petitioner clicked the "Submit" button, which automatically came up, no error was shown and the petitioner was under the impression that the KYC documents were duly submitted.

3. However, the petitioner subsequently came to know of the deactivation of the DIN, apparently due to his account ID being blocked for some technical reason. Immediately the petitioner booked a complaint with the concerned authorities on November 07, 2023. The complaint was resolved only on November 23, 2023. It is submitted that by virtue of the resolution of the issue by unblocking his account ID, the stand of the petitioner was vindicated that during the relevant period, the User ID of the petitioner had been blocked insofar as Version-3 of the concerned software is concerned.

4. The said account ID of the petitioner was unblocked only on December 20, 2023 and, as such, the petitioner could not have complied with the KYC requirement during the relevant period.

5. Learned counsel appearing for the respondent-authorities submits that the concerned portal remains open from April 01, 2023 to September 30, 2023 for submission of the KYC documents online. In the event the petitioner had any issues with KYC compliance, the petitioner could have approached the concerned authorities within the said time.

6. Learned counsel for the respondent-authorities submits that if the petitioner's payments were received, a challan ought to have been issued to the petitioner, which not being done, the petitioner

ought to have become aware of the KYC documents not being accepted.

7. That apart, it is argued that the concerned portal ought to have thrown up an error message in the event the documents were not accepted. Such being not the case, even as per the case of the petitioner in the present matter, it has to be construed that the petitioner himself was responsible for non-filing of the KYC documents.

8. The petitioner, while controverting the arguments of the respondents in reply, points out that there was no occasion to make any payment or obtain a challan (which, in any event, is not possible online) during April 01, 2023 to September 30, 2023, since the said period was only for meeting the KYC requirements and if filed during the stipulated period, no payment was required to be made.

9. Upon hearing the parties, what transpires is that the petitioner's User ID had obviously been blocked for some period, which is evident from the materials-on-record, and was only unblocked in the month of December, 2023, that is, after the expiry of the due time for filing of the KYC documents.

10. Hence, there is no way of ascertaining as to when such blocking commenced.

11. As there is no way from the materials-on-record to ascertain beyond reasonable doubt as to whether

the petitioner was responsible in any manner for non-submission of the KYC documents or such documents could not be submitted due to the blocking of his account/ID, the Court has to resort to preponderance of probabilities.

12. Since the petitioner's ID was found to be unblocked subsequently and has now been restored, a backward presumption can very well be drawn that the ID was dysfunctional during the relevant period, for which the petitioner could not submit the KYC documents online.

13. As such, the petitioner ought not to be saddled with the liability of paying the penalties as stipulated in the statute and concerned regulations for late submission of the KYC documents.

14. In such circumstances, W.P.A. No. 26753 of 2023 is disposed of by directing the petitioner to submit his KYC documents and comply with the KYC requirement within a week from date.

15. If so complied with, the respondent-authorities shall accept such documents deeming the same to be made in due time without charging any penalty for the late submission of such KYC documents.

16. It is further clarified that since the petitioner cannot be saddled with the liability for the delay in submitting the KYC documents, no other late fees consequential to such late filing of the KYC shall be charged in any manner from the petitioner as well.

17. There will be no order as to costs.

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

(Sabyasachi Bhattacharyya, J.)