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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/146/2021

SONEKO SECURITIES PVT. LTD.
VS
RESERVE BANK OF INDIA & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date :19th August, 2024.

Appearance:
Ms. Aparajita Rao, Adv.
Mr. Sanwal Tibrewal, Adv.
Ms. Swastika Roy, Adv.
...for Petitioner.

Mr. Amit Sharma, Adv.
...for Union of India.

Mr. D.K. Kundu,
Mr. Arjun Basu, Adv.
...for RBI.

The Court:- The petitioner claims to be a Non Banking Financial Company. Challenging the order of cancellation of the certificate of registration of the Company passed by the Reserve Bank of India on 12th November, 2018, the petitioner filed a writ petition being WPO 220 of 2019. The Court, vide order dated 22nd July, 2019, after noticing that there is an appellate provision, permitted the writ petitioner to file appeal under Section 45-IA (7) of the Reserve Bank of India Act, 1934, within a period of 30 days from the date of receipt of the copy of the order. The petitioner was given liberty to raise all issues before the appellate authority.

According to the provision of Section 45-IA (7) a Company aggrieved by the order of cancellation of the certificate of registration, may prefer an

appeal within a period of 30 days from which such order of cancellation is communicated to it, to the Central Government. The petitioner, though preferred an appeal within the time limit as specified by the Court, but the said appeal was preferred before an incompetent authority. The petitioner preferred the appeal before the Reserve Bank of India, the same authority which cancelled the certificate of registration of the petitioner. The petitioner currently intends to prefer an appeal before the appropriate authority.

It appears from the cause title of the writ petition that initially the Central Government was not made a party in the instant writ petition. Pursuant to the leave granted by the Court, the Central Government has since been impleaded as party.

At this stage, there is hardly any scope to adjudicate on merits the impugned order cancelling the certificate of registration of the petitioner. The Court at the very first instance when the petitioner filed the earlier writ petition in 2019 did not enter into the merits of the impugned order of cancellation. The petitioner was granted leave to approach the statutory appellate authority being the Central Government. For reasons best known to the petitioner, appeal was filed before the forum which did not have the jurisdiction to decide the issue. In the meantime the petitioner has lost valuable time.

At this stage, there is no option before this Court but to relegate the petitioner to the statutory appellate forum in line with the order passed by the Court on 22nd July, 2019 in WPO 220 of 2019.

It will be open for the petitioner to pray for condoning the delay in preferring the appeal. In the event a prayer is made for condoning the delay, the same shall be decided by the appellate forum in accordance with law.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)

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