

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

HEARD ON: 03.03.2025

DELIVERED ON: 03.03.2025

**CORAM:
THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)**

**F.M.A. 335 of 2025
With
I.A. No. CAN 1 of 2025**

**Reserve Bank of India
Vs.
Gaurav Swarup & Anr.
With
F.M.A. 336 of 2025
With
I.A. No. CAN 1 of 2025**

**Reserve Bank of India
Vs.
Vikram Swarup & Anr.**

Appearance:-

**Mr. Utpal Bose, Sr. Adv.
Ms. Suchismita Ghosh Chatterjee
Ms. Moloy Kr. Sealfor the appellant**

**Mr. Kishore Datta, Sr. Adv.
Mr. Billwadal Bhattacharyya, Sr. Adv.
Mr. Ankur Chawla
Mr. Amir Khan
Mr. Aditya Mondal
Mr. Subhojit Saha
Mr. Ankit Chowdhuryfor the respondents/writ petitioners**

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

1. Since the issues involved in these appeals are common and identical, both the appeals are taken up together and are disposed of by this common judgment and order. For the sake of convenience, we take up F.M.A. 335 of 2025 for discussion.
2. This intra-Court appeal by the Reserve Bank of India is directed against the order dated December 13, 2024 in W.P.A. 31029 of 2024. By the said order, the writ petition has been allowed without an opportunity to the appellant to place their submissions before the learned writ Court. The learned Single Bench has quashed the E-mail dated October 4, 2024 by which the Reserve Bank of India returned the application filed by the writ petitioner for compounding of an offence.
3. The learned Single Bench further directed the writ petitioner to re-submit the application dated February 12, 2024 before the respective authority of the appellant and a direction was issued to the appellant to consider the same within a time frame.
4. The learned senior advocate appearing for the appellant/Reserve Bank of India submitted that the appellant did not have adequate opportunity to rebut the claim made by the writ petitioner and apart from that it is submitted that section 15 of the FEMA is not applicable to the facts and circumstances of the case.
5. In our view, it may not always be necessary for the writ Court to call for affidavits. Nonetheless, an opportunity should be granted, more

particularly, when the Court is inclined to allow the writ petition at the admission stage.

6. The learned senior advocate appearing for the respondent/writ petitioner submitted that notice in the writ petition was served on the appellant on December 26, 2024.
7. It may be true that the notice was served on December 26, 2024. However, the writ petition came to be allowed on December 30, 2024. Considering the facts and circumstances of the case, we are of the view that adequate opportunity was not granted to the appellant. Therefore, we are inclined to set aside the impugned order and restore the writ petitions to the file, to be heard and disposed of afresh on merits and in accordance with law after affording an opportunity to the appellant to file their affidavit-in-opposition.
8. Accordingly, the appeals are allowed. The orders impugned are set aside and the writ petitions are restored to the files of the learned Single Bench having determination.
9. The appellant is directed to file their affidavit-in-opposition within a week from today; reply thereto, if any, be filed within a week thereafter.
10. Let the writ petitions be listed before the learned Single Bench having determination after three weeks.
11. Learned advocates for the parties are at liberty to mention before the learned Single Bench having determination for early hearing of the matters.
12. However, it is made clear that we have not expressed anything on the merits of the matters and it will be well-open to the parties to agitate their respective claims before the learned Single Bench.
13. No costs.

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

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(CHAITALI CHATTERJEE (DAS), J.)