(2025) 05 MEG CK 0547

In the Meghalaya High Court

Case No : Writ Petition (C) No. 100 Of 2025

Axis Bank Ltd. & Ors.	APPELLANT
Vs	
Union Of India & Ors.	RESPONDENT

Date of Decision : 23-05-2025

Acts Referred:

India Penal Code, 1860 — Section 419, 420, 506
Information Technology Act, 2000 — Section 66, 67

Citation : (2025) 05 MEG CK 0547

Hon'ble Judges : H. S. Thangkhiew, J

Bench : Single Bench

Advocate : P. Das, S. Marpan, Dr. N. Mozika, M. Myrchiang

Final Decision : Disposed Of

Judgement

H. S. Thangkhiew, J

1. The brief facts of the case are that the respondents No. 4-6, by various orders had directed the writ petitioner Bank to mark “Debit Freeze” of the accounts standing in the name of SUPERIOR FINLEASE LIMITED and ZOKIA FINSERV PRIVATE LIMITED, for offences committed under Sections 420, 506 and 419 of the IPC read with Section 66, and 67 of the Information Technology Act, as well as under the Prevention of Money Laundering Act, 2002.

2. Accordingly, the writ petitioner as per the orders passed by the Statutory Authorities(respondents) had marked “Debit Freezed” of the aforesaid Bank accounts.

3. That thereafter the Adjudicating Authority under the Prevention of Money Laundering Act, 2002, under an order dated 30.05.2023, passed in O.A. No. 788/2023, issued a letter directing the writ petitioner to make a Demand Draft of the frozen amounts, in favour of the respondent No. 2, at Shillong. As there were multiple orders, which created confusion with regard to compliance, the writ petitioner has approached this Court impugning a letter dated 20.09.2024,

wherein the directions have been issued to make a Demand Draft of the frozen amount along with interest accrued, if any, in favour of the respondent No. 2.

4. Mr. P. Das, learned counsel for the petitioner has submitted that as per the directions of the Statutory Authorities i.e. the respondents No. 4-6, "Debit Freeze" of the said two accounts had been made, and presently the amounts of the two entities that is SUPERIOR FINLEASE LIMITED and ZOKIA FINSERV PRIVATE LIMITED, are lying frozen with the writ petitioner. He submits that though there is no difficulty in placing the said amounts by way of Demand Draft in favour of the respondent No. 2, except for the fact that the same might be in conflict with the "Debit Freeze" orders issued by the respondents No. 4-6. Learned counsel has further submitted that possession of the seized property under any authority will have no effect on the adjudicating process, and in this context has placed reliance in the judgment of the Supreme Court in the case of Vijay Madanlal Choudhury vs. Union of India & Ors. reported in (2023) 12 SCC 1. He therefore prays that appropriate orders may be passed by this Court in this regard.

5. Dr. N. Mozika, learned DSGI for the respondents in reply and in his brief submissions has placed an order dated 12.08.2024, passed in WP(C) No. 3599/2024 of the Gauhati High Court, wherein he submits in an identical situation, the amounts as directed had been placed before the Enforcement Directorate, but in that case, the Statutory Authorities had expressed their no objection. He further submits that as the respondents No. 4-6, inspite of service of notice, have not appeared before this Court, appropriate orders may be passed directing for the deposit by the Demand Draft of the amounts lying in the account of these two entities.

6. Having heard the learned counsel for the parties, it can be seen that the impugned order was made pursuant to the order dated 30.05.2023, wherein it has been observed at Para – 7.5, as follows:

"7.5. Considering the aforementioned context, it is crucial for the progress of the investigation and for the sake of justice that the Application filed by the Enforcement Directorate is granted. Thus, the retention of the virtual/bank accounts frozen under Section 17(1A) as mentioned in the Original Application (OA) and documented in the Panchanama dated 09.12.2022 should be allowed to persist.

a. Hence the Application as filed by the Enforcement Directorate is allowed.

b. Hence OA-788 of 2023 is allowed."

7. This was followed by the impugned order/direction dated 20.09.2024, whereby the petitioner Bank was directed to make a Demand Draft of the frozen amount in favour of the respondent No. 2.

8. This Court has given its thoughtful consideration to the entire matter, and recognizes the fact that only the Enforcement Directorate can prosecute under

the Prevention of Money Laundering Act, 2002, and as the matter concerns the same, it would be not of all place, if the direction is complied with by the petitioner Bank. The only hindrance or difficulty is with regard to the non-appearance of the Statutory Authorities i.e. the respondents No. 4-6, inspite of service of notice upon the said respondents, which has also been confirmed by an affidavit of service dated 14.05.2025.

9. Accordingly, considering the facts and circumstances of the case as they pertain, including the fact that the respondents No. 4-6, have not appeared inspite of notice, it is directed that the writ petitioner Bank shall comply with the directions as contained in the impugned order dated 20.09.2024, and to make necessary Demand Draft for the respondent No. 2 preferably within a period of 4(four) weeks.

10. It is however made clear that the amount as deposited by the Bank shall be subject to trial under the Prevention of Money Laundering Act, 2002, in accordance with law.

11. Matter accordingly stands closed and disposed of.