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How Delhi HC's PayPal ruling may help India during FATF review

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NEW DELHI: The Delhi high court's ruling that US online gateway PayPal is a "reporting entity" under the anti-money laundering law may help India during the FATF review of its anti-black money regime, reported PTI.

Financial investigators said that the ruling may boost India's efforts to show that its financial systems are becoming more "robust".

India is currently under the Financial Action Task Force (FATF) review. It last underwent a similar review in 2013 where it was found that India had reached a satisfactory level of compliance with all of the core and key recommendations of the watchdog. FATF, a Paris headquartered global body, leads action against

money laundering and terrorist financing crimes. A visit by the FATF team is expected to commence in November.

Earlier this week, the Delhi high court had set aside a penalty of Rs 96 lakh imposed on PayPal by the Financial Intelligence Unit-India for alleged non-compliance with the reporting obligations under the law against money laundering.

Justice Yashwant Varma, however, ruled that PayPal was liable to be viewed as a payment system operator under the the Prevention of Money Laundering Act (PMLA) and so has to comply with reporting obligations under the law.

Top officials in financial law enforcement agencies told PTI that the categorisation of PayPal as a reporting entity under the PMLA will ensure that all such big payment gateways and platforms are regulated and they share the stipulated suspicious transaction reports (STRs) and cross-border wire transfer reports with the Financial Intelligence Unit (FIU) under the PMLA.

The FIU, as per its mandate, disseminates these reports to various probe agencies which investigate money laundering, tax evasion, and other serious financial frauds.

All such payment gateways and payment system operators enable transactions worth crores of rupees and it is very essential to know what is happening where, a senior officer working with a probe agency, who did not wish to be named, said.

Financial investigators say that the recent HC judgement will help the FIU bring operations of about a dozen more such payment gateways under the 'reporting entity' regime even as a number of payment gateways operating in the country are already reporting STRs to the FIU.

While the HC judgement in the PayPal case may not give India additional points during the FATF review, it will surely underline that Indian anti-money laundering agencies are leaving no stone unturned to ensure that the country's economic channels are clean and the risks of financial crimes minimum, the officer told PTI.

A legal tussle between the FIU and PayPal began in March 2018 when the former asked the company to register as a reporting entity for keeping "record" of all transactions, reporting suspicious transactions and cross-border wire transfers, and identifying beneficiaries of these funds.

An order issued in December 2020 by the then FIU Director, Pankaj Kumar Mishra, had held the company guilty on three broad counts, the fundamental one being its failure to register itself as a "reporting entity" with the federal agency as mandated under the PMLA.

Paypal told the HC during the hearings that functions performed by it "would also not extend to money transfer

operations since it at no stage of the entire transaction handles funds which move between the Indian exporter and the overseas buyer."

The company argued that it cannot be said to be a payment system operator as being claimed by the FIU.

The FIU counsel told the court that the nodal account maintained by PayPal in India with Citibank "witnessed export transactions of a combined value of more than Rs 12,000 crore in 2021."

The grievance of the FIU-IND essentially is, and in its own words, described to be that of an "impaired visibility" with respect to transactions which are completed on PayPal's platform, the HC noted in its order.

(With inputs from PTI)

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