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By *Trisha Jalan* ,March 5, 2020

The Supreme Court of India **struck down** the RBI's banking ban against the cryptocurrencies yesterday, stating the directive as disproportionate. A three-judge bench consisting of Justice Rohinton Fali Nariman, Justice S. Ravindra Bhat, Justice V. Subramaniam quashed the RBI's April 2018 circular, which **restricted** banks from providing services to businesses dealing with cryptocurrencies.

While placing the ban, the RBI had stated that cryptocurrencies raise concerns of consumer protection, market integrity and money laundering, among other risks. The circular effectively banned trading of cryptocurrencies in India, especially crippling exchanges, as it cut them off from the formal economy. The Supreme Court judgment comes in response to a petition filed by cryptocurrency exchanges CoinDCX, Koinex, Throughbit and CoinDelta which had approached the Supreme Court immediately after the circular was passed. The writ petition was later joined in July 2019 by the Internet and Mobile Association of India represented by **Nishith Desai Associates** and advocate Ashim Sood.

The court struck down the circular on the grounds that: there is no empirical evidence of any harm caused to the RBI regulated entities, including banks, from the directive; cryptocurrencies are not currently banned — despite several committees coming up with proposals and two draft bills, the government has not been able to decide on their legality; the ban is not proportionate to the risk sought to be addressed by such ban.

CoinDCX, WazirX, Zebpay start to offer bank services

Cryptocurrency exchange CoinDCX, one of the petitioners, said it will now integrate bank account transfers, as all exchanges can now access banks. CoinDCX's co-founder and CEO said India's cryptocurrency environment "is going to have a transformation after the court verdict" and "crypto-INR pairs are going to see a massive jump as new investors (both institutional and retail) can now invest in the crypto markets without any hesitation or skepticism". Nishal Shetty, founder and CEO of cryptocurrency exchange WazirX, said the company is also [working](#) on restoring bank account deposits and withdrawals for its customers.

ZebPay's system temporarily went down for a few hours yesterday after the verdict was declared, as users rushed to log in and start trading.

Manish Kumar, co-founder and CEO of Realx, said the impact of the judgment is a "bit deeper" than the obvious enablement of cryptoexchanges and cryptocurrencies as an asset. Innovation in Fintech happens in the gap bet between "what is explicitly allowed (all that is generally licensed) and what is strictly not" and this void "creates a regulatory drag and keeps the stakeholders hanging which in turn hampers growth," he explained. But the verdict "did not find anything illegal in the gap where Crypto platforms operated" and this sends a clear message "indirectly benchmarking that operating in the gap is all right, and regulators cannot take one sided coercive steps. This signaling will boost the confidence of the Fintech community – its startups, investors and customers. The verdict therefore leaves us with hope that we as innovators must keep going without the unnecessary fear of adverse action."

The way forward?

Elaborating on the way forward, former Zebpay CEO Ajeet Khurana told MediaNama that regulation cannot be brought in through the banking ban backdoor, and that the only way to do it is through legislation. "The novelty of the crypto paradigm is such that it creates a fertile ground for scamsters to run too-good-to-be-true cons. Genuine crypto players and law enforcement will have to prepare to deal with it," he added.

He said that irresponsible statements "by those in important positions about the legality, validity, and price-expectations of crypto has done us a lot of harm" and "that has to change". He continued:

Most importantly, the fledgling crypto industry has to behave like a mature industry. They need to create a united voice, educate the electorate, engage with the government, regularly interact with parliamentarians. We did all of these to some extent in the past, but much more needs to be done.

Even WazirX's Shetty said "Phase 1" is successful but the next step is to "ensure that Crypto industry of India is involved in building the Crypto regulatory framework". Unocoin co-founder Sathvik Vishwanathan [said](#) that Unocoin's other co-founder Harish BV was instrumental in the case, as he said his rights as an individual were being violated by the RBI circular, which restricted his right to a bank account. Being an association and not an individual, IAMAI could not have alleged this violation.