



**Luthra *and* Luthra**  
LAW OFFICES INDIA

# Google Pay does not need RBI authorization as it is merely a third party app provider: Delhi High Court (Case Insight)

---

SEPTEMBER EDITION

The Hon'ble High Court of Delhi in its judgement dated August 7, 2023, has held that Google Pay (operated by Google India Digital Services Private Limited) is not a 'system provider'<sup>1</sup>, and thus is not required to seek registration from the Reserve Bank of India (**RBI**) under the provisions of Payment and Settlement Systems Act, 2007 (**PSS Act**).

### Background:

The Delhi High Court's present judgement emanates from a Public Interest Litigation whereby it was alleged that operations of Google Pay in India as a 'system provider', are unauthorized as Google Pay has not obtained necessary permission under the PSS Act. Further, Google Pay storing sensitive information of Indian citizens, tantamount to violation of Aadhar Act, 2016, for want of obtaining such permission.

The petitioner placed reliance on the reply to an RTI application filed by the petitioner before the Unique Identification Authority of India (**UIDAI**) and the RBI - seeking information as to whether Google Pay was authorized to operate as a 'system provider', and whether UIDAI has granted it the permission to access and store customer data via BHIM Aadhar platform, while processing payments. The reply of both the authorities (i.e., UIDAI and RBI), on the above sought information was in the negative.

### Submissions of RBI and Google Pay:

- (i) The RBI submitted that Google Pay is not a 'system provider' and rather is merely a third-party application provider (**TPAP**). This was substantiated as under:
  - a. RBI's permission under PSS Act is required only for commencement or operation as payment systems<sup>2</sup>. Such permission under section 7 of the PSS Act has been granted to National Payments Corporation of India, which is an undertaking of the RBI (**NPCI**). The NPCI has been entrusted with the responsibility of operating retail payments and settlement systems in India.
  - b. Thus, it is the NPCI which is duly registered and authorized as a payment system provider (**PSP**), and NPCI is the network operator, service provider and coordinator of the UPI, which is a system for real-time instant payment system facilitating inter-bank transactions.
  - c. Since UPI is a platform operated and controlled by NPCI, Google Pay functions as an application merely to provide its services on the UPI platform, and it

---

<sup>1</sup> Section 2(1)(q) of PSS Act defines 'system provider' as a person who operates an authorised payment system.

<sup>2</sup> Section 2 (1) (i) of PSS Act defines 'payment system' as a system that enables payment to be effected between a payer and a beneficiary, involving clearing, payment or settlement service or all of them, but does not include a stock exchange.

cannot be said that Google Pay is a PSP in itself. Further, onboarding of entities on UPI platform is a decision left to be taken by the NPCI, and accordingly reference was placed on a list of TPAPs on UPI system, wherein Google Pay is included.

- d. It was stated that PSPs are entities that provide front end or the final applications to be used by customers. PSPs provide end-to-end services to customers. Banks may participate in the UPI framework as 'system participant'<sup>3</sup>, and under the multi-bank model launched by the NPCI, a TPAP may participate in the UPI system through such banks. It is submitted that under this arrangement, Google Pay is a TPAP.
  - e. It was further submitted that every participating bank in the UPI system allots Virtual Payment Addresses (VPAs) to individual users, to facilitate either Peer-to-Peer (P2P) or Peer-to-Merchant (P2M) transactions. This elaborate arrangement ensures that no other information such as bank details or private data is leaked, as all transactions are routed through customers' VPAs. In this framework, Google Pay merely acts as a TPAP, by connecting participating banks/system participants to a large customer base.
- (ii) Google Pay also argued on the same lines and *inter alia* stated that Google Pay neither falls within the definition of 'payment system', nor is it a 'system provider' or 'payment system operator'. Additionally, Google Pay also laid emphasis on NPCI's circular dated 15.09.2017, which enables the operation of a multi-bank model in UPI. Under this model, all data exchanged between UPI enabled app, the app provider's system and the participating bank, are submitted through a secure channel.

Google Pay works on this multi-bank model and connects to UPI systems, which in turn is operated by the NPCI through multiple participating banks. Thus, it was averred that Google Pay is merely an application that provides the technological platform and the interface through which users undertake UPI transactions.

- (iii) Further, in response to Petitioner's concerns regarding storage of sensitive information of customers such as Aadhaar details etc., the RBI submitted that while both services (BHIM-Aadhar and UPI) are products offered and operated by the NPCI, Google Pay is only a third-party UPI enabled app which is not connected to BHIM-AADHAR in any way.

---

<sup>3</sup> Section 2 (1)(p) of the PSS Act defines 'system participant' as a bank or any other person participating in a payment system and includes the system provider.

### **Court ruling:**

Based on the submissions made and in view of the provisions of the PSS Act, the Hon'ble High Court held that Google Pay is merely a TPAP for which no authorization from the RBI is required under PSS Act. Also, while placing reliance on the UPI Guidelines, 2019, the Court held that the said Guidelines are clear that data may be stored under two types, namely, 'customer data' and 'customer payments sensitive data'. While the former may be stored with the app provider in an encrypted format, the latter can only be stored with the payment services providers bank systems, and not with the TPAP under the multi bank model approach that Google Pay has opted for. Therefore, the Court dismissed the petitioner's contention that Google Pay is actively accessing and collecting sensitive and private user data.

*This case insight is only for general informational purposes, and nothing in this edition could possibly constitute legal advice, which can only be given after being formally engaged and familiarizing ourselves with all the relevant facts.*

**Contributories:**



**ITEE SINGHAL**  
Partner Designate



**NUPUR GUPTA**  
Associate