**(2021) 04 SEBI CK 0024**

**In the Securities Appellate Tribunal Mumbai**

**Case No :** Appeal No. 164 Of 2021

Aditi Asim Dalal APPELLANT

Vs

Securities & Exchange Board Of India And Others RESPONDENT

**Date of Decision :** 06-04-2021

**Acts Referred:**

**Citation :** (2021) 04 SEBI CK 0024

**Hon'ble Judges :** Tarun Agarwala, Presiding Officer;M. T. Joshi, J

**Bench :** Division Bench

**Advocate :** Piyush Rahejo, Devanshu Desai, Vishal Kanade, Mihir Mody, Sushant Yadav, Karan Dhawan, K. Ashar, Pesi Modi, Anubhav Ghosh, Raveshekhar Pandey

**Final Decision :** Allowed

## Judgement

Tarun Agarwala, Presiding Officer

1. The appellant has challenged the action of BSE Ltd. ('BSE' for short) in freezing the demat account and have filed the present appeal.

2. The facts leading to the filing of the present appeal is, that the appellant is a promoter in Oasis Neturaceuticals Ltd. and holds 50,000 shares. It is contended that the appellant is not involved in the management of the Company. It transpires that the Company became a defaulter under the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements Regulations (hereinafter referred to as 'LODR Regulations) and failed to pay the listing fees to the stock exchange. As a result of the failure on the part of the Company to pay the listing fee, the stock exchange took recourse to its circular dated 11th June, 2019 and took steps to freeze the demat accounts of the promoter and promoter groups including the appellants.

3. It is alleged that the appellant forwarded a cheque of Rs.1,66,479 towards part payment of the listing fee and requested the stock exchange to grant six monthly instalment to enable the appellant to pay the balance due. It is contended that the respondent stock exchange encashed the cheque but did not

 

grant any liberty to pay the balance amount in instalment.

4. Before this Tribunal the contention raised is, that the stock exchange does not have any power to freeze the demat account under the LODR Regulations. It was also contended that the respondent stock exchange has no power under the SEBI Act, SCRA Act or the regulations framed thereunder to freeze the demat account or to issue a circular and, therefore, the action taken by the respondent is wholly illegal and without jurisdiction.

5. On the other hand, the respondent contended that they have the power under the LODR Regulations and take steps to freeze the accounts. It was submitted that steps were taken pursuant to circular dated 11th June, 2019 and, therefore, there is no illegality in the freezing of the accounts.

6. SEBI contends that the circular dated 11th June, 2019 issued by the stock exchange has now been superseded by a circular dated 11th February, 2021 wherein a standard operating procedure has been framed by SEBI which is required to be followed.

7. We have heard Mr. Piyush Rahejo, Advocate for the Appellant and Mr. Vishal Kanade, Advocate assisted by Mr. Mihir Mody, Mr. Sushant Yadav and Mr. Karan Dhawan, Advocates for the Respondent No.1 and Mr. Pesi Modi, Senior Advocate assisted by Mr. Anubhav Ghosh and Mr. Raveshekhar Pandey, Advocates for the Respondent No.2.

8. Having heard the learned counsel for the parties, we find that the action to freeze the demat accounts of the appellant have been taken under the circular dated 11th June, 2019 which stipulates that with effect from 1st December, 2019 onwards if the Company continues to remain in default in which case demat account of the promoter and the promoter group shall be frozen for all debits. This circular dated 11th June, 2019 has now been superseded by the circular dated 11th February, 2021 issued by SEBI. This circular becomes relevant now for the purpose of disposal of the present appeal.

9. A perusal of this circular indicates that standard operating procedure has been framed by SEBI for action to be initiated against listed companies for non-payment of annual listing fees. Freezing of the shareholding of the promoters has also been provided but such steps could only be taken after giving notice and after giving opportunity of hearing. In para 9.2 of the circular, it has been stated that the exchanges were directed to inform the depositories to unfreeze the demat accounts of the promoter group entities which have been frozen for non-payment of annual listing fee till date with immediate effect.

10. In the light of the aforesaid, it is not necessary for this Tribunal to go into the question as to whether the stock exchanges has the power to issue circular and whether they have power to defreeze the account in view of the fact that the said circular dated 11th June, 2019 has now been superseded by circular dated 11th February, 2021.

11. The circular of SEBI dated 11th February, 2021 has provided a standard operating procedure which are required to be adopted and exercised by stock exchanges against listed companies for non-payment of annual listing fees. The circular clearly states that the stock exchanges are required to follow the procedure as given in the circular and, accordingly, have directed to defreeze all the demat accounts which have been frozen so far.

12. In the light of the aforesaid facts the appeal is allowed. The demat accounts frozen by the stock exchange under the circular dated 11th June, 2019 are now required to be defreezed immediately in view of the circular dated 11th February, 2021. Liberty is given to the stock exchange to proceed against the Company and its promoters and promoters group in accordance with the standard operating procedure as laid down in circular dated 11th February, 2021.

13. This Tribunal while entertaining the appeal had passed an interim order dated 24th December, 2019 directing the appellant to provide a bank guarantee of Rs.15 lakhs pursuant to which the demat accounts would be defereezed. It has been stated that a bank guarantee of Rs.15 lakhs has been provided. Since the appeal is being allowed we direct the respondent to release the bank guarantee forthwith. The appeal is allowed with no order as to costs.

14. The present matter was heard through video conference due to Covid-19 pandemic. At this stage it is not possible to sign a copy of this order nor a certified copy of this order could be issued by the registry. In these circumstances, this order will be digitally signed by the Private Secretary on behalf of the bench and all concerned parties are directed to act on the digitally signed copy of this order. Parties will act on production of a digitally signed copy sent by fax and/or email.