(2020) 07 SEBI CK 0034

In the Securities Appellate Tribunal Mumbai

Case No : Miscellaneous Application No. 182, 183 Of 2020, Appeal Lodging No. 197 Of 2020

Artha Vrddhi Securities Ltd APPELLANT

Vs

National Stock Exchange Of India Ltd RESPONDENT

Date of Decision : 15-07-2020

Acts Referred:

Citation : (2020) 07 SEBI CK 0034

Hon'ble Judges : Tarun Agarwala, Presiding Officer;Dr. C. K. G. Nair, Member;M. T. Joshi, J

Bench : Full Bench

Advocate : Vinay Chouhan, Kamal Agrawal, Direndra Shukla, Jairaj Bafna, Rashid Boatwalla, Rahul Jain, Pruthvi Dhinoja, Manilal Kher Ambalal

Final Decision : Disposed Of

Judgement

Tarun Agarwala, Presiding Officer

1. We have heard Mr. Vinay Chouhan, Advocate assisted by Mr. Kamal Agrawal, FCA, Mr. Direndra Shukla and Mr. Jairaj Bafna, Advocates of

Appellant and Mr. Rashid Boatwalla, Advocate assisted by Mr. Rahul Jain and Mr. Pruthvi Dhinoja, Advocates for the Respondent.

2. We find that by the impugned order dated 29th June, 2020 the Committee of National Stock Exchange of India Ltd (hereinafter referred to as

â??NSEâ??) has disabled all trading terminals of the Appellant from all segments till the shortfall of clientâ??s funds are recouped. The Appellant is

a broker and was issued two show cause notices dated 15th October, 2019 and 9th March, 2020 for committing various defaults. While these

proceedings were going on an interim direction was issued directing the Appellant to recoup the shortfall in the clients fund and also clear the deficiency of its net worth. The Committee found that the directions were not complied with and accordingly the impugned order dated 29th June,

2020 was passed disabling all the trading terminals of the Appellant from all segments till the shortfall of the clientâ??s funds were recouped. The

Appellant being aggrieved has filed the present appeal.

3. Having heard the learned counsel for the parties, we find that the Appellant had contended throughout that the shortage of funds was partly on

account of the default committed by its clearing member, namely, ILFS Securities Services Ltd. to the tune of Rs.2.47 crores which are stuck till date

and nothing has been done either by SEBI or the Exchange with regard to recouping this amount. This stand of the Appellant has not been dealt with

specifically in the impugned order. Further, according to the Appellant in their reply of 1st June, 2020 it has been stated that from the shortfall of

Rs.5.12 crores, the Appellant has brought it down to Rs.2.35 crores by infusing Rs.2.77 crores in the clients fund which aspect has not been

considered. We also find from the interim order passed by the Committee gave time to the Appellant to recoup the client funds within a stipulated

period. Considering the pandemic situation, we are of the opinion that further time should be allowed to the Appellant to recoup the client funds and

clear the deficiency of the net worth.

4. In the light of the aforesaid, we direct the Respondent to file a reply within four weeks from today. Three weeks thereafter to the Appellant to file

rejoinder. The matter would be listed for admission and for final disposal either through video conferencing or through physical hearing depending on

the pandemic situation at that moment of time.

5. Parties are directed to contact the Registrar 48 hours before the date fixed to find out as to whether the hearing would take place through video

conferencing or through physical hearing.

6. Considering the aforesaid, we direct that the effect and operation of the impugned order dated 29th June, 2020 disabling the trading terminals of the

Appellant from all segments shall remain stayed subject to the following conditions:

a. The Appellant shall deposit a sum of Rs.50 lakhs towards recouping clients funds by 17th July, 2020.

b. Another sum of Rs.50 lakhs would be deposited on or before 30th July, 2020.

c. An amount of Rs.1 crore will be deposited by 31st August, 2020 and the balance amount should be cleared on or before 15th September, 2020. A

detailed affidavit regarding deposit should be filed before the Tribunal on or before the next date.

d. The Appellant will also provide details to the Respondent with regard to the recouping of 2.77 crores within a week from today. This aspect would

be verified by the Respondent and appropriate orders on that score would be passed within a week thereafter.

e. In the event of non compliance of any of the directions given above, the interim order passed by us will automatically come to an end and it would

be open to the respondents to proceed in accordance with law.

7. Misc. Application Nos.182 and 183 of 2020 are disposed of accordingly.

8. 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 Presiding Officer 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.

