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(2021) 09 SEBI CK 0105

In the Securities Appellate Tribunal Mumbai

Case No : Miscellaneous Application No. 984 Of 2021 In Appeal No. 579 Of 2020

Deepak Fertilisers and Petrochemicals — APPELLANT

Vs

BSE Limited And Others — RESPONDENT

Date of Decision : 28-09-2021

Acts Referred:
Securities And Exchange Board Of India (Listing Obligations And Disclosure Requirements) Regulations, 2015 — Regulation 33

Citation : (2021) 09 SEBI CK 0105

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

Bench : Division Bench

Advocate : Zerick Dastur, Rajesh K Hegde, Smriti Singh, Khushil Shah, Manish Chhangani, Ravishekhar Pandey, Zal Andhyarujina, Rashid Boatwalla, Aditya Vyas, Vishal Kanade, Mihir Mody, Arnav Misra, Mayur Jaisingh

Final Decision : Allowed

Judgement

Tarun Agarwala, Presiding Officer

1. The present appeal has been filed against the order dated May 24, 2017 passed by BSE Limited ('BSE' for short) imposing a penalty of Rs. 12,23,719/- as well as the order ofNational Stock Exchange of India Limited ('NSE' for short) dated June 6, 2017 imposing a penalty of Rs. 10,37,049/- for failure to submit the audited financial result for the year ending March 31, 2017. There is a delay in the filing of the appeal of 620 days and 818 days respectively. The ground urged is, that they had filed an exemption application before0 Securities and Exchange Board of India ('SEBI' for short) and that is why they could not file the appeal within the stipulated period.

2. In this regard, we are of the opinion that filing an exemption application did not prevent the appellant from filing an appeal. In our opinion there is an inordinate delay in the filing of the appeal and therefore these orders cannot be questioned at this belated stage. The application for condonation of the delay insofar as the order of BSE and NSE are concerned is rejected as a result of

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which the appeal is also dismissed to that extent with no order as to costs.

3. With regard to the challenge of the order dated August 1, 2018 there is an application for condonation of delay which states that there is a delay of 384 days in the filing of the appeal. This application has been opposed by the learned counsel for SEBI contending that there has been an inordinate delay and sufficient cause has not been shown.

4. In this regard we find that against the order dated August 1, 2018 the appellant had filed an appeal on October 5, 2018 which was entertained and subsequently by an order of August 16, 2019 the appeal was dismissed as withdrawn with liberty given to the appellant to file afresh. Based on the order of this Tribunal the present appeal was filed on October 17, 2019. In our opinion there is no inordinate delay in the filing of the present appeal and cause has been shown by the appellant. We accordingly condone this delay. The application is allowed.

5. On merits we find that the appellant had filed an application seeking extension of time for filing the financial results. Reasons were given as to why they could not file the financial results within the stipulated period as provided under the Regulations. We find from the impugned order dated August 1, 2018 that the request of the appellant for exemption / relaxation from compliance with Regulation 33 of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter referred to as the 'LODR Regulations, 2015') has not been acceded to. No reason whatsoever has been given. This Tribunal in National Highway Authority of India vs Securities & Exchange Board of India, Appeal No.232 of 2020 decided on August 27, 2020 held that the reasons are required to be supplied while rejecting the application. Since no reasons have been supplied we accordingly set aside the order of August 1, 2018 and direct SEBI to pass a fresh order in accordance with law in the light of the observations made aforesaid. The appeal is allowed at the admission stage itself with no order as to costs.

6. 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.

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