
(2021) 04 SEBI CK 0152

In the Securities Appellate Tribunal Mumbai

Case No : Miscellaneous Application No. 255, 256, 484, 485 Of 2021, Appeal No.201, 202 Of 2021

Dhara Technosystem LLP And Others

APPELLANT

Vs

Securities & Exchange Board Of India And Others

RESPONDENT

Date of Decision : 27-04-2021

Acts Referred:

Citation : (2021) 04 SEBI CK 0152

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

Bench : Division Bench

Advocate : Sanjeev Kumar Choudhary, Amit Gupta, Abhiraj Arora, Karthik Narayan, Rashi Dalmia, Vishal Kanade, Rashid Boatwalla, Aditya Vyas, Anubhav Ghosh, Ravishekhar Pandey

Final Decision : Disposed Of

Judgement

Tarun Agarwala, Presiding Officer

1. Two separate appeals have been filed but the issue is the same and, therefore, are being dealt with together. For facility, the facts stated in the appeal of Dhara Technosystem LLP is being taken into consideration.
2. The applications for exemption from filing a certified copy of the impugned order are allowed.
3. There is a delay in the filing of the appeals. For the reasons stated in the applications, the delay is condoned. Misc. Applications are allowed.
4. The appellant has a trading account with respondent Nos. 4, namely, Guinness Securities Ltd. The contention of the appellant is that it has to receive certain shares from the respondent Nos. 4 as depicted in paragraph No. 5.4 of the memo of appeal. It is further contended that the respondent Nos. 4 without any authority of law is retaining the shares in its depository account. The

appellant made a complaint before Securities and Exchange Board of India (hereinafter referred to as "SEBI") on December 18, 2020 on the Securities and Exchange Board of India Complaint Redressal System (SCORES) platform which was disposed of by an order dated January 4, 2021. The appellant thereafter filed the present appeal praying that respondent Nos. 4 be directed to release the shares as depicted in paragraph No. 5.4 of the memo of appeal or in the alternative direct SEBI to refer the claim of the appellant to the defaulter's committee. The appellant has also challenged the ex-parte ad-interim order dated December 19, 2018 as confirmed by order dated July 31, 2019 whereby restraint orders were passed against the respondent Nos. 4.

5. The main contention of the appellant is that once the complaint is filed and is not resolved within 15 days, it is mandatory for the stock exchange to refer the complaint for redressal to a committee as per the circular dated September 26, 2013.

6. Similar is the case in the appeal of Palak B. Shah.

7. The controversy involved in the present case is squarely covered by a decision of this Tribunal in Appeal No. 288 of 2020 and other connected appeals Rakesh Bhatia and Anr. Vs. National Stock Exchange of India Ltd. and Ors. decided on January 19, 2021, wherein the Tribunal held that where broker is declared a defaulter and his terminals are disabled, then the complaint cannot be referred for redressal to IGRP in view of the circular dated July 1, 2020 and that the only option available is to file a claim under the bye-laws of the stock exchange.

8. In view of the aforesaid, the appellants are directed to file a claim before the stock exchange under its bye-laws. We have been informed that the appellant Dhara Technosystem LLP has already filed a claim which is pending consideration before the stock exchange.

9. For the reasons stated aforesaid, both the appeals are disposed of with the direction that the appellant Dhara Tecnosystem LLP will pursue its claim application filed before the stock exchange which is pending consideration. If no claim has been filed by the appellant Palak B Shah, then it is open to the appellant to file a claim before the stock exchange under its bye-laws. If it is filed, the same would be dealt with in accordance with law.

10. 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.