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(2023) 10 SEBI CK 0009

In the Securities Appellate Tribunal Mumbai

Case No : Miscellaneous Application No. 1127 Of 2023, Appeal No. 770 Of 2023

Dheeraj Kapoor APPELLANT

Vs

Securities And Exchange Board Of India RESPONDENT

Date of Decision : 10-10-2023

Acts Referred:

Securities And Exchange Board Of India (Investment Advisers) Regulations, 2013 — Regulation 3(1)

Citation : (2023) 10 SEBI CK 0009

Hon'ble Judges : Tarun Agarwala, Presiding Officer;Meera Swarup, Technical Member

Bench : Division Bench

Advocate : Dheeraj Kapoor, Manish Chhangani, Sumit Yadav, Abhay Chauhan, Atul Kumar Agrawal

Final Decision : Dismissed

Judgement

Tarun Agarwala, Presiding Officer

1. For the reasons stated in the application, the delay in the filing of the appeal is condoned. The application is allowed.

2. We have heard the appellant in person. The appellant is aggrieved by the order dated April 28, 2023 passed by the Whole Time Member ("WTM" for convenience) of the Securities and Exchange Board of India ("SEBI" for convenience) directing the appellant to refund the money received from any complainant and the other investors and clients towards fee in respect of unregistered investment advisory activities. The appellant has also been debarred for a period of 3 years from the date of the order or till the expiry of 3 (three) years from the date of completion of refund.

3. Admittedly, no registration was taken by the appellant for carrying out this investment advisory services and, therefore, the activities was in violation of Regulation 3(1) of SEBI (Investment Advisors) Regulations, 2013 ("Investment

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Advisers Regulations" for convenience).

4. The contention of the appellant is, that he was unemployed and had met Pankaj Khanchandani, who was the Manager of the Company and entered into an agreement with him for some taxation purposes. The appellant, however, admits that he had given his bank account to Mr. Pankaj Khanchandani for the purpose of the unregistered investment advisory activities.

5. The WTM has found that almost Rs. 1 crore was deposited towards fee from the clients in four accounts maintained by the appellant. This fact is not disputed. Further, there is a finding that the appellant could not produce the alleged agreement which he had entered with Mr. Pankaj Khanchandani.

6. Consequently, in the absence of any evidence that a fraud was played by Mr. Pankaj Khanchandani upon the appellant, we are of the opinion, that the impugned order does not suffer from any error of law. The appeal fails and is dismissed.

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