(2021) 09 SEBI CK 0166

In the Securities Appellate Tribunal Mumbai

Case No : Miscellaneous Application No. 848, 849 Of 2021, Appeal No. 581 Of 2021

Harshvardhan Singh Rathore — APPELLANT

Vs

Securities And Exchange Board Of India — RESPONDENT

Date of Decision : 28-09-2021

Acts Referred:
Securities And Exchange Board Of India Act, 1992 — Section 11(C)(3)

Citation : (2021) 09 SEBI CK 0166

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

Bench : Division Bench

Advocate : Saurabh Bacchawat, Amit Mishra, Abhiraj Arora, Rashi Dalmia, Karthik Narayan

Final Decision : Allowed

Judgement

Tarun Agarwala, Presiding Officer

1. The present appeal has been filed against the order dated July 28, 2020 imposing a penalty of Rs. 10 lac for not responding to the summons under Section 11(C)(3) of the Securities and Exchange Board of India Act, 1992. The ground urged is that the appellant was never served with the show cause notice dated March 28, 2019. In this regard, we had directed the respondent to file a short reply with regard to the service of summons.

2. From the reply, we find that the show cause notice was sent along with the summons at the last known address i.e. the company's address which returned undelivered and thereafter affixation was made of the summons on May 14, 2019 at the company's address.

3. We find that the appellant had resigned from the company in October 2012 and, therefore, the question of service being made upon the appellant by affixation at the company's address, thus, becomes immaterial. We are satisfied that the appellant was not served with the summons and, therefore, the entire

adjudication has proceeded ex-parte which cannot be sustained. The impugned order is accordingly set aside. The matter is remitted to the authority to pass an order afresh after serving the show cause notice and after giving an opportunity of personal hearing in accordance with law.

4. The appeal is allowed with no order as to costs. In this regards, the appellant will appear before the AO on October 18, 2021.

5. 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.