
(2021) 10 SEBI CK 0005

In the Securities Appellate Tribunal Mumbai

Case No : Miscellaneous Application No. 983 Of 2021, Appeal No. 616 Of 2021

Helios Corporation Limited And Others

APPELLANT

Vs

Securities And Exchange Board Of India

RESPONDENT

Date of Decision : 01-10-2021

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 409, 420

Citation : (2021) 10 SEBI CK 0005

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

Bench : Division Bench

Advocate : Dr. S.K. Jain, Vikas Jain, Vishal Kanade, Bhushan Shah, Chirag Shah, Akash Jain, Daksha Kasekar

Final Decision : Dismissed

Judgement

Tarun Agarwala, Presiding Officer

1. There is a delay of 207 days in the filing of the appeal and accordingly an application for condonation of delay has been filed. In view of the order of Supreme Court dated March 23, 2020 and April 27, 2021 in Suo Moto Writ Petition (Civil) No. 3 of 2020, the delay in the filing of the appeal is condoned. The application is allowed.
2. The appellants have filed the present appeal being aggrieved by the order of the Recovery Officer dated December 16, 2020 which was issued pursuant to the order of the Whole Time Member ('WTM' for short) of the Securities and Exchange Board of India ('SEBI' for short) dated March 6, 2018. The WTM order of March 6, 2018 has not been challenged by the appellants.
3. The WTM in paragraph 77 and 78 has directed that the recovery of the amount pursuant to the impugned order would be subject to and shall be read in harmony with the directions of the Court of the Metropolitan Magistrate, New Delhi and the interim order dated February 13, 2001 passed by the Patna High Court. For facility, paragraph 77 and 78 of the order of the WTM is extracted

hereunder:-

"77. The effect and implementation of this Order is subject to and shall be read in harmony with the directions passed by the Court of Metropolitan Magistrate, New Delhi vide order dated September 22, 1999, the interim order dated February 13, 2001 passed by the Hon'ble High Court of Patna in the Company Petition no. 4/2000 and any order that may be passed in the said Company Petition no. 4/2000 pending before the Hon'ble High Court of Patna.

78. Accordingly, SEBI shall place a copy of the Order before the Hon'ble High Court of Patna in the matter of Company Petition no. 4/2000, before the Court of Metropolitan Magistrate, Saket, Delhi in the matter of FIR No. 334/98 for the offences under sections 420/409/120B of the Indian Penal Code, and the Office of the District Magistrate, Patna in connection with the matter bearing no. 119/2013-2014 filed by Mr. Sanjay Kumar Singh, before the ADM, Patna."

4. The learned Authorized Representative of the appellant contended that the Recovery Officer without considering the directions of the WTM as stipulated in paragraph 77 and 78 and without considering the impact of the orders of the Metropolitan Magistrate, New Delhi and the order of the Patna High Court has illegally issued the recovery certificate.

5. Having heard the learned Authorized Representative of the appellant and having perused the orders of the Metropolitan Magistrate, New Delhi and the Patna High Court we find that the Metropolitan Magistrate, New Delhi had seized the immovable properties of the Company and the Company Judge had prohibited the Company and its directors from disposing of any of its assets. Thus, the issuance of the recovery certificate is not in conflict with the directions either of the Metropolitan Magistrate, New Delhi or of the interim order of the Patna High Court. The restraint order was passed against the Company and its Directors. There is no embargo against the WTM or the Recovery Officer.

6. Thus we do not find any merit in the appeal and is dismissed with the observation that the Recovery Officer will ensure that the directions of the WTM as given in paragraph 77 and 78 is complied in letter and spirit.

7. 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.