
(2023) 10 SEBI CK 0030

In the Securities Appellate Tribunal Mumbai

Case No : Miscellaneous Application No. 1213, 1214, 1293 Of 2023, Appeal No. 766 Of 2023

Hemlata Agrawal

APPELLANT

Vs

Securities And Exchange Board Of India

RESPONDENT

Date of Decision : 06-10-2023

Acts Referred:

Citation : (2023) 10 SEBI CK 0030

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

Bench : Division Bench

Advocate : Ravi Prakash, Kriti Karn, Sumit Yadav, Abhay Chauhan, Atul Kumar Agrawal

Final Decision : Disposed Of

Judgement

Tarun Agarwala, Presiding Officer

1. We have heard the learned counsel for the parties. The appellant has challenged the order dated June 23, 2023 passed by the Adjudicating Officer ('AO' for short) of the Securities and Exchange Board of India ('SEBI' for short) imposing a penalty of Rs. 5 lakh for violation of Regulation 3 and 4 SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 ('PFUTP Regulations' for short).

2. The ground urged is, that the impugned order was passed ex parte. The appellant was never served with the show cause notice nor an opportunity of hearing was provided to the appellant. In this regard the learned counsel for the respondent submitted that the appellant was made aware of the proceedings through an e-mail and that the summons was not sent by registered post. In this regard the appellant has categorically stated that she is a widow and is not well-versed with computer technology and that her husband had open a demat account way back in the year 2007 and that her husband died in the year 2010.

The appellant contends that she is now living all alone.

3. Considering the aforesaid we are of the opinion that the matter should be decided on merits and consequently we give the benefit of doubt to the appellant.

4. On this short ground the impugned order is set aside. The appeal is allowed. The matter is remitted to the AO to pass a fresh order after serving the show cause notice and after giving an opportunity of hearing.

5. In this regard the appellant shall appear before the AO on November 1, 2023 and the matter will proceed from there onwards. Since we have set aside the impugned order, the attachment order will stand removed automatically. The miscellaneous applications are disposed of.