(2020) 07 SEBI CK 0050

In the Securities Appellate Tribunal Mumbai

Case No : Miscellaneous Application No. 159 Of 2020, Appeal No.103 Of 2020

India Ratings And Research Private Ltd APPELLANT

Vs

Securities And Exchange Board Of India RESPONDENT

Date of Decision : 01-07-2020

Acts Referred:

Securities And Exchange Board Of India Act, 1992 — Section 15I(3)

Citation : (2020) 07 SEBI CK 0050

Hon'ble Judges : Tarun Agarwala, Presiding Officer;Dr. C. K. G. Nair, Member;M. T. Joshi, J

Bench : Full Bench

Advocate : Pesi Modi, Neville Lashkari, Sandeep Parekh, Deepika Goyal, Anuj Berry, Shardul Amarchand Mangaldas, Shyam Mehta, Mihir Mody, Shehaab Roshan, K. Ashar

Final Decision : Disposed Of

Judgement

Tarun Agarwala, Presiding Officer

1. An urgent application has been filed for hearing through video conferencing.

2. Misc. Application no.159 of 2020 has been filed in Appeal no.103 of 2020 praying that proceedings initiated by Securities and Exchange Board of

India (hereinafter referred to as â??SEBIâ??) pursuant to the second show cause notice dated 28th January, 2020 issued under Section 15-I(3) of the

Securities and Exchange Board of India Act, 1992 (hereinafter referred to as â??SEBI Actâ??) should be stayed.

3. In this regard we have heard Shri Pesi Modi, learned Senior Counsel alongwith Shri Neville Lashkari, Shri Sandeep Parekh, Ms. Deepika Goyal and

Shri Anuj Berry, Advocates for the Appellant and Shri Shyam Mehta, learned Senior Counsel alongwith Shri Mihir Mody and Shri Shehaab Roshan, learned counsel for the Respondent.

4. We find that by the impugned order dated 26th December, 2019 the Adjudicating Officer has imposed a penalty of Rs.25 lakhs upon the Appellant

for violating the Code of Conduct to the Securities and Exchange Board of India (Credit Rating Agencies) Regulations, 1999 (hereinafter referred to

as â??CRA Regulationsâ??) while granting credit rating to IL&FS for the financial year 2018-19. After passing of the impugned order, SEBI issued

a second show cause notice dated 28th January, 2020 by exercising powers under Section 15-I(3) of the SEBI Act directing the Appellant to show

cause as to why penalty should not be enhanced as in their opinion the order of the Adjudicating Officer was not in the interest of the securities

market.

5. Having heard the learned counsel for the parties at some length, we are prima facie of the opinion that SEBI has the power to initiate proceedings

under Section 15-I(3) of the SEBI Act. In the light of the aforesaid, we direct the Respondent to file a reply within four weeks from today in Appeal

no.103 of 2020. Three weeks thereafter is allowed to the Appellant to file rejoinder. The matter would be listed for admission and for final disposal on

20th August, 2020. In the meanwhile, we direct the Appellant to deposit a sum of Rs.25 lakhs pursuant to the impugned order dated 26th December,

2019 before the Respondent within four weeks from today which would be subject to the result of the appeal. We further direct that the proceedings

in pursuance to the second show cause notice dated 28th January, 2020 will continue and the Respondent will pass appropriate orders after giving an

opportunity of hearing to the Appellant either through physical hearing or through video conferencing but any order that is passed by the Respondent

shall not be given effect to during the pendency of this appeal. Misc. Application is accordingly disposed of.

6. Parties are directed to contact the Registrar 48 hours before the date fixed to find out as to whether the hearing would take place through video

conferencing or through physical hearing.

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 Presiding Officer 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.

