
(2023) 10 SEBI CK 0028

In the Securities Appellate Tribunal Mumbai

Case No : Miscellaneous Application No. 1182, 1183 Of 2023, Appeal No. 811 Of 2023

Jils Raichand Madan

APPELLANT

Vs

Securities And Exchange Board Of India

RESPONDENT

Date of Decision : 18-10-2023

Acts Referred:

Citation : (2023) 10 SEBI CK 0028

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

Bench : Division Bench

Advocate : Vikas Bengani, Akash Rebello, Ravishekhar Pandey, Shefali Shankar, Amarpal Singh Dua, Rasika Ghatge

Final Decision : Allowed

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. The Misc. Application for exemption from filing of the certified copy of the impugned order is allowed and disposed of accordingly.
3. The appellant has challenged the ex-parte order dated February 27, 2023 wherein a penalty of Rs. 6 lakhs has been imposed to be paid jointly and severally by the appellant along with three noticees. The ground urged is, that the impugned order was passed ex-parte without serving a show cause notice and without giving an opportunity of hearing.
4. In this regard, we find from a perusal of table 1 and 2 that the notices were delivered through email. The contention of the appellant is, that the email ID and the address given on page 44 i.e. a show cause notice is incorrect. In support of his submission the appellant has placed his Aadhar Card and Driving License

which shows a different address.

5. In similar circumstances noticee no. 2 Omprakash Khandelwal also approached this Tribunal by filing Appeal No. 532 of 2023 against the same order which was also set aside on the ground that the said noticee was not given an opportunity of hearing. Considering the aforesaid and giving the benefit of doubt, we are of the opinion, that the appellant should be given an opportunity of being heard.

6. In view of the aforesaid, the impugned order in so far as it relates to the appellant cannot be sustained and is set aside. The appeal is allowed. The matter is remitted to the AO to decide the matter afresh in accordance with law after serving the show cause notice and after giving an opportunity of hearing.

7. In this regard, the appellant shall appear before the AO on October 30, 2023 on which date the appellant will be served with the show cause notice and the matter will proceed there onwards in accordance with law.