(2020) 09 SEBI CK 0084

In the Securities Appellate Tribunal Mumbai

Case No : Miscellaneous Application No. 259 Of 2020, Appeal No. 258 Of 2020

K. Chandramouli And Others APPELLANT

Vs

BSE Ltd And Others RESPONDENT

Date of Decision : 04-09-2020

Acts Referred:

Citation : (2020) 09 SEBI CK 0084

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

Bench : Division Bench

Advocate : Prachi Pandya, Anubhav Ghosh, Rashid Boatwalla, Rahul Jai, Pruthvi Dhinoja, Manilal Kher Ambalal

Final Decision : ?Allowed

Judgement

Tarun Agarwala, Presiding Officer

1. The present appeal has been filed against the two impugned orders dated December 26, 2019 (Exhibit 1-A and Exhibit 1-B) intimating the

appellants that on account of non-payment of annual listing fees the Beneficial Owner account has been â??Suspended for Debitsâ??.

2. Facts leading to the filing of the present appeal is, that the Appellant No. 3 is a public listed company since 1995 on the platform of Respondent

Nos. 1 and 2. Appellant Nos. 1 and 2 are the promoters / shareholders of Appellant No. 3. Around 2002-2003, a show cause notice was issued

requiring the appellants to show cause as to why trading of their shares should not be suspended on the platform of the Stock Exchange on account of

non-redressal of investors grievances, namely, payment of interest, redemption of debentures, etc. and non-payment of annual listing fees. Thereafter,

with effect from January 1, 2003 the trading of the shares of the company remained suspended till date.

3. It transpires that from time to time the appellant applied for revocation of suspension order for which certain amount towards listing fees etc. was

paid in part but on account of non-compliance of the default in its entirety, the suspension continued. Eventually, against communication dated

December 26, 2019 the present appeal has been filed along with an application for condoning the delay.

4. The impugned order is dated February 24, 2019 which was received on January 8, 2020 and the appeal was filed on July 28, 2020. According to the

appellant the delay is only 23 days. This fact is patently erroneous in as much as the delay is more than 180 days. However, considering the fact that

the lockdown on account of the COVID-19 pandemic started from March 25, 2020 which is still continuing till the date of the filing of the appeal on

July 28, 2020, we are of the opinion that in the interest of justice the delay in filing the appeal is condoned. The application is allowed.

4. We, however, find that there is enormous laches on the part of the appellants in approaching the Tribunal. The impugned orders are nothing but

reiteration of their earlier communications with regard to the suspension of the trading activities on account of non-payment of annual listing fees and

non-compliance of other regulations. In this regard, we find from the record that the trading has remained suspended since 2003 onwards for non-

payment of annual listing fees, etc. Exhibits 29, 35 and 36 to the memo of appeal are e-mails of May-June, 2017 onwards which indicates that the

suspension of trading of shares was on account of non-payment of annual listing fees and other dues. The same communication was made by the

impugned orders and therefore challenging the orders dated December 26, 2019 will not enlarge the limitation for filing an appeal with regard to the

non-payment of annual listing fees and other dues which are pending since 2003 onwards.

Thus, in our view there is undue delay on the part of appellants in approaching the Tribunal for the reliefs sought. On account of the laches no relief

can be granted to the appellants at this belated stage.

5. The appeal is dismissed summarily at the admission stage with no order as to costs.

6. 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.

