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(2020) 10 SEBI CK 0075

In the Securities Appellate Tribunal Mumbai

Case No : Miscellaneous Application No. 344 Of 2020, Appeal No.336 Of 2020

Manoranjan Roy APPELLANT

Vs

Securities & Exchange Board Of India RESPONDENT

Date of Decision : 16-10-2020

Acts Referred:

Citation : (2020) 10 SEBI CK 0075

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

Bench : Full Bench

Advocate : Bishwajit Bhattacharyya, Abhijit Bhattacharyya, Narayani Bhattacharyya, Chandrachur Bhattacharyya, Nidhi Singh, Kinjal Bhatt, Vidhii Partners

Final Decision : Disposed Of

Judgement

Tarun Agarwala, Presiding Officer

1. The appellant has filed the present appeal being aggrieved by the ex-parte interim order cum show cause notice dated 25th July, 2018 and the

confirmatory order dated 21st July, 2019 passed by the Whole Time Member. There is a delay of 312 days in filing the appeal and accordingly an

application for condonation of delay application has been filed. From a perusal of the application we find that the appellant had filed a writ petition

before the Honâ??ble Calcutta High Court which was dismissed as withdrawn by an order dated 9th September, 2020 giving liberty to the appellant

to file an appeal before this Tribunal. A request was also made by the Calcutta High Court to condone the delay on account of filing writ petition

before the Calcutta High Court. In view of the aforesaid, cause shown is sufficient and the delay is condoned and the delay condonation application is

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accordingly allowed.

2. We have heard Mr. Bishwajit Bhattacharyya, Senior Advocate assisted by Mr. Abhijit Bhattacharyya, Ms. Narayani Bhattacharyya and Mr.

Chandrachur Bhattacharyya, Advocates for the Appellant and Ms. Nidhi Singh, Advocate assisted by Ms. Kinjal Bhatt, Advocate for the Respondent.

3. It was urged that the appellant was arrested on a criminal charge on 9th November, 2017 and consequently he was never served with a show

cause notice or the interim order and only came to know recently when his accounts were seized pursuant to the confirmatory order dated 21st July,

2019. It was also contended that the appellant had ceased to be a director on August 27, 2013 and, therefore, cannot be charged of the offences as

pointed out in the impugned order.

4. On the other hand, the learned counsel for the respondent contended that summons were duly served at the residential address of the appellant and

since the appellant failed to appear the interim order dated 25th July, 2018 was automatically confirmed as contained in para no.26 of the interim

order.

5. Considering the aforesaid, prima facie we find that a reasonable opportunity was not given to the appellant as he was in jail. However, we leave it

at that and permit the appellant to file a recall application before the whole time member. If such an application is filed within four weeks from today

the whole time member would consider the application and pass appropriate orders after giving an opportunity of hearing to the appellant. Any

observation made by us will not come in the way of the authority in passing the order. We may also point out that the impugned order dated 21st July,

2019, namely, the confirmatory order, does not apply to the appellant and only applies to the other noticees. In view of the aforesaid, the appeal is

disposed of 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.

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