
(2020) 09 SEBI CK 0069

In the Securities Appellate Tribunal Mumbai

Case No : Miscellaneous Application No. 275 Of 2020, Appeal No. 266 Of 2020

M/s. Goldstreet Securities Ltd

APPELLANT

Vs

National Stock Exchange Of India Ltd

RESPONDENT

Date of Decision : 09-09-2020

Acts Referred:

Citation : (2020) 09 SEBI CK 0069

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

Bench : Full Bench

Advocate : Dr. Anurag Kumar Agarwal, Himanshu Gupta, Rashid Boatwalla, Rahul Jain, Pruthvi Dhinoja, Manilal Kher Ambalal

Final Decision : ?Allowed

Judgement

Tarun Agarwala, Presiding Officer

1. The present appeal has been filed against the order dated March 23, 2020 passed by Member & Core Settlement Guarantee Fund Committee

(NSGSF) of National Stock Exchange of India Ltd. (hereinafter referred to as NSE) by which the appellant has been expelled from the

membership of NSE. The appellant has also challenged the order dated July 10, 2020 by which its review application has been rejected on the ground

that it is not maintainable.

2. The facts leading to the filing of the appeal is, that the appellant is a member of NSE in the Capital Market (CM) segment since May 1995 and in

the Futures & Options (F&O) segments since March 2003. The appellant is a registered broker with NSE.

3. An inspection was done for the period dated January 1, 2017 to December 31, 2017 in the CM and F&O segments. Based on the inspection, a

letter of observation dated May 15, 2018 was issued directing the appellant to file its reply / explanation. The appellant filed its reply on June 4, 2018.

Another inspection for the period April 1, 2017 to December 24, 2018 was conducted based on which the respondent issued a letter of observation

dated January 3, 2019 again requiring the appellant to give its response. It transpires that the appellant filed its reply dated March 12, 2019 which fact

is disputed by the respondent since it was never been received by them.

4. However, based on the irregularities committed by the appellant, the respondent disabled the terminals in the F&O segments on December 28, 2018

on account of non-fulfillment to payin / margin obligation and on January 11, 2019 the terminals in the CM segments was also disabled for the same

reasons.

5. The respondent not being satisfied with the reply, issued a show cause notice dated August 2, 2019 and August 28, 2019 directing the appellant to

show cause as to why an action should not be taken against it including expulsion from the membership. Since no reply was given to the show cause

notice the impugned order dated March 23, 2020 was passed expelling the appellant from the membership of NSE. The review application was

rejected on July 10, 2020 on the ground that it was not maintainable. The appellant being aggrieved by the aforesaid orders has filed the present

appeal.

6. We have heard Dr. Anurag Kumar Agarwal, the learned counsel with Mr. Himanshu Gupta, the learned counsel for the appellant and Mr. Rashid

Boatwalla, the learned counsel with Mr. Rahul Jain, Mr. Pruthvi Dhinoja, the learned counsel for the respondent through video conference.

7. The learned counsel for the appellant admitted that no reply to the show cause notice was filed and contended that it was a blunder on the part of

the appellant in not filing a reply. The learned counsel however contended that non-reply was not deliberate but was on account of the fact that the

appellant had already filed a reply to the letter of observation and the show cause notice was based on the irregularities found in the letter of

observation. It was, therefore, contended that the response of the appellant to the letter of observation at least should have been considered by the

committee which response was never placed before it and, to that extent, the order of the respondent was erroneous and violative of the principles of

natural justice. The learned counsel for the appellant further urged that if an opportunity is given the appellant it would file a reply and satisfy the respondent that it was not a case for imposition of expulsion in the given set of circumstances.

8. On the other hand, the learned counsel for the respondent contended that the show cause notice was duly served and the appellant deliberately did not file any reply and therefore, committee had no option but to proceed ex-parte. The learned counsel further contended that the appellant is a habitual defaulter and, in the past, was also penalized for non-compliance of the various regulations and circulars and, therefore, the committee, after considering all these aspects took the decision to pass the order of expulsion.

9. Having heard the learned counsel for the parties, we find that admittedly the reply of the appellant to the letter of observation was not considered even though no reply to the show cause notice was filed. Considering the peculiar facts and circumstances, we are of the opinion that the matter should be decided on merits and the appellant should be given an opportunity to rebut the allegations made in the show cause notice. Thus, on this short ground, we set aside the order of the committee on payment of costs of Rs. two lacs to be paid by the appellant to the respondent within two weeks from today. Upon payment, the appellant will file a reply to the show cause notice dated August 2, 2019 and August 28, 2019 on or before September 25, 2020. The respondent will thereafter provide an opportunity of hearing to the appellant and pass appropriate orders thereafter within a period of three months.

10. The appeal is allowed.

11. 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.