
(2021) 06 SEBI CK 0084

In the Securities Appellate Tribunal Mumbai

Case No : Miscellaneous Application No.163, 164 Of 2021, Appeal No.385 Of 2021

Nihar Ranjan Mishra

APPELLANT

Vs

Securities & Exchange Board Of India

RESPONDENT

Date of Decision : 16-06-2021

Acts Referred:

Citation : (2021) 06 SEBI CK 0084

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

Bench : Division Bench

Advocate : Rathina Maravarman, Manish Chhangani, Anubhav Ghosh, Ravishekhar Pandey

Judgement

Tarun Agarwala, Presiding Officer

1. The present appeal has been filed against the order passed by the Adjudicating Officer (hereinafter referred to as "AO") of Securities and

Exchange Board of India (hereinafter referred to as "SEBI") dated March 20, 2019. There is a delay of 661 days in the filing of the appeal and

accordingly an application for condonation of delay has been filed.

2. The ground urged is, that the appellant had resigned from the Company and that he was working abroad since March 2015 to February 2020. He

only came to know about the impugned order when he returned to India and found that his account was frozen in February 2021.

3. In view of the aforesaid, we called upon the respondent to show as to whether he was adequately served with the summons or not. The learned

counsel for the respondent submitted that service was made through the company during the period when the appellant was aboard as can be seen

from the endorsement made in the passport. Considering the fact that the appellant contends that he had resigned prior to service of the summons at the company's address, we are of the opinion that in the instant case, service was inadequate and that the appellant was not served with the show cause notice.

4. In view of the aforesaid, all the proceedings initiated pursuant to the show cause notice is against the principles of natural justice. Since adequate service of summons was not made upon the appellant, the impugned order cannot be sustained and is quashed in so far as it relates to the appellant.

The attachment proceedings pursuant to the said order are also set aside. The matter is remitted to the AO for a fresh decision in accordance with law.

5. In this regard, we direct the appellant to appear before the AO on July 1, 2021 on which date the AO will serve a show cause notice upon the appellant and from there onwards the matter will proceed in accordance with law. The appellant will supply e-mail ID, telephone numbers and current address to the AO within 10 days from today so that adequate notice shall be sent by the AO and if necessary the proceedings can be conducted through video conference. In the circumstances of the case, parties shall bear their own 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 Private Secretary 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.