(2023) 09 SEBI CK 0012

In the Securities Appellate Tribunal Mumbai

Case No : Miscellaneous Application No. 856 Of 2023, Appeal No. 688 Of 2023

Parvati Minerals Pvt. Ltd APPELLANT

Vs

Securities And Exchange Board Of India RESPONDENT

Date of Decision : 06-09-2023

Acts Referred:

Citation : (2023) 09 SEBI CK 0012

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

Bench : Division Bench

Advocate : Ashok Sikka, Ravishekhar Pandey, Shefali Shankar, Rasika Ghate,m Amarpal Singh Dua

Final Decision : Allowed

Judgement

Tarun Agarwala, Presiding Officer

1. We have heard the learned counsel for the parties. The impugned order is dated June 30, 2022 passed by the Adjudicating Officer ("AO" for convenience) of the Securities and Exchange Board of India ("SEBI" for convenience) imposing a penalty of Rs. 5 lakhs.

2. There is a delay in the filing of the appeal. The ground urged is, that the impugned order was never served and that they were only served after recovery and attachment of the bank accounts. For the reasons stated in the application, the delay is condoned. The application is allowed.

3. We have also been informed that the impugned order was passed ex-parte without serving a show cause notice and without giving an opportunity of hearing. In this regard, the learned counsel for the respondent fairly concedes that the impugned order is an ex-parte order, but however contends that they made every effort to serve but could not do so.

4. In view of the aforesaid, we are of the view that the impugned order was in

violation of the principles of natural justice. The show cause notice was not served nor an opportunity of hearing was provided. Consequently, on this short ground, the impugned order cannot be sustained and is quashed. The appeal is allowed. The matter is remitted to the AO to pass a fresh order in accordance with law and after giving an opportunity of hearing. In this regard, the appellant shall appear before the AO on September 20, 2023 on which date the respondent would serve the show cause notice to the appellant and the matter would proceed from there onwards. We have also been informed that the pursuant to the impugned order the penalty amount has been recovered. We direct the AO to deposit this penalty amount in an interest bearing account which would be subject to the result of the adjudication proceedings.

5. 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. Certified copy of this order is also available from the Registry on payment of usual charges.

