(2021) 10 SEBI CK 0179

In the Securities Appellate Tribunal Mumbai

Case No : Appeal No. 638 Of 2021

Prateek Sarawgi APPELLANT

Vs

Securities And Exchange Board Of India RESPONDENT

Date of Decision : 18-10-2021

Acts Referred:

Citation : (2021) 10 SEBI CK 0179

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

Bench : Division Bench

Advocate : Vinay Chauhan, K.C. Jacob, Harish Khedkar, Neha Sonawane, Yash Abhay Kullarwar, Sumit Rai, Nishit Dhruva, Yash Garach, Yash Dhruva

Judgement

Tarun Agarwala, Presiding Officer

1. The present appeal has been filed against the order of the Adjudicating Officer ("AO" for convenience) of the Securities and Exchange Board of India ("SEBI" for convenience) dated August 09, 2021 whereby a total penalty of Rs. 12 lakhs has been imposed upon the appellant.

2. The ground urged is, that the appellant was never served with the show cause notice. It was contended that the appellant had shifted his residence in November 2017 and proof of this shifting has been annexed by annexing a lease agreement with the new landlord. Admittedly, the respondents have served the show cause notice at the last known address namely the place where the appellant was last residing. Consequently, we are satisfied that the appellant had left his residence at the time when the show cause notice is alleged to have been served. We are satisfied that since the appellant had shifted his residence he was not served and, therefore, the proceedings proceeded ex-parte against the appellant. The fact that the appellant has shifted has not been denied by the respondent.

3. Consequently, we set aside the impugned order and direct the AO to re-decide the matter on merits after serving the appellant the show cause notice and

proceeding from there onwards. The appeal is allowed. The appellant will appear before the AO on November 15, 2021 on which date the appellant would be served with the show cause notice and the AO will proceed thereafter in accordance with law.

4. 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.

