(2022) 09 SEBI CK 0010

In the Securities Appellate Tribunal Mumbai

Case No : Appeal No. 202 Of 2022

Prime Plantations Pvt. Ltd And Others — APPELLANT

Vs

Securities & Exchange Board Of India — RESPONDENT

Date of Decision : 21-09-2022

Acts Referred:

Citation : (2022) 09 SEBI CK 0010

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

Bench : Division Bench

Advocate : Rakesh Puri, Akash Rebello, Nishit Dhruva, Raveshekhar Pandey, Shefali Shankar

Final Decision : Disposed Of

Judgement

Tarun Agarwala, Presiding Officer

1. This is the second round wherein the appellants have now challenged the order dated January 24, 2022 passed by the Whole Time Member (hereinafter referred to as 'WTM') of Securities and Exchange Board of India (hereinafter referred to as 'SEBI') issuing certain directions.

2. The facts leading to the filing of the present appeal is, that the appellants had floated a Collective Investment Scheme (hereinafter referred to as 'Scheme'). The scheme was started on September 10, 1992 and continued till March 1, 1998 before the Securities and Exchange Board of India (Collective Investment Scheme) Regulations, 1999 (hereinafter referred to as 'CIS Regulations') came into force with effect from October 15, 1999. No investment was made by the appellants after March 1, 1998. The directors of the company had taken a decision in 2012 to wind up the scheme and refund the amount to the investors between May 2004 to April 2017. The entire sum was refunded to the investors except a sum of Rs. 3,80,000/- which remained outstanding as the investors could not be located.

3. In spite of aforesaid, the WTM passed an order dated March 19, 2021 issuing 10 directions. The main direction was that the Company and its directors were restrained from collecting any money from the investors or launch or carry out any CIS and further were restrained them from accessing the securities market. The WTM further directed the company and its directors to wind up the existing scheme and refund the money so collected.

4. Against the order dated March 19, 2021 Appeal No. 459 of 2021 was filed. This Tribunal after considering the material evidence found that only Rs. 3,80,000/- remained to be refunded coupled with the fact that pursuant to one of the directions given by the WTM in its order of March 19, 2021, the appellants had kept Rs. 3,80,000/- in an escrow account and further issued an advertisement inviting claims from the investors.

5. In view of the aforesaid, this Tribunal allowed the appeal quashing the 10 directions given in the impugned order and remitted the matter to the WTM to decide the matter afresh after considering the compliances made by the appellants. We had also directed the appellants to transfer a sum of Rs. 3,80,000/- to SEBI within two weeks from today. This amount has been duly deposited by the appellants with SEBI which is kept in an escrow account.

6. Based on the aforesaid direction, the impugned order has been passed issuing fresh directions. The directions are that advertisement should be made inviting claim from the remaining investors which shall remain open for a period of six months from January 24, 2022 onwards and that the appellants shall take all steps to trace the investors and make the refund as per the offer. The balance amount, if any, shall be transferred to the Investor Protection and Education Fund. The appellants were also directed to file final winding up and repayment report in the prescribed format.

7. The learned counsel contended that based on the directions given by the WTM on January 24, 2022, a fresh advertisement was issued inviting claims. It was stated that six months have now elapsed and no investor has come forward and, therefore, it is neither possible nor feasible for the appellants to trace out the remaining investors.

8. The aforesaid facts has not been disputed by the respondent.

9. In view of the aforesaid, we are of the opinion that a finality is required to be reached and the matter is required to be given a quiet burial for all practical purposes especially when no investors is coming forward to claim its money. We are of the opinion that the Company has taken every possible steps to trace the investors in order to make refund as per the terms of offer. Since no investor is coming forward and the scheme relates to the period 1993, much prior to the enactment of the CIS Regulations, we dispose of the present appeal with the following directions :-

i) The amount of Rs. 3,80,000/- deposited with SEBI shall be transferred to the

Investor Protection and Education Fund alongwith the accrued interest, if any, by SEBI within four weeks from today.

ii) The appellants will file a winding up report and repayment report containing the details of the contributors / investors to whom the money has been refunded within four weeks from today.

iii) The appellants will also file a list of all contributors / investors, their contact details, details of investments of those investors whose investment have not been refunded within four weeks from today.

iv) Such report shall be certified by the Chartered Accountant and given in the prescribed format within six weeks from today.

v) Such report shall be accepted by SEBI and the matter would be consigned to the record.

10. The appeal is accordingly disposed of with the aforesaid directions.

11. 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.