(2023) 12 SEBI CK 0007

In the Securities Appellate Tribunal Mumbai

Case No : Appeal No. 549 Of 2022

Quest Financial Services Limited And Others APPELLANT

Vs

Securities And Exchange Board Of India RESPONDENT

Date of Decision : 04-12-2023

Acts Referred:

Securities And Exchange Board Of India Act, 1992 — Section 15A(a)

Citation : (2023) 12 SEBI CK 0007

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

Bench : Division Bench

Advocate : Rinku Valanju, Kush Khandelwal, Vishal Kanade, Akash Jain, Aditya Sarangrajan

Final Decision : Partly Allowed

Judgement

Tarun Agarwala, Presiding Officer

1. The present appeal has been filed against the order of the Whole Time Member (?WTM? for short) of the Securities and Exchange Board of India (?SEBI? for short) dated March 21, 2022 restraining the appellants from accessing the securities market and further prohibited them from buying, selling, or otherwise dealing in securities directly or indirectly, or being associated with the securities market in any manner for a certain period as specified in the impugned order. In addition to the aforesaid, the WTM has also imposed penalties of different amount cumulating to Rs. 63 lakh.

2. The facts leading to the filing of the present appeal is, that on 9th June, 2017 the Ministry of Corporate Affairs issued a letter annexing a list of 331 shell companies and requesting SEBI to take appropriate action under the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as the “SEBI Act”) and its regulations.

3. Based on the said letter, SEBI issued an order dated 7th August, 2017 placing

trading restrictions on the appellant Company, its Directors and promoters. The Company filed an appeal which was disposed of by this Tribunal by an order of September 17, 2017 directing SEBI to decide the representation.

4. Subsequently, based on further investigation SEBI passed an ex-parte ad-interim order dated October 11, 2017 which included a direction for appointment of a forensic auditor to verify misrepresentations including financial and misuse of funds in books of accounts of the Company. Subsequently, the interim order was confirmed.

5. Based on the forensic audit report and further investigation made by SEBI a show cause notice dated August 21, 2020 was issued. The broad charges in the show cause notice are as follows:-

A. Violations of provisions of LODR Regulations due to misrepresentation including of financials and misuse of funds/books of accounts;

B. Other violation of provisions of LODR Regulations

C. Violation of provision of Section 15A(a) of SEBI Act, 1992;

D. Violation of provisions of PFUTP Regulations, 2003.

6. The WTM after considering the replies of the appellant and the material evidence on record concluded that the appellant misrepresented its financials and violated the accounting standards. The WTM found that various provisions of LODR Regulations were not complied with during the three financial years and there were lapses on the part of the Company in not making the disclosures within the stipulated period. The WTM found that there was no misappropriation of the funds and that Company and violation of the PFUTP Regulations, if any, could be raised in a separate proceeding.

7. Having heard the learned counsel for the parties we are of the opinion that the controversy involved in the present appeal is squarely covered by various decisions of this Tribunal, namely, Appeal no. 750 of 2021, V.B. Industries Limited & Ors vs SEBI, decided on July 29, 2022, Appeal no. 471 of 2022, Dalmia Industrial Development Limited vs SEBI and other connected appeals decided on September 1, 2022, Appeal no. 801 of 2021, SVAM Software Ltd & Ors vs SEBI decided on October 13, 2022, Tatia Global Vennture Ltd. & Ors. vs SEBI decided on August 24, 2022 and Venmax Drugs and Pharmaceuticals Ltd. vs SEBI in Appeal no. 759 of 2021 and other connected appeals decided on November 14, 2022 and JMD Ventures Limited & Ors. vs. SEBI, Appeal no. 404 of 2022 decided on March 17, 2023 wherein similar controversies the debarment passed by the WTM was set aside and the penalties was reduced appropriately.

8. In view of the aforesaid, while affirming the violation committed by the Company with regard to the non-compliance of the LODR Regulations we direct that the period undergone towards debarment of the appellants is sufficient for the aforesaid violations and consequently the period is reduced to the period

undergone by the appellants. In addition to the above, we reduce the penalty directing the appellant Company to pay a sum of Rs. 15 lakh for violation of LODR Regulations. The penalties imposed upon other appellants are set aside.

9. In view of the aforesaid, the appeal is partly allowed.

