(2020) 02 SEBI CK 0024

In the Securities Appellate Tribunal Mumbai

Case No : ??Miscellaneous Application No. 456 Of 2019, Appeal No. 374 Of 2019

Samruddha Jeevan Foods India Limited And Others APPELLANT

Vs

Securities And Exchange Board Of India RESPONDENT

Date of Decision : 19-02-2020

Acts Referred:

Citation : (2020) 02 SEBI CK 0024

Hon'ble Judges : Tarun Agarwala, Presiding Officer;Dr. C. K. G. Nair, Member

Bench : Division Bench

Advocate : Soumen Banerjee, Mayank Sharma, Sumedh Sonawane, Shyam Mehta, Mihir Mody, Shehaab Roshan

Final Decision : Dismissed

Judgement

Tarun Agarwala, Presiding Officer

1. The present appeal has been filed questioning the veracity of the order dated November 20, 2018 passed by the Recovery Officer (â??ROâ? for

convenience) of the Securities and Exchange Board of India, by which a notice of demand to pay Rs. 301.29 crores was issued. The appellant has

also prayed for setting aside the final order September 02, 2015 passed by the Whole Time Member (â??WTMâ? for convenience). Further, a prayer

was made that they may be allowed to make the repayment as per their proposal dated October 26, 2017.

2. There is a delay of 229 days in filing the appeal which period has been taken from the date of the notice of demand issued by the RO dated

November 20, 2018 and not from the date of the order dated September 02, 2015 passed by the WTM. The ground urged is, that the directors are in

judicial custody because of which no appeal could be filed within the stipulated period. The fact that the directors are in judicial custody have not been

denied by the respondent. Considering the aforesaid, cause shown is sufficient. The delay in filing the appeal is condoned. The delay condonation

application is allowed.

3. In so far as, the prayer to set aside the final order dated September 02, 2015 passed by the WTM is concerned we find that such relief cannot be

granted. The appellants had earlier filed an Appeal No. 469 of 2015 challenging the order dated September 02, 2015 which was disposed of by an

order dated September 29, 2017 wherein the submission of the appellants was recorded that they were ready and willing to comply with the impugned

order, namely the order dated September 02, 2015 by refunding the amounts due to the investors in a time bound manner. On this submission, the

appeal was disposed of permitting the appellants to make a representation before SEBI setting out in detail the mode and manner in which the

appellants would refund the amounts to the investors. It transpires that pursuant to the order of the Tribunal dated September 29, 2017 a

representation dated October 26, 2017 was made which was rejected by the SEBI by an order dated July 02, 2018. This rejection has not been

challenged by the appellants in the present appeal. Further, the order dated September 02, 2015 cannot again be challenged in the present appeal. We

also find that the prayer of the appellants that they may be allowed to repay the amount pursuant to their proposal dated October 26, 2017 cannot be

accepted in as much as their proposal has been rejected by SEBI by an order dated July 02, 2018 which order has become final since the same was

never challenged before a superior forum.

4. Since no concerted effort was made by the appellants to repay the amount as per the order passed by the WTM of SEBI dated September 02, 2015

the recovery proceedings have been initiated and the impugned notice of demand dated November 20, 2018 has been issued for recovery of Rs.

301.29 crores.

5. Having heard the learned counsel for the appellants, we do not find any reason to interfere in the impugned recovery notice as we do not find any

valid scheme by which the appellants have made a concerted effort to repay the amount. Appeal fails and is dismissed summarily.

