(2020) 08 SEBI CK 0057

In the Securities Appellate Tribunal Mumbai

Case No : Appeal No. 161 Of 2020

Sanjay Padmakar Adgaonkar — APPELLANT

Vs

Securities And Exchange Board Of India And Others — RESPONDENT

Date of Decision : 07-08-2020

Acts Referred:

Citation : (2020) 08 SEBI CK 0057

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

Bench : Division Bench

Advocate : Ninad Deshpande, Pradeep Sancheti, Mihir Mody, Shehaab Roshan, K. Ashar, Ravichandra S. Hegde, Ashish Venugopal

Final Decision : ?Allowed

Judgement

Tarun Agarwala, Presiding Officer

1. We have heard Shri Ninad Deshpande, the learned counsel for the appellant, Mr. Pradeep Sancheti, the learned senior counsel alongwith Mr. Mihir

Mody, the learned counsel for Securities and Exchange Board of India (hereinafter referred to as â??SEBIâ??) and Mr. Ravichandra Hegde, the

learned counsel for the Depository Participant, respondent No. 2.

2. The present appeal has been filed against the summary disposal of the appellantâ??s complaint on the SCORES platform.

3. The facts leading to the filing of the present appeal is, that the applicant has a demat account with the Depository Participant, namely, respondent

No. 2. According to him, the statement of account as on March 31, 2014 showed that he had stocks of approximately Rs. 32,76,163/-. It is alleged that

his email ID and mobile number had been changed fraudulently without his knowledge and consent and, when he came to know about this change, he made a complaint to respondent No. 2 on December 15, 2019 contending that stocks worth around Rs. 50 lacs had been transferred without his

knowledge and consent. His complaint was rejected by respondent No. 2 on January 1, 2020 and again on January 13, 2020 on the ground that the

matter is an old one and that they do not have the necessary documents, namely, Delivery Instructions Slip (DIS) and transfer / modification form.

The appellant thereafter filed a complaint on the SCORES platform which was closed by SEBI by the impugned order of March 3, 2020 upon being

satisfied by the reply given by the respondent no. 2 Depository Participant.

4. Before this Tribunal, we find that respondent No. 2 has filed certain documents, namely, the modification forms in order to show that the mobile

number and email ID were changed as per the instructions given by the appellant. We find it strange that these documents earlier were not available /

traceable by the respondent No. 2 and now all of sudden these documents have been brought on record. We are constrained to observe that the action

of respondent No. 2 was not fair.

5. At this stage, the learned senior counsel for SEBI submitted that the matter may be remitted back to SEBI for reinvestigation of the complaint of

the appellant. This suggestion was accepted by the learned counsel for the respondent no. 2 as well as by the appellant.

6. Accordingly, with the consent of the parties, the impugned order of March 3, 2020 closing the complaint of the appellant on SCORES platform is set

aside. The appeal is allowed. The matter is remitted to SEBI to reconsider the matter denovo. We direct SEBI to conduct an investigation and pass an

appropriate order. Any document that is furnished by respondent No. 2 should be made available to the appellant and, if necessary, seek necessary

response from the appellant. In view of the aforesaid, parties shall bear their own costs.

6. 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 Presiding Officer 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.

