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(2020) 10 SEBI CK 0054

In the Securities Appellate Tribunal Mumbai

Case No : Miscellaneous Application No. 362 Of 2020, Appeal No. 339 Of 2020

Shivris Resources Pvt. Ltd. & Ors — APPELLANT

Vs

Securities & Exchange Board Of India — RESPONDENT

Date of Decision : 20-10-2020

Acts Referred:

Citation : (2020) 10 SEBI CK 0054

Hon'ble Judges : Tarun Agarwala, Presiding Officer;Dr. C. K. G. Nair, Member;M. T. Joshi, J

Bench : Full Bench

Advocate : Kunal Katariya, Ravi Vijay Ramaiya, Sahebrao Buktare, Zal Andhyarujina, Abhiraj Arora, Rashi Dalmia

Final Decision : ?Allowed

Judgement

Misc. Application No. 362 of 2020 :

1. There is a delay of 143 days in filing the appeal. For the reasons stated in the Misc. Application, delay is condoned. Misc. Application is allowed

accordingly.

Appeal No. 339 of 2020 :

1. We have heard Mr. Kunal Katariya, the learned counsel for the appellants and Mr. Zal Andhyarujina, the learned counsel for the respondent

through video conference.

2. Certain issues arises for consideration and some of them are that there is an inordinate delay on the part of Securities & Exchange Board of India

(hereinafter referred to as â??SEBIâ??) in initiating the proceedings. Another question is whether SEBI has the power to issue an order for refund of

the money to the company called ABG Shipyard Ltd. (for short â??ABGSLâ??).

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Another question which has been raised is that the direction of the

Whole Time Member (hereinafter referred to as â??WTMâ??) to refund the amount has become redundant in as much as the amount has already

been paid as stipulated in paragraph No. 5.7 of the memo of appeal. We also find that inspite of time being granted the appellants failed to appear

before the WTM during the personal hearing and, therefore, the facts which have been stated in paragraph No. 5.7 are new facts which were not

placed before WTM.

3. Let a reply be filed by the respondent within four weeks from today. Two weeks thereafter to the appellants to file rejoinder. The matter would be

listed for admission and for final disposal of December 16, 2020.

4. Parties are directed to take instructions from the Registrar 48 hrs. before the date fixed in order to find out as to whether the matter would be taken

up for hearing through video conference or through physical hearing.

5. 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 theRegistry. 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.

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