(2023) 04 SEBI CK 0036

In the Securities Appellate Tribunal Mumbai

Case No : ???Miscellaneous Application No. 175 Of 2022, Appeal No. 205 Of 2022

Sundershan Singh Jamwal And Others APPELLANT

Vs

Securities And Exchange Board Of India RESPONDENT

Date of Decision : 26-04-2023

Acts Referred:

Citation : (2023) 04 SEBI CK 0036

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

Bench : Division Bench

Advocate : Akash Rebello, Ravishekhar Pandey, Shefali Shankar, Rasika Ghate

Final Decision : ?Allowed

Judgement

Tarun Agarwala, Presiding Officer

1. We have heard the learned counsel for the parties. The appellant has filed the appeal against the order dated 29th June, 2020 imposing a penalty of Rs.25 lakhs to be paid by the appellant along with other connected parties jointly and severally.

2. There is a delay of 899 days in the filing of the appeal. The ground urged is, that the appellant was never served with the impugned order and that he only came to know about the order when his accounts were frozen in April, 2021.

3. In the reply filed by the respondent it is alleged that the communication was made through email dated 4th April, 2021 and that after his accounts were frozen, the appellant made several representations based on which the pension account was released on August, 2021 and again in August, 2022. The appellant contends that he is located in a remote village in Jammu where internet services were minimal and, therefore, had no access to the email.

4. It was also stated that after his pension account was defreezed the appellant was under the impression that the matter has come to an end and, therefore,

the need to file an appeal did not arise. It is now when the appellant received a fresh notice that he took legal advice and have filed the appeal.

5. Considering the aforesaid, we find that sufficient cause has been shown to condone the delay. We accordingly condone the delay in the filing of the appeal. The application is allowed.

6. Having heard the learned counsel for the parties and having perused the record, we find that the impugned order was passed during the peak of the pandemic on 29th June, 2020. Hearing notice was given to appear on 5th June, 2020 through virtual mode. The appellant contends that it was not possible to access the hearing notice through email on account of dismal internet services.

7. Considering the aforesaid and giving the benefit of doubt to the appellant, we are of the opinion that the appellant should be given an opportunity to contest the matter on merits.

8. We, accordingly, set aside the aside the impugned order insofar as it relates to the appellants. The appeal is allowed. The matter is remitted to the AO to pass a fresh order after giving an opportunity of hearing to the appellant.

9. In this regard, the appellants shall appear personally or through their authorised representation before the AO on 15th May, 2023 on which date the AO will proceed in accordance with law.

10. 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 charges.