(2020) 02 SEBI CK 0010

In the Securities Appellate Tribunal Mumbai

Case No : ?Appeal No. 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 Of 2020

Sunipa Das And Others APPELLANT

Vs

Securities And Exchange Board Of India RESPONDENT

Date of Decision : 21-02-2020

Acts Referred:

Citation : (2020) 02 SEBI CK 0010

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

Bench : Full Bench

Advocate : Arindan Das, Rumeli Sarkar, Anubhav Ghosh, Rashi Dalmia

Final Decision : Dismissed

Judgement

Tarun Agarwala, Presiding Officer

1. The Whole Time Member (hereinafter referred to as â??WTMâ??) of Securities and Exchange Board of India (hereinafter referred to as

â??SEBIâ??) passed an order dated November 1, 2016 holding that the company Cemendia Infrastructures Ltd. and its directors had illegally

collected money through NCDs in violation of public issue norms and consequently, the WTM issued various directions, namely, for refund of the

amount collected alongwith interest which was required to be paid jointly and severally by the company and its directors. The appellants were also

restrained from accessing the securities market and were also restrained from associating with any public listed company till such time the refund was

made.

2. Since the amount was not paid recovery proceedings were initiated. The appellants are directors of the company who have been found to be

officers in default and were held to be liable to recover the amount jointly and severally.

3. The appellants have questioned the veracity of the minutes of the proceedings dated December 9, 2019 before the Recovery Officer which order is

nothing but an adjournment of the proceedings at the instance of the appellant.

4. The contention of the appellants is that as per the order of the WTM only Anita Ghosh Choudhary, Subrata Samanta and Gora Chand Sarkar were

liable for violation of the public issue norms and were held to be liable for refund of the entire amount. It was urged that the recovery against the

appellants pursuant to the impugned order was wholly incorrect and, therefore, they should be absolved from appearing before the Recovery Officer.

5. All the submissions may be raised before the Recovery Officer. If so raised, the Recovery Officer will deal with it. We may also point out that the

order dated November 1, 2016 has not been challenged by the appellants before us. In view of the aforesaid, we do not find any error in the order of

the recovery officer at this stage. Dismissed.

