**(2021) 02 SEBI CK 0001**

**In the Securities Appellate Tribunal Mumbai**

**Case No :** Miscellaneous Application No. 21 Of 2021, Appeal No. 60 Of 2021

Syed Abdi — APPELLANT

Vs

Securities And Exchange Board Of India — RESPONDENT

**Date of Decision :** 03-02-2021

**Acts Referred:**

**Citation :** (2021) 02 SEBI CK 0001

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

**Bench :** Division Bench

**Advocate :** Kamal Agrawal, S.K. Chaurasia

**Final Decision :** ?Allowed

## Judgement

Tarun Agarwala, Presiding Officer

1. We have heard Shri Kamal Agrawal, FCA for the appellant and Shri Abhiraj Arora, the learned counsel for the respondent through video

conference.

2. The present appeal has been filed against the order dated December 27, 2019 passed by the Adjudicating Officer (â??AOâ?? for short) of the

Securities and Exchange Board of India (â??SEBIâ?? for short) imposing a sum of Rs. 3 lakh as penalty for violation of the Equity Listing

Agreement.

3. There is a delay in the filing of the appeal. The contention of the appellant is that the impugned order was only received on November 11, 2020 and

soon thereafter the present appeal was filed.

4. It is also the contention of the appellant that he was never served with the show cause notice nor received any notice indicating that the matter is

listed for hearing before the AO.

5. When confronted with this fact, the learned counsel for the respondent fairly conceded that the appellant was not served inspite of their best efforts

to serve them with the show cause notice.

6. In view of the accepted position, we are of the opinion that the cause shown for the delay in the filing of the appeal has been made out.

Consequently, the delay is condoned and the application for condonation of the delay is allowed.

7. We are also of the opinion that the impugned order was passed without serving a show cause notice. Hence, it was violative of the principles of

natural justice. Accordingly, the impugned order cannot be sustained and is quashed at the admission stage itself. The matter is remitted to the AO to

decide the matter afresh. In this regard, the appellant shall appear before AO on February 22, 2021 on which date the appellant will be served with the

show cause notice, etc, and thereafter the AO will proceed and decide the matter on merits after giving an opportunity of hearing to the appellant. The

appeal is accordingly allowed.

8. We have also been informed that pursuant to the impugned order a sum of Rs. 3,36,000/- has been deposited under protest by the appellant. Since

the order has been set aside the amount shall be refunded to the appellant within two weeks from today.

9. 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 Private Secretary 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.