
(2021) 09 SEBI CK 0117

In the Securities Appellate Tribunal Mumbai

Case No : Miscellaneous Application No. 908 Of 2021, Appeal No. 612 Of 2020

Umashankar Sharan Shrivastav

APPELLANT

Vs

And Others Securities And Exchange Board Of India

RESPONDENT

Date of Decision : 30-09-2021

Acts Referred:

Citation : (2021) 09 SEBI CK 0117

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

Bench : Division Bench

Advocate : Sachinkumar Rajepandhare, Sumit Rai, Mihir Mody, Arnav Misra, Mayur Jaisingh, K. Ashar

Final Decision : Dismissed

Judgement

Tarun Agarwala, Presiding Officer

1. The appellant has filed the appeal questioning the veracity of the order dated September 05, 2017 passed by the Whole Time Member ("WTM" for convenience) of the Securities and Exchange Board of India ("SEBI" for convenience). There is a delay of 1378 days in the filing of the appeal and accordingly an application for condonation of delay has been filed.

2. The ground urged is, that the impugned order dated September 05, 2017 was never served upon the appellant inspite of giving them the email address etc. It was contended that the appellant came to know about the impugned order when he found that his bank accounts were attached pursuant to some recovery proceedings on January 14, 2019. It was contended that the appellant pursued the matter with the SEBI Authorities for defreezing the bank accounts which plea was rejected on December 11, 2020 and thereafter filed the appeal on September 06, 2021 upon easing of the pandemic situation.

3. Having heard the learned counsel for the appellant, we are not satisfied with the cause shown. Assuming without admitting that the impugned order was never served and that the appellant came to know for the first time on January

14, 2019, nonetheless, the appeal was filed on September 06, 2021 after more than 2 ½ years. The fact that the appellant was pursuing the proceedings for withdrawal of the attachment will not enlarge the time for filing an appeal against the order dated September 05, 2017. Thus, there is an inordinate delay in the filing of the appeal. We are not satisfied with the cause shown.

4. In *Basawaraj and Anr. vs. Special Land Acquisition Officer*, (2013) 14 SCC 81 the Supreme Court held that the discretion to condone the delay has to be exercised judicially based on facts and circumstances of each case and that sufficient cause cannot be given a liberal interpretation if lack of bonafide is attributed to a party. The Supreme Court further held that delay cannot be condoned on equitable ground beyond the limits permitted expressly by statute.

5. The Supreme Court in *Ram Nath Sao and Ors.* (supra) held that the expression "sufficient cause" should receive a liberal construction so as to advance substantial justice when no negligence or inaction or want of bonafide is imputable to a party. The same view was reiterated by the Supreme Court in *Madanlal vs. Shyamlal*, (2002) 1 SCC 535.

6. In *Balwant Singh (Dead) vs Jagdish Singh & Ors*, (2010) 8 SCC 685 Supreme Court held that the expression "sufficient cause" means the presence of legal and adequate reasons. The decisions cited by the learned counsel for the appellant are of no avail and, in any case, not applicable in the present circumstance of the case.

7. This Tribunal is possessed with the exercise of judicial discretion in condoning the delay if sufficient or adequate reason is given. It is also a settled proposition of law that the law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds as held by the Supreme Court in *Basawaraj and Anr.* (supra). In the instant case we do not find any legal or adequate reasons to condone the delay.

8. For the reasons stated aforesaid, the application for condonation of delay is rejected, as a result of which the appeal is also dismissed with no order as to costs.

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.