(2020) 02 SEBI CK 0002

In the Securities Appellate Tribunal Mumbai

Case No : ?Appeal No. 83 Of 2020

V. R. Venkatachalam APPELLANT

Vs

Securities And Exchange Board Of India And Others RESPONDENT

Date of Decision : 25-02-2020

Acts Referred:

Securities And Exchange Board Of India Act, 1992 — Section 28A
Income Tax Act, 1961 — Section 220, 221, 222, 223, 224, 225, 226, 227, 228A, 229, 232

Citation : (2020) 02 SEBI CK 0002

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

Bench : Full Bench

Advocate : P. N. Modi, Neville Lashkari, Durgesh Khanapurkar, Yuvraj K. Singh, Anubhav Ghosh, Nitesh V. Bhutekar

Final Decision : Disposed Of

Judgement

Tarun Agarwala, Presiding Officer

1. We have heard the learned counsel for the parties. The order of the Adjudicating Officer (hereinafter referred to as â??AOâ??) of Securities and

Exchange Board of India (hereinafter referred to as â??SEBIâ??) dated January 31, 2018 has travelled all the way to the Honâ??ble Supreme

Court of India and has reached its finality. The penalty imposed was required to be recovered but before it could be recovered, the appellant obtained

an interim order from the Honâ??ble Madras High Court. The said Writ Petition was disposed of finally on February 6, 2020 permitting the appellant

to file the present appeal.

2. Based on the said order, it transpires that the appellant has furnished title deeds of immovable properties to the Recovery Officer which according

to the appellant would be sufficient to cover the penalty amount alongwith the interest accrued thereon. It was urged that the shares and securities

which are also attached may not be sold by the Recovery Officer prior to selling the land. It was also urged that the balance amount, if any, could also

be paid provided some time is given to the appellant.

3. Considering the submissions, we are of the opinion that the appropriate remedy available to the appellant is to approach the Recovery Officer by

filing an appropriate application under Section 28A of the Securities and Exchange Board of India Act, 1992 read with Section 220 to 227, 228A, 229,

232 etc. of the Income Tax Act and Income Tax (Certificates Proceedings) Rules, 1962. If such an application is filed, the Recovery Officer would

deal with the application and pass appropriate order after giving an opportunity of hearing. It would also be open to the appellant to move an

appropriate interim application before the Recovery Officer for appropriate interim relief pending final disposal of the main application.

4. The appeal is disposed of accordingly.