BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Misc. Application No.79 of 2008
In
Appeal No.39 of 2008

Date of Decision : 23.10.2008

Dilip S. Pendse .....Applicant/Appellant

Versus

Securities and Exchange Board of India ...…Respondent

Mr. V.M. Singh Advocate for the Appellant.

Mr. Kumar Desai Advocate with Ms. Daya Gupta and Ms. Chloris John Advocates for the Respondent

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Justice N.K. Sodhi, Presiding Officer
Utpal Bhattacharya, Member

Per: Justice N.K. Sodhi, Presiding Officer (Oral)

By an order dated January 11, 2008 the Securities and Exchange Board of India (for short the Board) restrained the applicant from accessing the securities market and also prohibited him from buying, selling, dealing or associating with the securities market. Feeling aggrieved by this order, the appellant filed Appeal no.39 of 2008 before this Tribunal which came up for hearing on September 25, 2008. The order impugned in the appeal has been set aside and the case was remanded back to the Board for a fresh decision in accordance with law. At the time when the matter was remanded, the learned counsel for the appellant made a statement that his client would not buy, sell or deal in securities market till the matter is finally disposed of by the Board. It may be mentioned that the appellant had been charged with certain market irregularities and it was on that basis that the order dated January 11, 2008 had been passed against him. Since the matter has been remanded, the enquiry is now pending before the Board. During the pendency of the proceedings before the Board, the appellant has filed the present application seeking permission to sell his existing shareholding. He has stated that he is facing a financial crunch and that he needs funds for performing the

marriage of his son which is fixed some time in February, 2009. It is further stated that the appellant's father who is 79 years of age and is dependant upon him requires medical treatment and funds are required for that purpose as well. Notice of this application was issued to the Board and Shri Kumar Desai Advocate has put in appearance on its behalf.

2. We have heard the learned counsel for the parties. Since the appellant needs funds to perform the marriage ceremonies of his son and to meet the medical expenses for the treatment of his father, he should be allowed to sell his existing shareholding. However, some safeguards need to be provided. We, therefore, direct that the appellant shall furnish to the Board on or before October 31, 2008 the latest statement of all his demat accounts. On furnishing these statements to the Board, the appellant shall be allowed to sell all the listed shares through a member on any recognised stock exchange and thereafter he shall furnish to the Board copy/copies of the bill(s) and contract note(s) issued by the broker showing the total number of shares sold as well as the total amount of sale consideration received after deduction of brokerage and deduction of tax at source. The appellant shall then furnish to the Board a certificate showing the total amount of payment received on account of sale consideration of the shares giving the details of the cheque(s) through which the payment(s) is/are made. Let the sale of shares be completed before the end of January 2009. The statement made on behalf of the appellant on September 25, 2008 in Appeal no.39 of 2008 stands modified accordingly.

3. We are informed that the appellant is holding some shares in physical form and that some of his shares are lying with a broker towards margin money. It shall be open to him to move a separate application qua these shares as and when he wants to sell them.

The application stands disposed of as above.

Sd/-
Justice N.K. Sodhi
Presiding Officer

Sd/-
Utpal Bhattacharya
Member

23.10.2008
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