BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Appeal No. 95 of 2006

Date of decision: 25.11.2008

Noted Infotech Pvt. Ltd. …..Appellant

Versus

The Adjudicating and Enquiry Officer,
Securities and Exchange Board of India ..… Respondent

Mr P.N. Modi Advocate with Mr. N. P. Lashkari Advocate for the Appellant.

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

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

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

The impugned order levying a monetary penalty of rupees one crore on the appellant under section 15 A(a) of the Securities and Exchange Board of India Act, 1992 for not complying with the summons issued to it during the course of the investigations conducted by the Securities and Exchange Board of India (hereinafter called the Board) deserves to be set aside on the ground that the adjudicating officer failed to look into the response filed by the appellant to the summons. This happened due to a comedy of errors on both sides. On receipt of the letter dated 10.6.2002 calling upon the appellant to furnish the information specified therein, it submitted its reply as per its letter dated July 30, 2002. While submitting the reply, the appellant referred to letter number 10677 whereas the letter received by it from the Board was bearing number 10683. It appears that due to this inadvertent/ typographical error, the reply was placed in some other file of the Board and the adjudicating officer overlooked it. The learned counsel for the Board has produced the original record

before us and we find that the letter bearing number 10677 was an identical letter addressed to another entity by the name of Saral Website and Exim Pvt. Ltd. having the same address as that of the appellant. According to the learned counsel for the appellant, the reply furnished was adequate and complete in all respects whereas the learned counsel for the respondent disputes this fact and states that it is silent in regard to some of the points on which information had been sought from the appellant. Be that as it may, it is not for us to comment whether the information and documents furnished by the appellant were adequate and complete. That is for the Board to decide. Since the reply furnished by the appellant has not been looked into, the impugned order levying the penalty for not furnishing the information cannot be sustained. The appeal is accordingly allowed and the impugned order set aside. Even though the matter is quite old, it will be open to the Board to initiate fresh proceedings against the appellant if it so decides. No costs.

Sd/-
Justice N.K.Sodhi
PresidingOfficer

Sd/-
Utpal Bhattacharya
Member

25.11.2008
sl/bk