

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Appeal No. 51 of 2007

Date of decision: 30.06.2009

M/s. Kotak Securities Limited

.....Appellant

Versus

The Adjudicating Officer
Securities and Exchange Board of India

.....Respondent

Mr. Manvendra Kane, Advocate with Ms. Vanshaja Shukla, Advocate for the Appellant.
Dr. Poornima Advani, Advocate with Ms. Harshada Nagare, Advocate for the Respondent.

CORAM : Justice N.K. Sodhi, Presiding Officer
Samar Ray, Member

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

This appeal is directed against the order dated December 18, 2006 passed by the adjudicating officer imposing a penalty of Rs.10 lacs on the appellant for not maintaining the clients database and also for its failure to collect upfront margins from the clients and for its failure to obtain prior approval of the respondent Board for change in status and constitution which was in violation of Regulation 26 of the Securities and Exchange Board of India (Stock Brokers and Sub-brokers) Regulations, 1992. During the pendency of the appeal the appellant filed an application before the respondent Board for obtaining a consent order in terms of the circular dated April 20, 2007. The request for a consent order was considered by the internal committee of the respondent Board and the matter was thereafter placed before a High Powered Committee constituted for the purpose. The appellant proposed to voluntarily pay a sum of Rs.10 lacs without admitting its guilt and, in addition, another sum of Rs.4 lacs towards legal expenses. The terms as proposed by the appellant were considered by the High Powdered Committee which approved the same having regard to the nature of the irregularities found to have been committed by

the former. The matter was then placed before two whole time members of the respondent Board who have also given their approval to the terms subject to those being approved by this Tribunal. It was then that Miscellaneous Application no. 42 of 2009 was filed before this Tribunal with a prayer that the appeal be disposed off as per the consent terms.

We have heard the learned counsel for the parties. Having regard to the nature of the irregularities committed by the appellant in not maintaining proper records, we are of the view that the ends of justice would be adequately met if the terms as proposed by the appellant and accepted by the Board on the recommendations of the High Powered Committee are accepted and the appeal disposed off as per the consent terms. We order accordingly. No costs.

Sd/-
Justice N.K.Sodhi
Presiding Officer

Sd/-
Samar Ray
Member

30.06.2009
ptm

Prepared & Compared by
ptm