BEFORE THE SECURITIES APPELLATE TRIBUNAL MUMBAI

Appeal No.104 of 2009

Date of Decision: 18.8.2010

M/s. Gateway Computers Private Limited
Amritdham, Flat No.202,
P.O. Danesh Sekh Lane
Nityananda, Howrah. …..Appellant

Versus

The Adjudicating Officer,
Securities and Exchange Board of India,
SEBI Bhavan, Plot No.C4-A, G Block,
Bandra Kurla Complex, ..… Respondent
Bandra (East), Mumbai.

Mr. Pradeep Sancheti, Senior Advocate with Mr. Ratnesh Rai, Advocate and Mr. Vishal Maheshwari, Advocate for the Appellant.

Mr. R.S. Loona, Advocate with Mr. Saurav Paul, Advocate for the Respondent.

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

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

Same order as in Appeal no.97 of 2009 decided on 18.8.2010.

Sd/-
Justice N.K.Sodhi
Presiding Officer

Sd/-
Samar Ray
Member

Sd/-
P.K. Malhotra
Member

18.8.2010
RHN

Prepared & Compared by
ptm

BEFORE THE SECURITIES APPELLATE TRIBUNAL MUMBAI

Appeal No.97 of 2009

Date of Decision: 18.8.2010

M/s. Tricon Business Private Limited
Amritdham, Flat No.202,
P.O. Danesh Sekh Lane,
Nityanand Nagar, Bakultolla,
Howrah. …..Appellant

Versus

The Adjudicating Officer
Securities and Exchange Board of India
SEBI Bhavan, Plot No.C4-A, G Block,
Bandra Kurla Complex,
Bandra (East), Mumbai. ..… Respondent

Mr. Pradeep Sancheti, Senior Advocate with Mr. Ratnesh Rai, Advocate and Mr. Vishal Maheshwari, Advocate for the Appellant.

Mr. R.S. Loona, Advocate with Mr. Saurav Paul, Advocate for the Respondent.

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

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

This order will dispose of three connected Appeals no.97, 98 and 104 of 2009 all of which raise identical questions of law and fact. These appeals had earlier been disposed of on December 3, 2009. The matter was taken up in appeal before the Supreme Court. With a view to grant one more opportunity to the appellant to be heard by this Tribunal the learned Judges set aside the order dated December 3, 2009 and have remanded the case for a fresh hearing.

2. We have heard the learned counsel for the parties. The charge against the appellants is that they failed to respond to the summons issued to them during the course of the investigations which were being conducted by the respondent Board at the relevant point of time. It is on account of this failure that the adjudicating officer by his separate orders has imposed a penalty of Rs.15 lacs on each of the appellants. We find

from the record that as many as 15 entities including the three appellants had failed to respond to the summonses issued to them and in the case of two entities namely, M/s. Anushree Tradelink P. Ltd. and M/s. Swarn Ganga Trading Pvt. Ltd. the same adjudicating officer imposed a penalty of Rs.3 lacs on each of them for their failure to furnish the requisite information. The learned counsel for the appellant strenuously contends that the case of the appellants is no different from those of M/s. Anushree Tradelink Pvt. Ltd. and M/s. Swarn Ganga Trading Pvt. Ltd. We find it is so. In this view of the matter, while upholding the findings of the adjudicating officer which have not been seriously challenged before us, we reduce the amount of penalty from Rs.15 lacs to Rs.3 lacs in each case. The appeals stand disposed of accordingly with no order as to costs.

The appellants will now deposit the penalty amount within six weeks from today.

Sd/-
Justice N.K.Sodhi
Presiding Officer

Sd/-
Samar Ray
Member

Sd/-
P.K. Malhotra
Member

18.8.2010
RHN

Prepared & Compared by
ptm