

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Appeal No. 19 of 2013

Date of Decision : 22.03.2013

Teakwood Management Services Pvt. Ltd.
(formerly known as Nirman Management
Services Pvt. Ltd.)
601, Plot No. 371, Sukha Castle,
Opp. HDFC Bank,
Bhandarkar Road, Matunga,
Mumbai – 400 019.

...Appellant

Versus

Securities and Exchange Board of India,
SEBI Bhavan, Plot No. C-4A, G-Block,
Bandra-Kurla Complex, Bandra (East),
Mumbai – 400 051.

...Respondent

Mr. P.N. Modi, Senior Advocate with Mr. N.P. Lashkari and Ms. Akshaya Bhansali,
Advocates for the Appellant.

Mr. Kumar Desai, Advocate with Ms. Harshada Nagare, Advocate for the
Respondent.

CORAM : P.K. Malhotra, Member & Presiding Officer (*Offg.*)
Jog Singh, Member

Per : P.K. Malhotra (Oral)

This appeal is directed against the order dated August 21, 2009 passed by the whole time member of the Securities and Exchange Board of India (for short the Board) confirming the ex parte ad interim order dated April 23, 2009 passed pending investigations in the scrip of Pyramid Saimira Theatre Limited. The ex parte order was passed restraining the appellant and others from accessing the securities market pending investigation. We are informed that the investigation in the matter was concluded on July 31, 2010. It is the case of the appellant that in spite of the investigation having been completed and the repeated representations made by the appellant, the Board has not taken any further action. The appellant also states that the directions issued by the Board against the appellant are being continued even after the

passage of more than three years. The Board has neither initiated any action nor it has taken any steps to discontinue such harsh directions against the appellant. It is, therefore, prayed that the impugned order be set aside.

2. When the matter was taken up for hearing today, learned counsel for the respondent Board has placed on record a copy of the show cause notice dated March 21, 2013 passed by the Board in pursuance of the investigation carried out by it. The appellant is required to furnish its reply in response to the said show cause notice which will be considered by the Board and it was stated, on instructions, that the Board will pass a final order in the matter within a period of three months from the date of receipt of reply to the show cause notice from the appellant. Since the Board has already issued a show cause notice after completion of the investigations, it was submitted that in view of the changed scenario, no interference is called for by the Tribunal at this stage.

3. Learned senior counsel for the appellant stated that the show cause notice has not yet been served. Learned counsel for the Board submitted that it will be served on the appellant during the course of the day.

4. We have heard learned counsel for the parties for some time. We take note of the fact that as per Board's own admission, the investigations in the matter were concluded on July 31, 2010. However, it issued show cause notice to the appellant only on March 21, 2013 i.e. immediately after the appellant approached this Tribunal for relief. We express our unhappiness and concern over this approach of the Board which makes the appeal infructuous. If the Board proposes to pass an order which can have effect on the appellant's appeal pending before the Tribunal, it is expected that the Board should bring this fact to the notice of the Tribunal before passing such order. Having said so, we are of the view that in the present case, since show cause notice has already been issued and a statement has been made on behalf of the Board that final order will be passed within a period of three months from the date of receipt of reply from the appellant, we are not inclined to go into the merits of the case or to

deal with the impugned order. However, we direct the Board to pass a final order in the matter within a period of three months from the date of receipt of reply to the show cause notice from the appellant. In case the Board fails to do so, the impugned order passed against the appellant shall automatically stand vacated.

5. The learned senior counsel for the appellant also made a request that the appellant may be permitted to sell three scrips, namely, Bihar Tubes Ltd. (now known as APL Apollo Tubes Ltd.), Sel Manufacturing Company Ltd. and Usher Agro Ltd. held in its account as the value of the scrips is depleting due to fluctuating market. Learned senior counsel for the appellant further stated that money so realised will be kept in an interest bearing account and it will not be utilized without prior permission of the Board. Since the Board has already agreed to pass a final order within a period of three months, we are not inclined to deal with this prayer at this stage more so when there is no such prayer in the appeal. However, the appellant is at liberty to approach the Board and Board may deal with such request as it may deem appropriate in the facts and circumstances of the case. The decision on such request should be taken by the Board as per law within ten days from the date of receipt of such request.

The appeal stands disposed of as above with no order as to costs.

Sd/-
P.K. Malhotra
Member &
Presiding Officer (*Offg.*)

Sd/-
Jog Singh
Member

22.03.2013

Prepared and compared by:
msb