BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

DATE : 04.11.2016

Misc. Application No. 117 of 2016
And
Appeal No. 163 of 2016

Satish Kumar Dhawan
4663, Gali Paswan Charkhewalan,
Delhi – 110006. ….. Appellant

Versus

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

Dr. Prabhat Kumar, Advocate for the Appellant.

Mr. Vikram Nankani, Senior Advocate with Mr. Anubhav Ghosh, Advocate i/b The Law Point for the Respondent.

CORAM : Justice J. P. Devadhar, Presiding Officer
Jog Singh, Member
Dr. C. K. G. Nair, Member

Per : Justice J. P. Devadhar (Oral)

1. Appellant is aggrieved by the confirmatory order passed by the Whole Time Member ("WTM" for short) of Securities and Exchange Board of India ("SEBI" for short) on February 17, 2016 whereby the ex-parte ad-interim order passed against various entities including the appellant on June 29, 2015 has been confirmed. By the ex-parte ad-interim order dated June 29, 2015 the WTM of SEBI, pending further investigation had restrained several entities including the appellant from accessing the securities market directly or indirectly in any manner until further orders.

2. Basic grievance of the appellant is that before passing the confirmatory order, no opportunity of hearing was given to the appellant. It

is further contended on behalf of the appellant that in the absence of any evidence to show that the appellant had any connection with the promoters or directors of the target company, the appellant could not be said to have violated any of the provisions of the securities laws.

3. We see no merit in the above contention.

4. In the ex-parte ad-interim order dated June 29, 2015, it was specifically stated that the various entities named therein including the appellant could file objections, if any, within 21 days from the date of receipt of the ex-parte ad-interim order and indicate whether the said entities want to avail any opportunity of personal hearing. Admittedly, the appellant had not filed any objections within the stipulated time. Since the appellant, even after lapse of more than seven months had not deemed it fit to file any objections to the ex-parte ad-interim order the WTM of SEBI had passed the confirmatory order on February 17, 2016. In such a case, no fault can be found with the confirmatory order dated February 17, 2016.

5. Counsel for SEBI fairly states that even now if the appellant files objections to the ex-parte ad-interim order, the WTM of SEBI would consider the same and pass appropriate order thereon as expeditiously as possible.

6. In these circumstances, without going into the merits of the case, by consent, the appeal is disposed of in the following terms :

a) By consent, the confirmatory order passed on February 17, 2016 is quashed qua the appellant. However, it is made clear that the ex-parte ad-interim order passed against the appellant on June 29, 2015 shall continue to operate.

b) Appellant is at liberty to file objections, if any, within two weeks from today for continuation of the ex-parte ad-interim order qua the appellant.

c) Within four weeks from the date of the receipt of such objections, if any, from the appellant, the WTM of SEBI shall grant an opportunity of hearing to the appellant and thereafter pass appropriate order thereon as expeditiously as possible.

7. Appeal and the miscellaneous application are disposed of in the aforesaid terms with no order as to costs.

Sd/-
Justice J. P. Devadhar
Presiding Officer

Sd/-
Jog Singh
Member

Sd/-
Dr. C. K. G. Nair
Member

04.11.2016
Prepared & Compared by
PTM