BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision : 09.11.2016

Appeal No. 300 of 2016

Sri. Kumar Kanti Bhattacharya
4RB-3/6, Purbachal, Sector-III,
Salt Lake City,
Kolkata – 700 097. …Appellant

Versus

1. The Whole Time Member
Securities and Exchange Board of India,
Eastern Regional Office,
L&T Chambers, 3rd and 4th floor,
16, Camac Street,
Kolkata – 700 017.

2. The Assistant Manager,
Securities and Exchange Board of India,
Eastern Regional Office,
L&T Chambers, 3rd and 4th floor,
16, Camac Street,
Kolkata – 700 017.

3. Cell Industries Limited
P-40, Lu Shun Sarani
(New C.I.T. Road), 3rd Floor,
Kolkata – 700 073.

4. Cityscape Infrastructure Private Limited
IA-203, Sector-III, Ground Floor,
Salt Lake City,
Kolkata – 700 097.

and its Corporate Office at:-

5, J.B.S. Halder Avenue,
Block – 5, FL-11C,
Silver Spring, E.M. Bypass,
Kolkata – 700 105.

5. Samaleshwari Ferrometals Private Limited
Chaitanya Nagar, Dhankauda,
Sambalpur, Office Pin – 768 006.

and its Corporate Office at:-

5, J.B.S. Halder Avenue,
Block – 5, FL-11C,
Silver Spring, E.M. Bypass,
Kolkata – 700 105.

6. Lall Minerals Private Limited
320F, IRC Village, Nayapally,
Bhubaneswar,
Odisha, Pin – 751 015.

and its Corporate Office at:-

5, J.B.S. Halder Avenue,
Block – 5, FL-11C,
Silver Spring, E.M. Bypass,
Kolkata – 700 105.

7. Rupal Infrastructure Pvt. Ltd.
320F, IRC Village, Nayapally,
Bhubaneswar,
Odisha, Pin – 751 015.

and its Corporate Office at:-

5, J.B.S. Halder Avenue,
Block – 5, FL-11C,
Silver Spring, E.M. Bypass,
Kolkata – 700 105.

8. RJ Trade Combine Private Limited
320F, IRC Village, Nayapally,
Bhubaneswar,
Odisha, Pin – 751 015.

and its Corporate Office at:-

5, J.B.S. Halder Avenue,
Block – 5, FL-11C,
Silver Spring, E.M. Bypass,
Kolkata – 700 105.

9. RJ Logistic Private Limited
Plot No. 336, At-Jurudi,
P.O. Jajang, Joda,
Odisha-758 052.

and its Corporate Office at:-

5, J.B.S. Halder Avenue,
Block – 5, FL-11C,
Silver Spring, E.M. Bypass,
Kolkata – 700 105.

10. Hare Krishna Mining Private Limited
N-4-184, IRC Village, Nayapally,
Bhubaneswar,
Odisha, Pin – 751 015.

and its Corporate Office at:-

5, J.B.S. Halder Avenue,
Block – 5, FL-11C,
Silver Spring, E.M. Bypass,
Kolkata – 700 105.

11. Rajesh Jaiswal and company
5, J.B.S. Halder Avenue,
Block – 5, FL-11C,
Silver Spring, E.M. Bypass,
Kolkata – 700 105.

And also at:-

Plot No. 12, Satyanagar,
Bhubaneswar – 751 007.

12. Jyotirmoyee Devcon
5, J.B.S. Halder Avenue,
Block – 5, FL-11C,
Silver Spring, E.M. Bypass,
Kolkata – 700 105.

And also at:-

Plot No. 12, Satyanagar,
Bhubaneswar – 751 007.

13. Shree Jagannath Filling Center
5, J.B.S. Halder Avenue,
Block – 5, FL-11C,
Silver Spring, E.M. Bypass,
Kolkata – 700 105.

And also at:-

Plot No. 12, Satyanagar,
Bhubaneswar – 751 007.

14. Ujala Minerals
5, J.B.S. Halder Avenue,
Block – 5, FL-11C,
Silver Spring, E.M. Bypass,
Kolkata – 700 105.

And also at:-

Plot No. 12, Satyanagar,
Bhubaneswar – 751 007.

15. Rajesh Jaiswal, Son of Late Asrafi Lal Jaiswal,
5, J.B.S. Halder Avenue,
Block – 5, FL-11C,
Silver Spring, E.M. Bypass,
Kolkata – 700 105.

And also at:-

Plot No. 12, Satyanagar,
Bhubaneswar – 751 007. …Respondents

Mr. Om Narayan Rai, Advocate with Mr. Saikat Roy Chowdhary, Advocate for the Appellant.

Mr. Pradeep Sancheti, Senior Advocate with Ms. Tapsvini Shah, Advocate i/b Juris Corp for the Respondent.

WITH

Appeal No. 317 of 2016

Shaikh Rezaul Karim
11/A, Braunfeild Row, Ekbalpur,
Kolkata – 700 027. …Appellant

Versus

1. The Whole Time Member
Securities and Exchange Board of India,
Eastern Regional Office,
L&T Chambers, 3rd and 4th floor,
16, Camac Street,
Kolkata – 700 017.

2. The Assistant Manager,
Securities and Exchange Board of India,
Eastern Regional Office,
L&T Chambers, 3rd and 4th floor,
16, Camac Street,
Kolkata – 700 017.

3. Cell Industries Limited
P-40, Lu Shun Sarani
(New C.I.T. Road), 3rd Floor,
Kolkata – 700 073.

4. Rajesh Jaiswal,
Son of Late Asrafi Lal Jaiswal,
5, J.B.S. Halder Avenue,
Block – 5, FL-11C,
Silver Spring, E.M. Bypass,
Kolkata – 700 105. …Respondents

Mr. Om Narayan Rai, Advocate with Mr. Saikat Roy Chowdhary, Advocate for the Appellant.

Mr. Pradeep Sancheti, Senior Advocate with Ms. Tapsvini Shah, Advocate i/b Juris Corp for the Respondent.

CORAM : Justice J.P. Devadhar, Presiding Officer
Jog Singh, Member

Per : J.P. Devadhar (Oral)

1. Appellants have filed these two appeals to challenge common order passed by the Whole Time Member ('WTM' for short) of Securities and Exchange Board of India ('SEBI' for short) on May 12, 2016. By the said order, the appellants are, inter alia, directed to refund the money collected from the investors with interest at the rate of 15% per annum from the date when the repayments became due to the investors till the date of actual payment.

2. After the appeals were argued for some time, counsel for the appellants fairly states that in implementation of the impugned order, appellants have already repaid Rs. 13.18 crore to the investors out of the sum of Rs. 15.61 crore collected from the investors and that the appellants to prove their bonafides have deposited Rs. 1 crore with SEBI on November 8, 2016. Counsel for the appellants further states that the appellants instead of pursuing these appeals would like to make a representation before SEBI seeking time to pay the balance amount to the investors with interest as stipulated in impugned order. In these circumstances, it is submitted that restraint order passed against the appellants be reconsidered and modified either by this Tribunal or by SEBI.

3. Counsel for SEBI submits that requisite particulars have not been furnished by the appellants till date and hence refunds claimed to have been made by the appellants to the investors could not be verified. It is further submitted by counsel for SEBI that unless all details relating to the investors and the refunds made to the investors are furnished it would not be possible for SEBI to consider the representation, if any, to be made by the appellants.

4. On careful consideration of the rival contentions, we pass the following order:-

(a) Appellants are at liberty to make a representation to SEBI within two weeks from today, setting out therein the mode and the manner in which the refunds have been made and balance refunds would be made to the investors as contemplated under the impugned order dated May 12, 2016.

(b) If the appellants make a representation to SEBI and furnish all details as stated above within a period of two weeks from today, then SEBI shall consider such representation of the appellants relating to extension of time to make refunds to the investors and also reconsider the request of the appellants relating to the restraint order passed against the appellants.

5. Both the appeals are disposed of in the aforesaid terms with no order as to costs.

Sd/-
Justice J.P. Devadhar
Presiding Officer

Sd/-
Jog Singh
Member

09.11.2016
Prepared and compared by:
msb