BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision : 6.1.2017

Misc. Application No.2 of 2017
And
Misc. Application No.296 of 2016
And
Appeal No.345 of 2016

Chaman Exports Ltd.,
11, Jassal House, 4A, Auckland Square,
Kolkata – 700 017. …Applicant/Appellant

Versus

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

Mr. Jeetendra Kumar Pandey, Advocate for the Appellant.

Mr. Pulkit Sukhramani, Advocate i/b. The Law Point for the Respondent.

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

Per : Dr. C.K.G. Nair (Oral)

Misc. Application No.2 of 2017

By Misc. Application No.2 of 2017 the appellant filed an application for restoration of the appeal dismissed vide this Tribunal's order dated 15th December, 2016 for want of prosecution. By this Misc. Application the applicant has submitted that there was a communication error regarding the last date of hearing and hence his counsel could not be present before this Tribunal. Since counsel for the applicant was not present even on the earlier occasion, the Misc. Application is allowed subject to payment of costs of

Rs.10,000/- to be paid by the appellant to SEBI within four weeks from today. Misc. Application No.2 of 2017 is disposed of accordingly.

Misc. Application No.296 of 2016

There is a delay of 3 days in filing appeal no.345 of 2016. For the reasons stated in the Misc. Application the delay is condoned and the appeal is taken up for hearing. Misc. Application No.296 of 2016 is disposed of accordingly.

Appeal No.345 of 2016

1. The appellant, M/s. Chaman Exports Ltd, is aggrieved by the order of the Adjudicating Officer of Securities and Exchange Board of India ('SEBI' for short) dated 7th January, 2016. By the said order penalty of Rs.1,50000/- was imposed against the appellant under section 15HB of the Securities and Exchange Board of India Act, 1992 ('SEBI Act' for short) for failure to obtain SEBI Complaints Redressal System ('SCORES' for short) authentication by a specified date.

2. The appellant was a listed company at the relevant time; listed on Calcutta Stock exchange and UP Stock Exchange. As per SEBI Circular No. CIR/01AE/1/2013 dated 17th April, 2013 all listed companies had to obtain authentication of the SCORES which would enable the listed companies to redress investor grievances within specified time limits. Since several listed companies, including the appellant herein, did not comply with the circular and obtain SCORES authentication a letter was issued by SEBI on 2nd December, 2013 asking them to obtain SCORES authentication by December 18, 2013. Since the appellant did not obtain the SCORES authentication even by this date SEBI issued a show cause notice on 6th March, 2015 asking as to why penalty should not be imposed on the appellant under section 15HB of the SEBI Act. The appellant replied to the

show cause notice on 17th March, 2015 stating that the company on receipt of SEBI's letter dated 2nd December, 2013 wrongly took SCORES registration instead of SCORES authentication. On realising that it was mistake, on 28th August, 2014 it applied for SCORES authentication.

3. It is on record that the company obtained SCORES authentication only on September 1, 2014 and as such the company did not honour either the conditions laid down in the Circular dated 17th April, 2013 or the subsequent letter from SEBI dated 2nd December, 2013 whereby the company was directed to obtain SCORES authentication latest by 18th December, 2013. As such there has been a delay of more than 8 months in obtaining the SCORES authentication. Though the learned counsel for the appellant argued that the appellant has sought delisting from both the stock exchanges, it is not in dispute that the company continued to be listed during the relevant time and accordingly it was the responsibility of the appellant to take SCORES authentication and dispose of investor grievances, if any, through this electronic platform. It was further pleaded that the appellant had only a few employees. However, as long as a listed company is obliged to perform certain tasks by law, it has to do the same irrespective of the size of the business or the number of employees etc. Even if it is assumed that the company made a genuine mistake of taking SCORES registration instead of SCORES authentication initially as claimed the delay of more than 8 months in recognising the mistake is not justifiable.

4. The submission made by the counsel for the appellant stating that in similar matters SEBI had imposed smaller penalties by citing SEBI order no. PJ/DP/23/2016 dated November 18, 2016 also does not have merit because the facts of the case are distinguishable and no ratio can be laid down as to the quantum of penalty in each matter.

5. The penalty imposable under section 15 HB of SEBI Act may extend to Rs.1 crore. The Adjudicating Officer of SEBI has considered the mitigating factors under section 15J of the SEBI Act and has imposed penalty of Rs.1.5 lakh which cannot be considered as harsh. Accordingly we do not find any reason to interfere with the impugned order.

6. Appellant is directed to pay the said penalty amount of Rs.1.5 lakh to SEBI, if not already paid, within a period of 45 days from the date of this order. If the appellant fails to pay the penalty amount of Rs.1.5 lakh within 45 days from the date of this order, SEBI would be entitled to recover the penalty amount of Rs.1.5 lakh alongwith interest at the rate of 12 percent per annum from the date of the impugned order till the date of payment.

7. Appeal is disposed of in the above terms with no order as to costs.

Sd/-
Justice J.P. Devadhar
Presiding Officer

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

6.1.2017
Prepared and compared by
RHN