

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision : 30.6.2017

Misc. Application No.181 of 2017

And

Appeal No.132 of 2017

1. Rajesh Jayantilal Shah
2. Nirmal Rohitbhai Shah
3. Binaben Shaileshkumar Shah
4. Namitaben Sachinkumar Shah
5. Manishaben Rajeshkumar Shah
6. Devang R. Shah
7. Sachin Jayantilal Shah
8. Namitaben Sachinkumar Shah
9. Jinny Nirmal Shah
Green Chowk, Dharangdhara,
Gujarat 400051.

.....Appellants

Versus

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

.....Respondent

Mr. Mustafa Doctor, Senior Advocate with Mr. Nirmay Dave, Mr. Abhishek Borgikar and Mr. Monil Punjabi, Advocates i/b. Dhaval Vussonji Associates for the Appellant.

Mr. Pradeep Sancheti, Senior Advocate with Mr. Tomu Francis and Mr. Vivek Shah, Advocates for Respondent.

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

Per : Justice J.P. Devadhar (Oral)

1. By this Misc. Application appellant seeks condonation of 7 years 4 months and 4 days delay in filing the appeal against the confirmatory order dated 14th December, 2009 passed by the Whole Time Member ('WTM' for short) of Securities and Exchange Board of India ('SEBI' for short).
2. By the confirmatory order, the direction contained in the ex-parte order dated 23rd April, 2009 whereby the appellant was restrained from accessing the securities market has been continued until further orders.

3. Learned counsel for SEBI brought to our notice an order passed by this Tribunal on 12th December, 2014 in the case of Veena N. Kotecha wherein similar appeal filed by Veena N. Kotecha was allowed to be withdrawn with liberty to file fresh appeal as and when SEBI passed final order in the case of Mr. Nirmal Kotecha. Counsel for SEBI further submitted that the present appeal may also be disposed on same terms. Learned counsel for SEBI further submitted that the proceedings in the case of Mr. Nirmal Kotecha would be concluded within a period of 6 months.

4. Learned counsel for the appellant, on the other hand brought to our notice several orders passed by the WTM of SEBI, wherein the restraint order passed against various Kotecha group entities have been vacated. In view of the above orders, it is submitted that the restraint order passed against be vacated forthwith.

5. As the confirmatory order has operated for all these years since 2009, without going into the delay aspect or merits of the case, we direct SEBI to pass final order in case of the appellant within a period of 6 months from today. It is made clear that if SEBI fails to pass the final order within a period of 6 months from today the ex-parte order as also the confirmatory order shall come to an end on expiry of 6 months from today. Contentions of both the parties are kept open.

6. Misc. Application as also the appeal are disposed of in the above 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