

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision : 13.02.2020

Appeal No. 227 of 2019

Rajesh Ranka
G-13, Orchid Garden,
Girdharnagar,
Shahibaug, Ahmedabad,
Gujrat.

...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. Saurabh Bachhawat, Advocate i/b Mr. Harsh Kesaria,
Advocate for the Appellant.

Mr. Akshay Patil, Advocate with Mr. Chirag Bhavsar and
Mr. Harshad Vyas, Advocates i/b MDP & Partners for the
Respondent.

CORAM : Dr. C.K.G. Nair, Member
Justice M.T. Joshi, Judicial Member

Per : Justice M.T. Joshi, Judicial Member (Oral)

1. The appellant is aggrieved by the order of the Adjudicating Officer ('AO' for short) of Securities and Exchange Board of India ('SEBI' for short) dated October 30, 2018 which reads as under:

“After taking into consideration the facts and circumstances of the case, material on record, the violation committed by the Noticee of the directions issued by SEBI vide Order dated July 28, 2010, the seriousness and gravity of the irregularities committed by the Noticee, I, in exercise of the powers conferred upon me under Section 15 I of the SEBI Act read with the Rule 5 of the Adjudication Rules, hereby impose penalty of Rs. 10,00,000/- (Rupees Ten Lakh only) on the Noticee viz. Shri Rajesh Ranka under the provisions of Section 15HB of the SEBI Act for his failure to comply with the directions of SEBI, which was issued to him vide Order dated July 28, 2010 under the provisions of sections 11, 11(4) and 11 B of the SEBI Act, 1992.”

2. That admitted facts on the record would show that vide earlier order dated July 28, 2010 the present appellant was debarred from entering the securities market which reads as under:-

“.....taking into consideration facts and circumstances of the case, I, in exercise of the powers conferred upon me under Sections 19 of the SEBI Act, 1992 read with Sections 11(4) and 11B of SEBI Act, 1992 and Regulation 11 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003, do restrain Shri Rajesh Ranka from buying, selling or dealing in securities and from associating in securities market in any manner whatsoever for a period of 2 years.”

3. It is an admitted fact that despite the above order the present appellant on March 3, 2012 has carried out the following activities as recorded at paragraph 14 at page 31 of the impugned order which reads as under:-

“I find that on March 15, 2012, the Company had made further issue of 300,00,000 equity shares of Rs. 10 each at a price of Rs. 10 through preferential allotment to its three promoters, and also to 28 other persons/entities. It was observed that Noticee was an employee of the Company during the relevant period and he was also the authorized signatory to operate the bank account of the Company (which was maintained with ING Vysya Bank). Therefore, he was connected with the Company as its employee. Further, during the course of examination by SEBI, it also emerged from the KYC documents of the preferential allottees that majority of the allottees in the preferential allotment of the company were Ahmedabad based persons/entities. It was observed that 27 allottees (out of a total of 31 allottees in the preferential allotment) had a common mobile number, i.e. ‘9825032074’ and a common e-mail address, i.e. ‘rajranka8@yahoo.com’. As per the KYC forms of the preferential allottees, which was obtained from their broker viz. Monarch Research and Brokerage Pvt. Ltd. it was observed that the preferential allottees had authorized the Noticee as their nominee while opening the trading account with the above mentioned stock broker. It is noted that the above mentioned mobile number and email address belonged to the Noticee, which also confirms the key role played by the Noticee in the preferential allotment of SMSTL. Further, the initial funding by the Noticee to the extent of Rs. 1,99,50,000/- in the preferential allotment of the Company and by rotating the same funds back and forth among the allottees to show false subscription in the preferential allotment only accentuates the key role played by the Noticee in the said preferential allotment.”

4. The only defence of the appellant is, that he being an employee was forced by one Mr. Mahesh Shah to carry the said activities. The said Mr. Mahesh Shah has died later on October 4, 2013. The facts on record would clearly show that the present appellant carried out the above activities in indirect manner which

could not have been carried out directly by him. It is clear that what is not permitted directly cannot also be carried out indirectly.

5. In the circumstances, the appeal is hereby dismissed with no order as to costs.

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

Sd/-
Justice M.T. Joshi
Judicial Member

13.02.2020

Prepared and compared by:msb