

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision : 25.03.2021

**Misc. Application No. 127 of 2020
And
Appeal No. 128 of 2020**

Alka Malpani
27, Christopher Road,
Ekta Floral,
Block 4, Flat – 10C,
Kolkata – 700 046
West Bengal.

...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. Abishek Venkataraman, Advocate with Ms. Aayushi Sharma, Advocate for the Appellant.

Mr. Anubhav Ghosh, Advocate with Mr. Karthik Narayan and Ms. Rashi Dalmia, Advocates i/b The Law Point for the Respondent.

CORAM: Justice Tarun Agarwala, Presiding Officer
Justice M.T. Joshi, Judicial Member

Per: Justice Tarun Agarwala, Presiding Officer (Oral)

1. The appellant has filed the present appeal against the order dated March 28, 2019 passed by the Adjudicating Officer ('AO' for short) of the Securities and Exchange Board of India ('SEBI' for short) imposing a penalty of Rs. 4 lakh for violation of SEBI (Prohibition of Insider Trading) Regulations, 1992 ('PIT Regulations' for short). There is a delay of 201 days in the filing of the appeal and accordingly an application for condonation of the delay has been filed. The ground urged is, that the impugned order was passed *ex parte* against the appellant without serving a show cause notice and without giving an opportunity of hearing. Further, the impugned order was also never served upon the appellant and that the appellant only came to know of the impugned order on October 15, 2019 when the Company Secretary of the Company contacted the appellant and informed about the impugned order.

2. The fact that the impugned order was not served upon the appellant and the fact that the show cause notice was never served upon the appellant and was only served upon the Company which Company the appellant had resigned long time ago is admitted by the respondent.

3. In view of the aforesaid, cause shown is sufficient. The delay in the filing of the appeal is condoned. The Misc. Application is allowed.

4. In view of the admitted position that the show cause notice was never served upon the appellant the AO has proceeded *ex parte* against the appellant in violation of the principles of natural justice. Consequently, the impugned order cannot be sustained insofar as appellant is concerned. The impugned order is quashed insofar as the appellant is concerned. The appeal is allowed. The matter is remitted to the AO to pass a fresh order after serving a show cause notice and giving an opportunity to file reply and thereafter an opportunity of hearing. In this regard, we direct the appellant to appear before the AO on April 15, 2021 on which date AO will serve the show cause notice and will proceed thereafter in accordance with law.

5. The present matter was heard through video conference due to Covid-19 pandemic. At this stage it is not possible to sign a copy of this order nor a certified copy of this order could be issued by the registry. In these circumstances, this order will be digitally signed by the Private Secretary on behalf of the bench and all concerned parties are directed to act on the digitally

signed copy of this order. Parties will act on production of a digitally signed copy sent by fax and/or email.

Justice Tarun Agarwala
Presiding Officer

Justice M.T. Joshi
Judicial Member

25.03.2021
msb