BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision : 06.05.2021

Misc. Application No. 112 of 2021
And
Appeal No. 310 of 2021

Sharad Ramchandra Ghadi
3/4, Bhakti Niwas, Mahadev Nagar,
Alkapuri Nalasepara East,
Mumbai, Maharashtra-401 209. …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. Dattatray Pathak, Advocate for the Appellant.

Mr. Ravishekhar Pandey, Advocate 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 present appeal has been filed against the order dated June 25, 2019 passed by the Whole Time Member ('WTM' for short) of the Securities and Exchange Board of India ('SEBI' for short) whereby the appellant has been restrained from accessing the securities market for a period of three years and also has been directed to disgorge an amount of Rs. 3 lakh. There is a delay of 575 days in the filing of the appeal. The ground urged is, that he was diligently pursuing the matter through legal advisors to file the present appeal and that he could not file the appeal within the stipulated period on account of non-availability of the required funds. It was also stated that the appellant was not aware of SEBI Rules, Regulations and had to take guidance from the friends and relatives to prepare the appeal. Hence, it was prayed that delay was not deliberate and the delay, if any, should be condoned.

2. Having heard the learned counsel for the appellant, we find that there is an inordinate delay in the filing of the present appeal. The ground shown is not sufficient, nor there are any adequate or legal reasons. We find that the appellant was duly aware of the impugned order, yet it took him more than one and

half years to approach this Tribunal. Accordingly, we do not find any sufficient reasons to condone this inordinate delay.

3. In ***Basawaraj and Anr. vs. Special Land Acquisition Officer, (2013) 14 SCC 81*** the Supreme Court held that the discretion to condone the delay has to be exercised judicially based on facts and circumstances of each case and that sufficient cause cannot be given a liberal interpretation if lack of bonafide is attributed to a party. The Supreme Court further held that delay cannot be condoned on equitable ground beyond the limits permitted expressly by statute.

4. The Supreme Court in ***Ram Nath Sao and Ors. (supra)*** held that the expression "sufficient cause" should receive a liberal construction so as to advance substantial justice when no negligence or inaction or want of bonafide is imputable to a party. The same view was reiterated by the Supreme Court in ***Madanlal vs. Shyamlal, (2002) 1 SCC 535***.

5. In ***Balwant Singh (Dead) vs Jagdish Singh & Ors, (2010) 8 SCC 685*** Supreme Court held that the expression "sufficient cause" means the presence of legal and adequate reasons. The decisions cited by the learned counsel for the appellant are of no

avail and, in any case, not applicable in the present circumstance of the case.

6. This Tribunal is possessed with the exercise of judicial discretion in condoning the delay if sufficient or adequate reason is given. It is also a settled proposition of law that the law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds as held by the Supreme Court in ***Basawaraj and Anr. (supra)***. In the instant case we do find any legal or adequate reasons to condone the delay.

7. For the reasons stated aforesaid, the application for condonation of delay lacks merit and is rejected, as a result of which, the appeal is also dismissed with no order as to costs.

8. 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

06.05.2021
msb

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