

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date: 06.07.2021

Misc. Application No. 807 of 2021
And
Misc. Application No. 665 of 2021
And
Appeal No. 31 of 2020

Top Class Capital Markets Pvt. Ltd. ...Appellant

Versus

Securities and Exchange Board of India ...Respondent

WITH
Misc. Application No. 808 of 2021
And
Misc. Application No. 666 of 2021
And
Appeal No. 23 of 2021

Top Class Capital Markets Pvt. Ltd. ...Appellant

Versus

Securities and Exchange Board of India ...Respondent

Mr. P.N Modi, Senior Counsel with Mr. Neville Lashkari and Ms. Khushali Palrecha, Advocates i/b M/s Crawford Bayley & Co. for the Appellants.

Mr. Gaurav Joshi, Senior Advocate with Mr. Abhiraj Arora, Ms. Rashi Dalmia and Mr. Karthik Narayan, Advocates i/b ELP for the Respondent.

ORDER:

1. An urgent mention was made yesterday stating that during the pendency of the appeal certain amounts have been withdrawn from their demat account for recovery pursuant to the impugned orders of the Adjudicating Officer (“AO” for convenience) and Whole Time Member (“WTM” for convenience). Accordingly, the two applications that was filed was directed to be taken up today.

2. We have heard the learned senior counsels for the parties. By an order dated March 03, 2021 we had stayed the impugned orders of the AO and WTM subject to the condition that the appellant will deposit a sum of Rs. 10 crores within five weeks and further we allowed the appellants to sell the shares from their demat account which had been frozen. Further extension was given by this Court by an order of April 20, 2021 and time to deposit the amount was extended till May 25, 2021. It is contended by the appellants that the amount could not be deposited as both the directors of the appellant-company had tested positive of the corona virus and accordingly necessary steps to sell the shares could not be taken. As a result, a further Misc. Application No. 665 of 2021 was filed on May 25, 2021 which is pending consideration and, in the meanwhile, a sum of

Rs. 58.90 lakhs worth of shares were sold on July 02, 2021 and yesterday while mentioning was being made by the learned senior counsel for the appellant another set of shares worth approximately Rs. 89 lakhs have been sold off.

3. In the light of the aforesaid, we direct the Recovery Officer not to proceed with the recovery of any amount pursuant to the impugned orders of the AO and WTM till the next date of listing. We also direct the respondent to file an affidavit of the Recovery Officer indicating the extent of the shares sold from the demat account of the appellants. We also direct the Recovery Officer to file an affidavit with regard to the procedure followed by him for the sale of the shares as per Section 28A of the SEBI Act read with the Income Tax Rules. Such affidavit should be filed on or before the next date which is July 13, 2021. Misc. Application Nos. 665 of 2021 and 666 of 2021 are disposed of accordingly.

4. Parties are directed to take instructions from the Registrar 48 hrs. before the date fixed in order to find out as to whether the matters would be taken up for hearing through video conference or through physical hearing.

5. The present matters were 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

06.07.2021
PK