

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date: 28.01.2022

**Misc. Application No. 1382 of 2021
And
Appeal No. 800 of 2021**

Shailesh Kumar Mishra ...Appellant

Versus

Securities and Exchange Board of India ...Respondent

Mr. Nirmalya Dasgupta, Advocate with Mr. Abhishek Gupta and Mr. Anirban Sen, Advocate for the Appellant.

Mr. Abhishek Khare, Advocate with Mr. Sharvil Kala, Advocate i/b Khare Legal Chambers for the Respondent.

ORDER:

1. The present appeal has been filed against the order dated November 01, 2016. There is a delay of 1821 days in the filing of the appeal. The ground urged is, that the impugned order was never served upon the appellant and that he came to know about the impugned when his bank accounts were frozen in August 2021 on the basis of an attachment order dated July 30, 2021.

2. The respondent has filed a reply contending that the impugned order was sent at his last known address which came back undelivered. Thereafter, no steps were taken by them.

3. In the light of the aforesaid, we are satisfied that cause shown is sufficient, the delay has been explained and is condoned. We accordingly, allow the application.

4. We have heard the learned counsel for the parties, the contention of the appellant is twofold, one that he was not appointed as a director and in that regard, he has already filed a complaint before the appropriate authority which is pending. Further, even assuming without admitting that he was a director the Non-Convertible Redeemable Debentures (“NCDs” for convenience) were issued prior in point of time before he was appointed as a director and, therefore, the contention is, that he had no role to play in the issuance of the NCDs.

5. Let a reply be filed by the respondent within three weeks. Three weeks thereafter to the appellant to file rejoinder. The matter would be listed for admission and for final disposal on March 28, 2022.

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

7. 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

28.01.2022
PK