

BEFORE THE SECURITIES APPELLATE TRIBUNAL  
MUMBAI

**Date of Decision : 14.05.2024**

**Misc. Application No. 351 of 2024  
And  
Misc. Application No. 352 of 2024  
And  
Misc. Application No. 353 of 2024  
And  
Appeal No. 287 of 2024**

Nilesh Palande  
B-201, Dhanyalaxmi Apt.,  
Jivdani Road, Virar East, Vasai,  
Palghar – 401305.

..... 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. Tejas Madhavi, Advocate for the Appellant.

Mr. Manish Chhangani, Advocate with Mr. Sumit Yadav, Mr. Abhay Chauhan, Mr. Atul Kumar Agrawal, Advocates i/b The Law Point for the Respondent.

CORAM : Justice P. S. Dinesh Kumar, Presiding Officer  
Ms. Meera Swarup, Technical Member  
Dr. Dheeraj Bhatnagar, Technical Member

Per : Justice P. S. Dinesh Kumar, Presiding Officer (Oral)

There is a delay of 2209 days in the filing of the appeal. Urgency application has worked for itself and it is accordingly disposed of. Exemption application is allowed.

2. This appeal is directed against the order dated January 31, 2018 passed by the Securities and Exchange Board of India (hereinafter referred to as 'SEBI') imposing a penalty of Rs. 1,50,000/- for violation of Section 2(i) of the Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as 'SCRA') read with Sections 13, 16 and 18 of the SCRA.

3. A show cause notice was sent to the appellant's premises situated in Boriwali whereas appellant resides in Virar, Palghar. The impugned order has been passed on the premises that the notice has been served.

4. The principal contention urged by Shri Tejas Madhavi, learned counsel for the appellant is that appellant was not served with the notice. Therefore, appellant had no knowledge of proceedings nor of the impugned order. Appellant learnt about the impugned order when recovery proceedings were initiated. Hence, there has been delay in approaching this Tribunal.

5. Though Shri Manish Chhangani, learned counsel for the SEBI sought to oppose this appeal, the aspect with regard to non-service of notice was not seriously contested.

6. We have considered the submissions of the learned counsel for the appellant and perused the record. Admittedly, address of the appellant is Virar, Palghar. Notice has not been sent to that address. No material is placed on record by the respondent to show that appellant was served. Therefore, in our view, the impugned order has been passed in violation of principles of natural justice. In the facts of this case, the application for condonation of delay merits consideration. Hence, the following order :-

**ORDER**

1. Delay in filing the appeal is condoned.
2. The appeal is allowed.
3. Impugned order dated January 31, 2018 is set aside. Matter is remitted to the SEBI for fresh consideration in accordance with law with a direction to pass fresh order after hearing the appellant in an outer limit of three months from the date of appearance of appellant before SEBI.

4. Appellant shall appear before the SEBI on June 18, 2024  
without notice.

Justice P. S. Dinesh Kumar  
Presiding Officer

Ms. Meera Swarup  
Technical Member

Dr. Dheeraj Bhatnagar  
Technical Member

14.05.2024  
PTM