

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Misc. Application No. 26 of 2013
And
Appeal No. 57 of 2013

Date of decision: 07.08.2013

Baba Bhootnath Trade & Commerce Pvt. Ltd.
10/4, Hungerford Street,
Kolkatta – 700017.

...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. Vinay Chauhan, Advocate with Mr. Prashant Ingle, Advocate for the Appellant.

Mr. Shiraz Rustomjee, Senior Advocate with Mr. Mihir Mody and Mr. Pratham Masurekar, Advocates for the Respondent.

CORAM : Justice J.P. Devadhar, Presiding Officer
A. S. Lamba, Member

Per : Justice J.P. Devadhar (Oral)

Misc. Application No. 26 of 2013:-

There is a delay of 253 days in filing the appeal. An application has been filed seeking condonation of the delay. For the reasons stated in the application, the delay is condoned.

Appeal No. 57 of 2013:-

This appeal is filed to challenge the order passed by whole time member of the respondent on May 11, 2012 ('impugned order' for short) whereby the

ex parte order passed on December 28, 2011 has been confirmed. By ex parte order dated December 28, 2011 appellant is prohibited from buying, selling or dealing in any securities, in any manner whatsoever, in the proprietary account, till further directions.

2. Challenging the impugned order appellant has filed the present appeal on March 11, 2013. It is the case of the appellant that in similar cases since confirmatory orders were vacated, appellant was hoping that in the case of appellant also similar order would be passed.

3. Learned senior counsel for the respondent while denying that the case of the appellant is similar to other cases, submitted that in the present case investigation has been completed and a show cause notice dated March 14, 2013 has been issued and in fact, appellant has already filed its reply to the said show cause notice. Learned senior counsel for the respondent on instructions further states that the adjudication proceedings under the SEBI (Intermediaries) Regulations, 2008 in the present case would be completed within a period of five months from today subject to appellant co-operating in the matter and if the adjudication order under the SEBI (Intermediaries) Regulations, 2008 is not passed within the aforesaid period, the restraint order under the ex parte order dated December 28, 2011 and confirmatory order dated May 11, 2012 may automatically stand vacated. Learned counsel for the appellant states that the appellant is ready and willing to co-operate in the matter. Statement of learned counsel for the appellant and respondent is accepted. It is made clear that if adjudication order is not passed within a period of five months from today, restraint orders dated December 28, 2011 and May 11, 2012 shall stand automatically vacated.

4. In view of the above, learned counsel for the appellant seeks to withdraw the appeal. Appeal is allowed to be withdrawn in the aforesaid terms with no order as to costs.

Sd/-
Justice J.P. Devadhar
Presiding Officer

Sd/-
A. S. Lamba
Member

07.08.2013

Prepared and compared by:

msb