

**BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI**

Review Application No. 6 of 2013

In

Appeal No. 88 of 2013

Date of Decision: 28.08.2013

1. Maitreya Services Private Limited
Lawrence Trade Centre Co-op Hsg.
Soc. Ltd., Shop No. B- 207, 208,
2nd Floor, Survey No. 44,
Navghar Station Road,
Vasai (West), Thane 401 202.

2. Mrs. Varsha Madhusudan Satpalkar
Indrakunj, 2nd Floor,
Behind Balaji Hospital,
Bazar Ward, Virar (E),
Vasai, Thane 401 303.

3. Mr. Janardan Arvind Parulekar
Indrakunj, 2nd Floor,
Behind Balaji Hospital,
Bazar Ward, Virar (E),
Vasai, Thane 401 303.

...Applicants/
Original Appellants

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. Somasekhar Sundaresan, Advocate with Mr. Nizam Pasha,
Mr. Paras Parekh, Mr. Joby Mathew and Mr. Deepak Dhane, Advocates
for the Applicants/Original Appellants.

Mr. Shiraz Rustomjee, Senior Advocate with Mr. Yogesh Chande and
Mr. Tomu Francis, Advocates for the Respondent.

CORAM : Jog Singh, Member
A.S. Lamba, Member

Per : Jog Singh (Oral)

This review has been filed by the Appellant for recalling and reviewing the order dated July 23, 2013 passed in Appeal No. 88 of 2013.

2. We have heard both the learned counsel for the parties. Mr. Somasekhar Sunderasan, learned counsel for the Appellant submits that on July 23, 2013 two other identical matters, involving namely NGHI Developers India Limited and Ors. (Appeal No. 225 of 2012) and Alchemist Infra Realty Limited and Ors. (Appeal No. 124 of 2013) were also listed for pronouncement and almost similar orders have been passed based on the same reasoning and analysis of facts of each case. We note that the principle or reasoning upon which the three judgments are based is similar in all the cases but in the Appellants' case instead of 18 months' 6 months' time is granted to the Appellant for compliance with the order of the Securities and Exchange Board of India ("SEBI" for short) in question. In the similar matter of Alchemist Infra Realty Limited and Ors. (Appeal No. 124 of 2013) (*supra*) 18 months' time is granted for compliance although it has got about 15 lac investors as opposed to more than 20 lac investors with the Appellant i.e., Maitreya Services Pvt. Ltd. and Ors.

3. Mr. Shiraz Rustomjee, Learned Senior Counsel for the Respondent opposes the Review Application by contending that the time frame of 6 months' granted to the Appellant would suffice in the facts and circumstances of the case to comply with the order of SEBI in

question. Mr. Rustomjee, Learned Senior Counsel for the Respondent further contends that the 18 months' period granted in the other case is too long a period.

4. After hearing both the learned counsel for the parties, and perusing the review petition and the three judgments in Appeal No. 225 of 2012; 124 of 2013 and the present case i.e. Appeal No. 88 of 2013, we are of the considered view that in all the matters same issue is involved pertaining to the interpretation of Collective Investment Schemes ("CISs" for short) as defined in Section 11AA of the Securities and Exchange Board of India Act, 1992. Similarly, latest judgement of Hon'ble Supreme Court in the case of PGF Limited & Ors. vs Union of India & Anr. reported in 2013 AIR SCW 2420 has been thoroughly relied upon by this Tribunal in interpreting the concept of CISs as enshrined in the Securities and Exchange Board of India Act, 1992 and based on same the three appeals were dismissed granting 18 months' time to do the needful except 6 months' time granted in NGHI Developers India Limited and Ors. (Appeal No. 225 of 2012) which has few thousand investors only.

5. However, the point to be noted in the present Review Application is that there were about 15 lac investors in the case of Alchemist Infra Realty Limited and Ors. (Appeal No. 124 of 2013). Eighteen months' time has been granted to the Appellant therein for compliance with the order of the Respondent. Whereas in the case in hand i.e., Maitreya Services Pvt. Ltd. and Ors. admittedly, there are more than 20 lac

investors. In fact, all these facts have been duly taken note of in the order sought to be reviewed by the Appellant.

6. Therefore, we are of the considered opinion that a mistake has inadvertently crept in the order in as much as the Appellant has been granted only six months' time for complying with the SEBI's order in question.

7. Therefore, we find that there is a valid ground to modify the order dated July 23, 2013 only to the extent that 6 months' time granted to the Appellant to comply with the order of SEBI in question in para 19 of the said order shall be read as 18 months' with a rider that the Appellant shall duly report the developments to SEBI after every 6 months' as directed in the case Alchemist Infra Realty Limited and Ors. (Appeal No. 124 of 2013) too.

With the above said clarification/modification the Review Application stands partly allowed. No costs.

Sd/-
Jog Singh
Member

Sd/-
A S Lamba
Member

28.08.2013
Prepared & Compared By: Pk