

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

**Misc. Application No. 92 of 2013
And
Appeal No. 158 of 2013**

Date of Decision : 04.10.2013

M/s. A.G. Shares & Securities Ltd.
Shop No. 1, Block No. 20/4, 1st Floor,
Maruti Tower, Sanjay Place,
Agra – 282 002.

...Appellant

Versus

1. Securities and Exchange Board of India
SEBI Bhavan, Plot No. C-4A, G Block,
Bandra Kurla Complex, Bandra (East),
Mumbai - 400 051.

2. The U.P. Stock Exchange Ltd.
Padam Towers,
14/113, Civil Lines,
Kanpur – 208 001, U.P.

3. The U.P. Stock Exchange Association Ltd.
Padam Towers,
14/113, Civil Lines,
Kanpur – 208 001, U.P.

...Respondents

Mr. Bharat Merchant, Advocate for the Appellant.

Dr. Mrs. Poornima Advani, Advocate for Respondent no. 1.

None for Respondents no. 2 & 3.

CORAM : Justice J.P. Devadhar, Presiding Officer
Jog Singh, Member

Per : Justice J.P. Devadhar (Oral)

1. This appeal is filed to challenge order of SEBI dated September 2, 2004, March 14, 2005 and April 20, 2005. Miscellaneous Application no. 92 of 2013 is filed seeking condonation of delay in filing the aforesaid appeal.

2. It is not in dispute that challenging very same orders, appellant had filed Appeal no. 158 of 2012 before this Tribunal, with a Miscellaneous Application seeking condonation of delay in filing that Appeal no. 158 of 2012. By order dated August 22, 2012, this Tribunal declined to condone the delay and dismissed the Miscellaneous Application. Consequently, Appeal no. 158 of 2012 was also dismissed.

3. Challenging aforesaid order of this Tribunal, appellant filed Civil Appeal nos. 8472 – 8474 of 2012 before the Apex Court. Later on appellant sought to withdraw those Civil Appeals. Accordingly, by order dated January 14, 2013 aforesaid appeals were dismissed by Apex Court as withdrawn. Thus, order passed by this Tribunal on August 22, 2012 has attained finality.

4. Thereafter present Appeal along with Miscellaneous Application has been filed by the appellant seeking condonation of delay in challenging the very same orders which were subject matter of Appeal no. 158 of 2012.

5. It is contended by counsel for appellant, that since earlier Appeal bearing no. 158 of 2012 was dismissed not on merits but on ground of delay, it is open to the appellant to file fresh appeal, challenging the very same orders of SEBI on merits.

6. We have not permitted counsel for appellant to address us on merits of the case, as in our view, once this Tribunal has declined to entertain an appeal on ground of delay, it is not open to the appellant to file fresh appeal to challenge orders which were subject matter of earlier appeal. Moreover, order passed by this Tribunal in the earlier Appeal no. 158 of 2012 was subject matter of Civil Appeals and those Appeals have been dismissed as

withdrawn. In our opinion, present Appeal as also the Miscellaneous Application has been filed in gross abuse of the process of law.

7. In the result, Miscellaneous Application no. 92 of 2013 filed by the appellant seeking condonation of delay in filing Appeal no. 158 of 2013 cannot be entertained and is accordingly dismissed. Consequently, Appeal no. 158 of 2013 is also dismissed. No costs.

Sd/-
Justice J.P. Devadhar
Presiding Officer

Sd/-
Jog Singh
Member

04.10.2013
Prepared and compared by:
msb