

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Appeal No. 97 of 2013

Date of Decision : 28.10.2013

ISF Securities Ltd.
5A/4B Ansari Road,
Daryaganj,
New Delhi – 110 002.

...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. Prakash Shah, Advocate for Appellant

Mr. Kumar Desai, Advocate with Ms. Najma Sheikh and Mr. Manish Acharya, Advocate for Respondent.

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

Per : Justice J.P. Devadhar (Oral)

1. This appeal is filed to challenge adjudication order dated March 12, 2013, whereby penalty of ₹ 10 lac under Section 15HA and penalty of ₹ 1 lac under Section 15HB of the Securities and Exchange Board of India Act, 1992 has been imposed upon the appellant.

2. After the matter was argued for some time, learned counsel for appellant brought to our notice that impugned order dated March 12, 2013 has been passed by adjudicating officer on the basis of materials set out at paragraphs 13 to 20 of the order which were neither referred to in the show cause notice nor supplied to appellant during adjudication proceedings.

Similarly trade and order logs relating to trades in shares of Exedy India Limited have not been furnished to appellant though repeatedly demanded by appellant. Learned counsel for respondent fairly states that evidence referred to in paragraphs 13 to 20 of impugned order dated March 12, 2013 were not supplied to appellant. Learned counsel for respondent, on instructions, states that respondent may be permitted to issue supplementary show cause notice enclosing therewith all documents which respondent wants to rely upon so that fresh order could be passed on merits after hearing appellant.

3. Accordingly, impugned order is quashed and set aside qua the appellant only. Respondent is permitted to issue a comprehensive supplementary show cause notice to appellant within a period of eight weeks from today. If such show cause notice is issued within eight weeks from today, appellant to file reply to such show cause notice within a period of three weeks from the date of receipt of show cause notice. Thereafter, adjudicating officer shall hear appellant and pass final order thereon as expeditiously as possible preferably within a period of three months from date of receiving reply to show cause notice that may be filed by appellant.

4. Appeal is disposed of in above terms with no order as to costs.

Sd/-
Justice J.P. Devadhar
Presiding Officer

Sd/-
A.S. Lamba
Member

28.10.2013
Prepared and compared by:
msb