

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Appeal No. 382 of 2014

Date of Decision : 23.01.2015

M/s KIM Infrastructure & Developers Ltd.
1311-A, Hemkunt House,
6, Rajendra place,
New Delhi – 110 008.

...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. Gaurav Joshi, Senior Advocate with Mr. Kazan Shroff, Advocate
i/b Keshav Borhade for the Appellant.

Mr. Kumar Desai, Advocate with Mr. Rushin Kapadia and Ms. Shruti
Chiniwar, Advocates i/b K Ashar & Co. for the Respondent.

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

Per : J.P. Devadhar (Oral)

1. The appellant is aggrieved by the impugned communication dated February 14, 2014 whereby SEBI has informed the appellant that the application filed by the appellant on June 24, 2013 seeking registration as Collective Investment Management Company under SEBI (Collective Investment Schemes) Regulation, 1999 ('1999 Regulations') has been rejected by the competent authority.

2. Apart from challenging aforesaid communication on merits, counsel for appellant submits that the competent authority has rejected the application without hearing the appellant which is in violation of regulation 12(1) of 1999 Regulation. Moreover, order of the competent authority has not been furnished to the appellant. Counsel for SEBI fairly states that the appellant was not heard in the matter.

3. In these circumstances, we deem it proper to set aside the impugned communication dated February 14, 2014 and direct SEBI to pass fresh order on merits and in accordance with law after giving personal hearing to the appellant.

4. Accordingly, impugned communication dated February 14, 2014 is quashed and set aside and SEBI is directed to pass fresh order on merits and in accordance with law after giving personal hearing to the appellant and taking into consideration the scope and ambit of Regulation 74A of 1999 Regulation, as expeditiously as possible and in any event within a period of three months from today. All contentions on both sides are kept open.

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

Sd/-
Justice J.P. Devadhar
Presiding Officer

Sd/-
Jog Singh
Member

Sd/-
A.S. Lamba
Member