

BEFORE THE SECURITIES APPELLATE TRIBUNAL  
MUMBAI

**DATE : 19.05.2017**

**Misc. Application No. 133 of 2017**  
**And**  
**Appeal No. 110 of 2017**

M/s. Kusum Iron & Steel Ltd.  
Through its Director,  
Shri Sanjay Kumar Agarwal,  
Regd. Office : Mitruka House,  
42, Mahatma Gandhi Road,  
Siliguri (West Bengal) – 734 005.

..... 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. Paresh Thakar, Advocate for the Appellant.

Mr. Shantanu Mitra, Advocate with Mr. Shail Harjani, Advocate i/b Desai &  
Diwanji & Co. for the Respondent.

CORAM : Justice J. P. Devadhar, Presiding Officer  
Jog Singh, Member  
Dr. C. K. G. Nair, Member

Per : Justice J. P. Devadhar (Oral)

1. This appeal is filed to challenge the order passed by the Whole Time Member of SEBI ('WTM' for short) on January 20, 2016 whereby the directions contained in the ex-parte order dated June 4, 2013 have been confirmed until further orders.

2. In the ex-parte order dated June 4, 2013 various directions were issued against the appellant till such time the appellant complied with the minimum public shareholding requirement as stipulated under Rules 19(2)(b) & 19A of the Securities Contracts (Regulations) Rules, 1957.

3. Contentions raised by the appellant that disinvestment of shares could not be done as per the modes prescribed by SEBI on account of the suspension of the appellant with effect from November 12, 2001 and, therefore, 3.92% shares were sold in off market to the persons belonging to the public at large and not to the connected entities were rejected the WTM in the confirmatory order dated January 20, 2016, mainly on ground that the disinvest through off market cannot be considered to be in compliance with the prescribed minimum public shareholding norms.

4. Since the disinvestment has already taken (though contrary to the norms laid down by SEBI) and no remedial measures are suggested in the confirmatory order, counsel for the appellant fairly states that instead of pursuing the appeal and instead of filing a consent application, appellant would make a representation before SEBI seeking remedial measures to be taken in the matter.

5. In these circumstances, we permit the appellant to make a representation before SEBI within a period of two weeks from today. If such a representation is made within two weeks from today then SEBI shall consider the same and pass appropriate order thereon in accordance with law within a period of two weeks thereafter.

6. Appeal as also the Misc. Application are disposed of in the aforesaid terms with no order as to costs.

Sd/-  
Justice J. P. Devadhar  
Presiding Officer

Sd/-  
Jog Singh  
Member

Sd/-  
Dr. C. K. G. Nair  
Member