

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Order Reserved On: 08.03.2018
Date of Decision : 12.03.2018

Misc. Application No. 78 of 2015
And
Misc. Application No. 169 of 2015
And
Appeal No. 121 of 2015

Aarti Basantani
301, Pacific Enclave,
15th Road, Khar (West),
Mumbai- 400 052

...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. Manish Bohra, Advocate i/b A. S. Khan & Associates for the
Appellant.

Mr. Gaurav Joshi, Senior Advocate with Mr. Mihir Mody and
Mr. Nishant Upadhyay, Advocates i/b K. Ashar & Co. for the
Respondent.

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

Per: Justice J.P. Devadhar

Misc. Application No. 78 of 2015

There is delay of 130 days in filing the appeal. By this
Miscellaneous Application, applicant seeks condonation of the said
delay. For the reasons stated in the application, delay is condoned.

Miscellaneous Application is disposed of accordingly.

Misc. Application No. 169 of 2015

This Miscellaneous Application is filed seeking early hearing of Appeal No. 121 of 2015. Since the appeal is taken up for hearing the Miscellaneous Application has become infructuous and the same is disposed of accordingly with no order as to costs.

Appeal No. 121 of 2015

1. This appeal is filed to challenge the order passed by the Adjudicating Officer (“AO” for short) of Securities and Exchange Board of India (“SEBI” for short) on March 19, 2010. By the said order, penalty of ₹ 5 lac is imposed on the appellant under Section 15HA of SEBI Act, 1992 for violating regulation 3(a), 3(c), 4(1), 4(2)(a) and 4(2)(e) of SEBI (Prohibition of Fraudulent and Unfair Trade Practice relating to Securities Market) Regulations, 2003.

2. Basic argument advanced by Counsel for the appellant is that the appellant was a minor during the period with the alleged trades in the scrip of Adam Comsof Ltd. (“Company”) were executed and therefore no penalty could be imposed on the appellant.

3. The Apex Court in the case of Ritesh Agarwal and Anr. v/s Securities and Exchange Board of India reported in (2008) 8 SCC 205 has held that where fraudulent trades are executed on behalf of the minors then SEBI must proceed against the persons who had executed the fraudulent trades on behalf of the minors and not against the minors.

4. In these circumstances, penalty imposed against the appellant who at the relevant time was a minor cannot be sustained.

5. Accordingly the appeal is allowed and the impugned order passed by the AO of SEBI against the appellant on March 19, 2010 is quashed and set aside with no order as to costs.

Sd/-
Justice J.P. Devadhar
Presiding Officer

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

12.03.2018
Prepared & Compared By: PK