

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision : 21.02.2020

Appeal No. 12 of 2020

Sunipa Das
daughter of Shankar Ghosh,
167/H/1, Belighata Main Road,
S. Ch. Banerjee Road,
Kolkata - 700010.

..... 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

**With
Appeal No. 13 of 2020**

Byomkesh Das
son of Bimal Kumar Das
23/B/8, Pitambar Ghatak Lane,
Alipore,
Kolkata - 700027.

..... 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

**With
Appeal No. 14 of 2020**

Ashok Maji,
son of Shyamapada Maji
Post Baksara, Bagdipara,
P.S. Jagachha, Sadar,
Howrah - 711110.

..... 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

**With
Appeal No. 15 of 2020**

Sanjay Das,
son of Dharani Kanta Das
Ward No. 3, (Northern),
Alipurduar Minicipality,
Alipurduar,
West Bengal - 736123.

..... 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

**With
Appeal No. 16 of 2020**

Gora Chand Sarkar,
son of Kanailal Sarkar

Chapahati, Samudra Gar,
Bardhaman,
West Bengal - 713519.

..... 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

**With
Appeal No. 17 of 2020**

Pranesh Debnath
son of Paritam Chandra Debnath
Bibekananda - 1, Bholardbari,
Alipurduar,
West Bengal - 736123.

..... 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

**With
Appeal No. 18 of 2020**

Laxman Chandra Ghosh,
son of Sasticharan Ghosh
Jagannathpur, Hanskhali,
Nadia - 741502.

..... 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

**With
 Appeal No. 19 of 2020**

Tapas Dey,
 son of Gopal Dey
 Thana Makuya Dakshin,
 45, Sankrail,
 Howrah - 711110.

.... 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

**With
 Appeal No. 20 of 2020**

Radhashyam Manna,
 son of Chandra Sekhar Manna
 Sandhipur 4J, Kandura,
 Sankrail,
 Howrah - 711302.

.... 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

**With
Appeal No. 21 of 2020**

Dhananjay Chakraborty,
son of Sharabindu Chakraborty
Sankrail - 20, Sankrau Sadar,
Howrah - 711313.

..... 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. Arindan Das, Advocate with Mr. Rumeli Sarkar, Advocate for
the Appellants.

Mr. Anubhav Ghosh, Advocate with Ms. Rashi Dalmia, Advocate i/b
The Law Point for the Respondent.

CORAM : Justice Tarun Agarwala, Presiding Officer
Dr. C. K. G. Nair, Member
Justice M. T. Joshi, Judicial Member

Per : Justice Tarun Agarwala, Presiding Officer (Oral)

1. The Whole Time Member (hereinafter referred to as 'WTM') of Securities and Exchange Board of India (hereinafter referred to as 'SEBI') passed an order dated November 1, 2016 holding that the company Cemendia Infrastructures Ltd. and its directors had illegally collected money through NCDs in violation of public issue norms and

consequently, the WTM issued various directions, namely, for refund of the amount collected alongwith interest which was required to be paid jointly and severally by the company and its directors. The appellants were also restrained from accessing the securities market and were also restrained from associating with any public listed company till such time the refund was made.

2. Since the amount was not paid recovery proceedings were initiated. The appellants are directors of the company who have been found to be officers in default and were held to be liable to recover the amount jointly and severally.

3. The appellants have questioned the veracity of the minutes of the proceedings dated December 9, 2019 before the Recovery Officer which order is nothing but an adjournment of the proceedings at the instance of the appellant.

4. The contention of the appellants is that as per the order of the WTM only Anita Ghosh Choudhary, Subrata Samanta and Gora Chand Sarkar were liable for violation of the public issue norms and were held to be liable for refund of the entire amount. It was urged that the recovery against the appellants pursuant to the impugned

order was wholly incorrect and, therefore, they should be absolved from appearing before the Recovery Officer.

5. All the submissions may be raised before the Recovery Officer. If so raised, the Recovery Officer will deal with it. We may also point out that the order dated November 1, 2016 has not been challenged by the appellants before us. In view of the aforesaid, we do not find any error in the order of the recovery officer at this stage. Dismissed.

Sd/-
Justice Tarun Agarwala
Presiding Officer

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

Sd/-
Justice M. T. Joshi
Judicial Member

21.02.2020
Prepared & Compared by
PTM