

BEFORE THE SECURITIES APPELLATE TRIBUNAL  
MUMBAI

**Date of Decision : 27.02.2020**

**Misc. Application No. 480 of 2019  
And  
Appeal No. 396 of 2019**

Ms. Lopamudra Bandyopadhyay  
Permanent resident at 21/1/1,  
Benaras Road, Salkia,  
Howrah-711 106.  
Presently residing at 1374 Jeet Plaza,  
Hossainpur, Madurdaha, ..... Appellant  
Kolkata – 700 107.

Versus

1. Securities and Exchange Board of India  
SEBI Bhavan, Plot No. C-4A, G-  
Block, Bandra-Kurla Complex,  
Bandra (East),  
Mumbai – 400 051.
2. GMS Infrastructure (Multi Marketing  
Services) Limited (Presently known as  
ADH Food Products Pvt. Ltd.  
29/3, B.T. Road, Third Floor,  
11 No. Bus Stand,  
Kolkata – 700 056, West Bengal. ... Respondents

Mr. Nilendu Bhattacharya, Advocate with Ms. Savita  
Sawant, Advocate for the Appellant.

Mr. Kumar Desai, Advocate with Mr. Mihir Mody and  
Mr. Shehaab Roshan, Advocates i/b K. Ashar & Co. for  
Respondent No. 1.

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 appellant has filed the present appeal against the order dated December 7, 2018 passed by the Whole Time Member ('WTM' for short) of the Securities and Exchange Board of India ('SEBI' for short) wherein the appellant along with the company and other noticees have been directed to refund the money collected through the issuance of redeemable preference shares along with interest @ 15% per annum. The appellant was also prohibited from directly or indirectly access the securities market for a period of 4 years or till the expiry of 4 years from the date of completion of refunds to investors. The appeal has been filed belatedly. According to the appellant it was contended that no notice was ever issued nor was the order delivered and the appellant came to know of the order while browsing the official website of SEBI on July 10, 2019 and the appeal was filed immediately thereafter.

2. The contention of the appellant is that in the absence of any opportunity being given to represent and submit her

submission the ex-parte order was liable to be set aside on the ground of violation of the principles of natural justice.

3. The submission of the learned counsel for the appellant cannot be accepted from a perusal of the impugned order. We find that the ex-parte interim order cum show cause notice was served upon the appellant through publication in two newspapers dated July 25, 2018 in the Times of India and Anandabazar Patrika. There is no assertion in the memo of appeal that she was not aware of the said show cause cum interim order which was published in the newspapers. The WTM in the impugned order records that inspite of publication the appellant did not appear or contest the proceedings.

4. In the absence of any plausible explanation being given for not filing the appeal earlier and in the absence of not questioning the veracity of the publication in the newspapers we are of the opinion that the appellant had knowledge of the proceedings and non-appearance by the appellant before the WTM did not violate the principles of natural justice as alleged by him. We accordingly do not find any merit in the

appeal as also in the miscellaneous application and is summarily dismissed.

Sd/-  
Justice Tarun Agarwala  
Presiding Officer

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

Sd/-  
Justice M.T. Joshi  
Judicial Member

27.02.2020  
Prepared & Compared by  
msb