

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date: 10.05.2021

**Misc. Application No. 522 of 2021
(Stay Application)
And
Appeal No. 54 of 2021**

Smt. Chandrakala Purohit ...Appellant

Versus

Securities and Exchange Board of India ...Respondent

Mr. Jugal C. Thacker FCA for the Appellant.

Mr. Kevic Setalvad, Senior Advocate with Mr. Mihir Mody,
Mr. Arnav Misra and Mr. Mayur Jaisingh, Advocates i/b. K.
Ashar & Co. for the Respondent.

**WITH
Misc. Application No. 523 of 2021
(Stay Application)
And
Appeal No. 56 of 2021**

Amit Khemka ...Appellant

Versus

Securities and Exchange Board of India ...Respondent

Mr. Jugal C. Thacker FCA for the Appellant.

Mr. Sumit Rai, Advocate with Mr. Mihir Mody, Mr. Arnav
Misra and Mr. Mayur Jaisingh, Advocates i/b. K. Ashar & Co.
for the Respondent.

WITH
Misc. Application No. 161 of 2021
(Stay Application)
And
Misc. Application No. 146 of 2021
(Intervention Application)
And
Appeal No. 526 of 2020

Anil Agarwal ...Appellant

Versus

Securities and Exchange Board of India ...Respondent

Mr. Pesi Modi, Senior Advocate with Ms. Kalpana Desai, Ms. Neha Sonawane and Ms. Dhvani Shah, Advocates i/b Vis Legis Law Practice and Mr. Anil Agarwal, Appellant for the Appellant.

Mr. Kevic Setalvad, Senior Advocate with Mr. Mihir Mody, Mr. Arnav Misra and Mr. Mayur Jaisingh, Advocates i/b. K. Ashar & Co. for Respondent No. 1

Mr. Mustafa Doctor, Senior Advocate with Mr. Rahul Lakhiani and Mr. Yuvraj K. Singh, Advocates i/b Desai & Diwanji for the Applicant in MA No. 146 of 2021.

WITH
Appeal No. 240 of 2019

Anil Agarwal ...Appellant

Versus

Securities and Exchange Board of India & Anr. ...Respondents

Ms. Neha Sonawane, Advocate with Ms. Dhvani Shah, Advocate i/b Vis Legis Law Practice for the Appellant and Appellant Mr. Anil Agrawal.

Mr. Kevic Setalvad, Senior Advocate with Mr. Mihir Mody, Mr. Arnav Misra and Mr. Mayur Jaisingh, Advocates i/b. K. Ashar & Co. for Respondent No. 1

Mr. Mustafa Doctor, Senior Advocate with Mr. Rahul Lakhiani and Mr. Yuvraj K. Singh, Advocates i/b Desai & Diwanji for Respondent No. 2

**WITH
Appeal No. 241 of 2019**

Bharat N. Shiroya ...Appellant

Versus

Securities and Exchange Board of India & Anr. ...Respondents

Mr. Jugal C Thacker, FCA for the Appellant.

Mr. Kevic Setalvad, Senior Advocate with Mr. Mihir Mody, Mr. Arnav Misra and Mr. Mayur Jaisingh, Advocates i/b. K. Ashar & Co. for Respondent No. 1

Mr. Rahul Lakhiani, Advocate with Mr. Yuvraj K. Singh, Advocate i/b Desai & Diwanji for Respondent No. 2

**WITH
Appeal No. 242 of 2019**

Annu Anil Agarwal ...Appellant

Versus

Securities and Exchange Board of India & Anr. ...Respondents

Mr. Alok Tiwari, Advocate with Ms. Dakshayani Saxena, Mr. Jugal Thacker, Ms. Neha Sonawane and Ms. Dhvani Shah, Advocates i/b Vis Legis Law Practice for the Appellant.

Mr. Sumit Rai, Advocate with Mr. Mihir Mody, Mr. Arnav Misra and Mr. Mayur Jaisingh, Advocates i/b. K. Ashar & Co. for the Respondent No. 1.

Mr. Rahul Lakhiani, Advocate with Mr. Yuvraj K. Singh, Advocate i/b Desai & Diwanji for Respondent No. 2

**WITH
Appeal No. 243 of 2019**

Amit Khemka ...Appellant

Versus

Securities and Exchange Board of India & Anr. ...Respondents

Mr. Jugal C Thacker, FCA, for the Appellant.

Mr. Sumit Rai, Advocate with Mr. Mihir Mody, Mr. Arnav Misra and Mr. Mayur Jaisingh, Advocates i/b. K. Ashar & Co. for the Respondent No. 1.

Mr. Rahul Lakhiani, Advocate with Mr. Yuvraj K. Singh, Advocate i/b Desai & Diwanji for Respondent No. 2

**WITH
Appeal No. 244 of 2019**

Chandrakala Purohit ...Appellant

Versus

Securities and Exchange Board of India & Anr. ...Respondents

Mr. Jugal C Thacker FCA for the Appellant.

Mr. Sumit Rai, Advocate with Mr. Mihir Mody, Mr. Arnav Misra and Mr. Mayur Jaisingh, Advocates i/b. K. Ashar & Co. for the Respondent No. 1.

Mr. Rahul Lakhiani, Advocate with Mr. Yuvraj K. Singh, Advocate i/b Desai & Diwanji for Respondent No. 2

**WITH
Appeal No. 363 of 2019**

Jugal C. Thacker ...Appellant

Versus

Securities and Exchange Board of India & Anr. ...Respondents

Mr. Jugal C. Thacker, Appellant in Person.

Mr. Sumit Rai, Advocate with Mr. Mihir Mody, Mr. Arnav Misra and Mr. Mayur Jaisingh, Advocates i/b. K. Ashar & Co. for the Respondent No. 1.

**WITH
Misc. Application No. 144 of 2021
(Intervention Application)
And
Appeal No. 395 of 2020**

Jugal C. Thacker ...Appellant

Versus

Securities and Exchange Board of India ...Respondent

Mr. Jugal C. Thacker, Appellant in Person.

Mr. Kevic Setalvad, Senior Advocate with Mr. Mihir Mody, Mr. Arnav Misra and Mr. Mayur Jaisingh, Advocates i/b. K. Ashar & Co. for the Respondent.

Mr. Rahul Lakhiani, Advocate with Mr. Yuvraj K. Singh, Advocate i/b Desai & Diwanji for the Applicant in the MA No. 144 of 2021.

WITH
Misc. Application No. 143 of 2021
(Intervention Application)
And
Appeal No. 396 of 2020

Bharat N. Shiroya ...Appellant

Versus

Securities and Exchange Board of India ...Respondent

Mr. Bharat Shiroya, Appellant in Person with Mr. Jugal C. Thacker, FCA and Mr. Mayur Shah, CA for the Appellant.

Mr. Sumit Rai, Advocate with Mr. Mihir Mody, Mr. Arnav Misra and Mr. Mayur Jaisingh, Advocates i/b. K. Ashar & Co. for the Respondent.

Mr. Rahul Lakhiani, Advocate with Mr. Yuvraj K. Singh, Advocate i/b Desai & Diwanji for the Applicant in MA No. 143 of 2021.

WITH
Misc. Application No. 142 of 2021
(Intervention Application)
And
Appeal No. 403 of 2020

Annu Anil Agarwal ...Appellant

Versus

Securities and Exchange Board of India ...Respondent

Mr. Jugal Thacker, FCA with Ms. Neha Sonawane and Ms. Dhvani Shah, Advocates i/b Vis Legis Law Practice for the Appellant.

Mr. Sumit Rai, Advocate with Mr. Mihir Mody, Mr. Arnav Misra and Mr. Mayur Jaisingh, Advocates i/b. K. Ashar & Co. for the Respondent.

Mr. Rahul Lakhiani, Advocate with Mr. Yuvraj K. Singh,
Advocate i/b Desai & Diwanji for the Applicant in MA No. 142
of 2021.

WITH
Misc. Application No. 145 of 2021
(Intervention Application)
And
Appeal No. 467 of 2020

Comfort Securities Ltd. ...Appellant

Versus

Securities and Exchange Board of India
& Anr. ...Respondents

Ms. Neha Sonawane, Advocate with Ms. Dhvani Shah,
Advocate i/b Vis Legis Law Practice for the Appellant.

Mr. Kevic Setalvad, Senior Advocate with Mr. Mihir Mody,
Mr. Arnav Misra and Mr. Mayur Jaisingh, Advocates i/b. K.
Ashar & Co. for Respondent No. 1

Mr. Rahul Lakhiani, Advocate with Mr. Yuvraj K. Singh,
Advocate i/b Desai & Diwanji for the Applicant in MA No. 145
of 2021.

WITH
Misc. Application No. 147 of 2021
(Intervention Application)
And
Appeal No. 459 of 2020

Comfort Intech Ltd. ...Appellant

Versus

Securities and Exchange Board of India ...Respondent

Ms. Neha Sonawane, Advocate with Ms. Dhvani Shah,
Advocates i/b Vis Legis Law Practice for the Appellant.

Mr. Sumit Rai, Advocate with Mr. Mihir Mody, Mr. Arnav Misra and Mr. Mayur Jaisingh, Advocates i/b. K. Ashar & Co. for the Respondent.

Mr. Rahul Lakhiani, Advocate with Mr. Yuvraj K. Singh, Advocate i/b Desai & Diwanji for the Applicant in MA No. 147 of 2021.

WITH
Misc. Application No. 494 of 2020
(Delay Application)
And
Appeal No. 481 of 2020

J J Fincap Pvt. Ltd. ...Appellant

Versus

Securities and Exchange Board of India ...Respondent

Mr. Rajesh Khandelwal, Advocate i/b Juris Link for the Appellant.

Mr. Sumit Rai, Advocate with Mr. Mihir Mody, Mr. Arnav Misra and Mr. Mayur Jaisingh, Advocates i/b. K. Ashar & Co. for the Respondent.

AND
Misc. Application No. 152 of 2021
(Delay Application)
And
Appeal No. 181 of 2021

Vibhuti Multitrade Pvt. Ltd. ...Appellant

Versus

Securities and Exchange Board of India ...Respondent

Mr. Nikunj Kanodia, CA for the Appellant.

Mr. Sumit Rai, Advocate with Mr. Mihir Mody, Mr. Arnav Misra and Mr. Mayur Jaisingh, Advocates i/b. K. Ashar & Co. for the Respondent.

ORDER:

1. We have heard the learned senior counsel/ learned counsel for the parties in various appeals at some length. In the appeal of Vibhuti Multitrade Pvt. Ltd. vs SEBI Appeal No. 181 of 2021 there is a delay of 197 days in the filing of the appeal. This delay application has been opposed by SEBI contending that no sufficient cause has been shown to this inordinate delay. Having heard the learned counsel for the parties, we are of the opinion that the impugned order was sent by email on August 27, 2020 but according to the appellant the company's employees were not working to its full strength on account of the COVID pandemic and that they only came to know about the order in October 2020. In any case, the impugned order was received by them on October 28, 2020 and the appeal was filed thereafter on February 12, 2021. Considering the aforesaid, we are of the opinion that considering the pandemic situation cause shown is sufficient. The delay in filing the appeal is condoned. The application is allowed. A reply to the memorandum of appeal has been filed by the respondent. The appellant is allowed three weeks time to file rejoinder.
2. Certain intervention applications have been filed by the company Ravikumar Distilleries Ltd. in some of the appeals contending that they must be impleaded as a necessary party or

in the alternative they should be allowed to be heard. It was contended that in the proceedings before Whole Time Member (“WTM” for convenience) the company was a noticee and against the orders passed by the WTM in the appeals filed before this Tribunal the company has been impleaded as a necessary party. It was contended that even though the lis between the appellant is with the SEBI as a penalty order has been passed for violation of certain securities laws, nonetheless, the appellant being a interested party should be heard. Considering the aforesaid and coupled with the fact that the appellant has also filed an appeal against the same order of the Adjudicating Officer (“AO”) we are of opinion that it is not necessary for the appellant to be impleaded as a necessary party in these appeals. However, the appellant will be heard when all the appeals are being heard together. The intervention applications are accordingly disposed off.

3. Stay applications have been filed in Appeal Nos. 54 of 2021, 56 of 2021 and 526 of 2020. It was contended that whereas the disposal of the proceedings were taking time, on the other hand, the Recovery Officer has issue notice directing the said appellants to deposit the money. We find that in the Appeal of Comfort Intech Limited, a penalty of Rs. 1 crore was imposed and this Tribunal by an interim order had directed the

said appellant to deposit a sum of Rs. 10 lakhs. Similarly in the case of Comfort Securities Limited the penalty of Rs. 6 crores was imposed and by an interim order the Tribunal had directed the said appellant to deposit a sum of Rs. 1 crore.

4. Considering the aforesaid, coupled with the fact that the appeals cannot be finally disposed off today we direct the appellant Chandrakala Purohit and Amit Khemka to deposit a sum of Rs. 20 lakhs and Anil Agarwal a sum of Rs. 1 crore within three weeks from today. If the said amount is deposited the balance amount shall not be recovered during the pendency of the appeal. The stay applications are accordingly disposed off.

5. In the Appeal of J J Fincap Private Limited vs. SEBI (Appeal No. 481 of 2020). There is a delay of 39 days in the filing of the appeal. For the reasons stated in the application, the delay is condoned. The application is allowed.

6. List all these appeals for admission and for final disposal on June 24, 2021.

7. Parties are directed to take instructions from the Registrar 48 hrs. before the date fixed in order to find out as to whether

the matters would be taken up for hearing through video conference or through physical hearing.

8. The present matters were heard through video conference due to Covid-19 pandemic. At this stage it is not possible to sign a copy of this order nor a certified copy of this order could be issued by the Registry. In these circumstances, this order will be digitally signed by the Private Secretary on behalf of the bench and all concerned parties are directed to act on the digitally signed copy of this order. Parties will act on production of a digitally signed copy sent by fax and/or email.

Justice Tarun Agarwala
Presiding Officer

Justice M. T. Joshi
Judicial Member

10.05.2021
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