

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date: 11.05.2022

Misc. Application No. 340 of 2022
And
Misc. Application No. 341 of 2022
And
Misc. Application No. 342 of 2022
And
Appeal No. 211 of 2022

Anand Subramanian

...Appellant

Versus

Securities and Exchange Board of India

...Respondent

Mr. Shyam Mehta, Senior Advocate with Mr. Ankit Lohia, Ms. Shachi Udeshi and Ms. Pooja Rathi, Advocates i/b Wadia Ghandy & Co. for the Appellant.

Mr. Rafique Dada, Senior Advocate with Mr. Mihir Mody, Mr. Arnav Misra and Mr. Mayur Jaisingh, Advocates i/b. K. Ashar & Co. for Respondent SEBI.

ORDER:

1. For the reasons stated in the application, the delay in the filing of the appeal is condoned. The application is allowed. The certified copy of the impugned order may be filed by the appellant on or before the next date. The exemption application is disposed of.

2. The present appeal has been filed against the order dated February 11, 2022 wherein a penalty of Rs. 2 crores have been imposed upon the appellant under Section 15HB of the Securities and Exchange Board of India Act, 1992 and Section 23A and 23H of the Securities Contracts (Regulation) Act, 1956.

3. The basic allegation against the appellant noticee no. 6 has been encapsulated in paragraph 41 of the impugned order, namely, that the appellant has made an incorrect and misleading statement before Securities and Exchange Board of India (“SEBI” for convenience) regarding his appointment and selection in National Stock Exchange of India Limited (“NSE”) and that when he became a Group Operating Officer and Advisor to Managing Director on April 01, 2015 and therefore became a Key Management Personal (“KMP”) under the Securities Contracts (Regulations) (Stock Exchange and Clearing Corporations) Regulations, 2012 (“SECC Regulations, 2012” for convenience). Further the appellant exploited noticee no. 1 by creating another identity before her in the form of Mr. Rigyajursama to guide her to perform her duties according to the appellants’ wish and further the appellant acted against

the interest of NSE by influencing the decision of the Managing Director (“MD”) and Chief Executive Officer (“CEO”).

4. In so far as creating another identity in the form of Mr. Rigyajursama a specific finding has been given by the WTM in Paragraph 43.2.6 that the unknown person was not the appellant but further went on to hold that the appellant could be an accomplice with the unknown person who influenced the decision of noticee no. 1.

5. Prima facie this finding appears to be based on conjectures and beyond the show cause notice. Further, prime facie the imposition of penalty for making misleading statement about his appointment and being a KMP also appears to be excessive and arbitrary.

6. Connect with Appeal No. 150 of 2020 and list on June 30, 2022. In the meanwhile, the respondent may file a reply within three weeks. Rejoinder may be filed on or before the next date.

7. In view of the aforesaid, we direct the appellant to deposit a sum of Rs. Sixty lakhs within four weeks from today. If the amount is deposited the balance amount shall not be recovered

during the pendency of the appeal. The amount so deposited shall be kept in an interest bearing account which would be subject to the result of the appeal. The stay application is accordingly disposed of.

8. 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. Certified copy of this order is also available from the Registry on payment of usual charges.

Justice Tarun Agarwala
Presiding Officer

Justice M. T. Joshi
Judicial Member

Ms. Meera Swarup
Technical Member

11.05.2022
PK