

IN THE SECURITIES APPELLATE TRIBUNAL AT
MUMBAI

DATED THIS THE 06TH DAY OF NOVEMBER, 2024.

**CORAM: Justice P. S. Dinesh Kumar, Presiding Officer
Ms. Meera Swarup, Technical Member
Dr. Dheeraj Bhatnagar, Technical Member**

**Misc. Application No. 1013 of 2024
And
Appeal No. 580 of 2024**

Anilkumar Talpada
(Proprietor Firm: M/s Ideal Equity)
Talpada Ravjibhai, Punaj,
Kheda, Limbasi, Gujarat- 387 520 ...Appellant

Mr. Kunal Kataria, Advocate i/b Mr. Jitendra Sharda &
Associates for the Appellant.

AND

Chief General Manager,
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 Chhangani, Advocate with Mr. Sumit Yadav and
Mr. Atul Kumar Agrawal, Advocates i/b The Law Point for the
Respondent-SEBI.

THIS APPEAL IS FILED UNDER SECTION 15T of the SEBI
Act, 1992 TO SET ASIDE THE ORDER DATED APRIL 30,
2024 (EX-A) PASSED BY THE RESPONDENT SEBI.

THIS APPEAL COMING ON FOR ADMISSION THIS DAY,
THE TRIBUNAL MADE THE FOLLOWING.

ORDER

Per: Justice P. S. Dinesh Kumar, Presiding Officer (Oral)

There is a delay of 40 days in the filing this appeal. For the reasons stated in the application, the delay in filing this appeal is condoned. The misc. application is disposed of.

2. This appeal is directed against the order dated April 30, 2024 passed by the CGM¹ of the SEBI².

3. At the outset, Shri Kataria learned Advocate for the appellant, submitted that appellant desires to press only grounds 'F' & 'G' in the memorandum of the appeal. According to him, SEBI has erroneously come to the conclusion that the entire amount credited in the current account as per the bank statement i.e. Rs. 17,65,690.43 is earned out of the Investment Advisory Services. He submitted that various amounts totaling to Rs. 6,70,312.00/- mentioned in the tabular column in ground 'G', are not received towards Investment Advice. Further the statement also contains a credit reversal entry. With these submissions, he prayed that the matter may be remitted to the

¹ Chief General Manager

² Securities and Exchange Board of India

SEBI for the limited purpose of reassessing the amount to be refunded to investors.

4. In reply, Shri Manish Chhangani, learned Advocate for SEBI submitted that during the enquiry, the appellant did not produce any documents to substantiate his claim.

5. Since the appeal is in a narrow compass, with the consent of learned Advocates on both sides, we have taken up the case for final disposal.

6. The controversy is now limited to appellant's claim over Rs. 6,70,312.00/- out of the sum quantified by the SEBI. In Column No. 2 in the tabular column mentioned in ground 'G' of the memorandum of appeal, we note that there is a reversal entry of a sum of Rs. 1,59,374.78/- and the reason mentioned for reversal is 'technical error'. At any rate, the amount mentioned in the reversal entry could not have been added as income of the appellant. According to the appellant, there are other entries which require consideration as they are not earning out of the investment advice. We see some force in appellant's contention and his prayer for remand.

7. Shri Manish Chhangani submitted that incase, this Tribunal were to consider appellant's request and remand the matter, then appellant may be directed to deposit remaining money with the SEBI. We may record that the direction in the impugned order is *inter alia* to refund the amount to the investors. In this appeal, we are concerned with the correct calculation of the amount received by the appellant. Admittedly, one of the entries is a reversal entry and that has not been considered by the SEBI. Hence we are inclined to remit the matter. In our view, it would not be appropriate to direct the appellant to deposit the money as a condition precedent to remand the matter.

8. Shri Kunal Kataria, learned Advocate for the appellant submitted that in the recent times, SEBI is only issuing warning in similar cases and no penalty is imposed and prayed that liberty may be given to make a prayer before the SEBI for reconsideration of the penalty of Rs. 1 lakh.

9. In view of the above, the following order:

- i) The appeal allowed in part.
- ii) The matter is remitted to the SEBI to reconsider the entries mentioned in the tabular column in ground 'G' of the memorandum of appeal i.e. Rs. 6,70,312.00/-

and reassess the quantum of money earned out of the investors advisory schemes. The remaining portion of the order remains undisturbed.

- iii) The penalty is set aside with liberty to the appellant to make a prayer before the CGM for waiver of penalty.

The appeal is disposed of.

No costs.

Justice P. S. Dinesh Kumar
Presiding Officer

Ms. Meera Swarup
Technical Member

Dr. Dheeraj Bhatnagar
Technical Member

06.11.2024
PK