

IN THE SECURITIES APPELLATE TRIBUNAL AT
MUMBAI

DATED THIS THE 22ND DAY OF NOVEMBER, 2024

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

Appeal No.327 of 2023

Mr. Satish Kumar Dubey
RDA Colony, B Block, 209
Heerapur, Raipur,
Chhattisgarh - 492001.

.....Appellant

(BY CS Abhishek Mishra, for the Appellant.)

Securities and Exchange Board of India
SEBI Bhavan, Plot No.C-4A, G Block,
Bandra Kurla Complex, Bandra East,
Mumbai, Maharashtra – 400 051.

...Respondent

(BY Mr. Sumit Rai, Advocate with Ms. Veena Hari, Advocate
i/b Mansukhlal Hiralal & Co. for the Respondent)

THIS APPEAL IS FILED UNDER SECTION 15T OF
SEBI ACT, 1992 FOR TO SET ASIDE ORDER DATED
JANUARY 24, 2023 (Ex-I) PASSED BY SEBI.

THIS APPEAL HAVING BEEN HEARD AND RESERVED
FOR ORDERS ON OCTOBER 14, 2024, COMING ON FOR

PRONOUNCEMENT OF ORDER THIS 22ND DAY OF NOVEMBER 2024, THE TRIBUNAL MADE THE FOLLOWING:

ORDER

Per: Justice P.S. Dinesh Kumar, Presiding Officer

This appeal by the Proprietor of S.K. Financial Services ('SKF' for short), Mumbai is filed challenging order dated January 24, 2023 passed by the WTM¹, SEBI².

2. We have heard Shri Abhishek Mishra, learned Authorised Representative for the appellant and Shri Sumit Rai, learned Advocate for the respondent.

3. Briefly stated the facts of the case are, SEBI received a complaint on October 21, 2020 alleging that SKF was operating unregistered advisory services in Indore. The transaction details made through 'Easebuzz' platform were also appended to the complaint. An enquiry by SEBI revealed that the Easebuzz account was maintained by SKF and the appellant was its sole proprietor; that appellant was

¹ Whole Time Member

² Securities and Exchange Board of India

maintaining two accounts with ICICI Bank, one account with HDFC Bank and another account with Indus Ind Bank and had collected in all a sum of Rs.2,99,90,140/-.

4. SEBI issued show cause notices to the appellant, SKF and two other connected entities, namely, M/s. Amore Growth Advisory Services and M/s. Wealth Creator Services. The notices sent by speed post were not served. Subsequently, the show cause notice was advertised in the newspapers. The appellant appeared during personal hearing and admitted that he was the proprietor of noticees No.1 to 3. After adjudication the impugned order has been passed with directions contained in paragraph No.51 thereof.

5. Shri Abhishek Mishra for the appellant did not dispute the fact that appellant had, in all, collected a sum of Rs.2,99,90,140/- as noted in paragraph No.41 of the impugned order. But his defense is that appellant was a sub-broker with Angel Broking and therefore he was not required to take a separate license as an Investment Advisor.

6. In reply, Shri Sumit Rai for the SEBI submitted that two accounts³ with ICICI Bank and one account with IDBI Bank were maintained by the appellant in his personal name. One account with HDFC Bank was in the name of M/s. Amore Growth Advisory Services. He submitted that appellant has admitted that he was the proprietor of M/s. Amore Growth Advisory Services. Therefore, all transaction are in his personal capacity and in no way connected with Angel Broking firm under whom appellant claims to be a sub-broker.

7. In substance, Shri Rai contended that appellant has collected money by offering investment advisory services in his individual capacity without obtaining registration and therefore there is no error in the impugned order.

8. We have carefully considered the rival contentions and perused the records.

9. Undisputed facts of the case are, appellant is a Chartered Accountant. During the hearing his authorized representative,

³ ICICI Bank Account No.1859xxxx2642 and ICICI Bank Account No.1859xxx0296

Shri Abhishek Mishra has admitted that appellant is the proprietor of the three firms namely, (M/s. SK Financial Services, M/s. Amore Growth Services and M/s. Wealth Creator Services). It is also not disputed that appellant was maintaining following bank accounts:

Merchant ID	Merchant Name	Merchant Email	Link Bank Account
5364111	Satish Kumar Dubey	satishdubey999@yahoo.in	ICICI Bank a/c no.1859xxxx2642 (IFSC-ICICxxxx859)
5443276	Satish Kumar Dubey	Geniuselectronic105@gmail.com	ICICI Bank a/c no.1859xxx0296 (IFSC-ICICxxxx859)
5514049	Amore Growth Advisory Services	amoregrowthtips@gmail.com	HDFC Bank a/c no.50200xxx09544 (IFSC-HDFCxxxx404)
5727395	Satish Kumar Dubey	wealthcreatorservices@gmail.com	Indusind Bank a/c no.2010xxx0296 (IFSC-ICICxxxx878)
5796252	Satish Kumar Dubey	skfinancialserviceskf@gmail.com	-

10. It is also not disputed that appellant has received Rs.2,99,90,140/- as mentioned in table 2 in the impugned order which reads as follows:

Bank Name	Account No.	A/c opening date	Credit considered From Date	Credit considered Upto Date	Total Amount credited (in – Rs.)
ICICI Bank	1859xxxx0338	17.10.2016	17.10.2016	19.07.2021	1,47,93,210
HDFC Bank	5010xxxx880492	19.08.2014	12.08.2016	16.07.2021	51,79,250
ICICI Bank	1859xxxx2642	06.01.2016	12.08.2016	11.10.2016	15,274
ICICI Bank	1859xxxx0296	17.08.2016	12.08.2016	25.06.2021	5,551,897

HDFC Bank	5020xxxx709544	18.05.2016	12.08.2016	06.12.2020	26,50,720
IndusInd Bank	201000954058	09.01.2017	12.01.2017	29.12.2020	67,99,339
Total					2,99,90,140

11. However, the solitary legal contention that was urged before us was that as per the circular⁴ dated August 3, 2018 appellant who was a sub-broker, was not required to obtain registration as an ‘Investment Advisor’. It was further urged that at least from and after the date of the circular, appellant has not committed any violation.

12. We may record that the said circular issued in 2018 is to the effect that as per its policy, SEBI would not grant any fresh registration to any sub-broker and any pending application for registration as a sub-broker would be returned. Admittedly, appellant has been carrying on his business as Investment Advisor from 2016 without obtaining the registration as an Investment Advisor and receiving money. The circular of August 3, 2018 has been issued pursuant to SEBI’s decision to discontinue with the sub-brokers.

⁴ Bearing No.SEBI/HO/MIRS/DoP/CIR/P/2018/117 Annexure B to the Rejoinder

Therefore, appellants' contention that he was not required to take the license is untenable because the circular deals with the application for registration as sub-broker and did not exempt appellant and similarly situated persons from obtaining the licence.

13. With regard to the receipt of Rs.2.99 crores, it was argued that the entire sum was not received as an Investment Advisory fee. But, it is relevant to note that the appellant has not furnished any breakup of the receipts either to the SEBI or before this Tribunal. We also enquired as to whether appellant can now provide the break-up of the receipt of Rs.2.99 crores. The authorized representative submitted that the appellant would not be able to give any break-up.

14. Thus, in view of appellant's admission of the receipt of money and his inability to provide the details of the receipt, we are at one with the finding recorded in paragraph No.49 of the impugned order and find no merit in this appeal.

15. In the result, this appeal fails and it is accordingly *dismissed*.

16. No costs.

Justice P.S. Dinesh Kumar
Presiding Officer

Ms. Meera Swarup
Technical Member

Dr. Dheeraj Bhatnagar
Technical Member

22.11.2024
RHN