

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision : 10.04.2019

Misc. Application No. 257 of 2018
And
Appeal No. 309 of 2018

P M Commercial Co. Ltd.
2, Lal Bazar Street,
Todi Chambers, 5th Floor,
Kolkata – 700 001.

...Appellant

Versus

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

...Respondent

Mr. Vinay Chauhan, Advocate i/b Corporate Law Chambers
India for the Appellant.

Mr. Sumit Rai, Advocate with Mr. Kaushal Parsekar, Advocate
i/b Legasis Partners for the Respondent.

CORAM : Justice Tarun Agarwala, Presiding Officer
Dr. C.K.G. Nair, Member
Justice M.T. Joshi, Judicial Member

Per : Justice Tarun Agarwala (Oral)

Misc. Application No. 257 of 2018:-

1. There is a delay of 82 days in filing the appeal. Cause shown is sufficient. The delay in filing the appeal is condoned. Application is allowed.

Appeal No. 309 of 2018:-

2. A penalty of ₹ 5 lakh was imposed under Section 15HB of the SEBI Act, 1992 for not obtaining SCORES authentication within the stipulated period as per the SEBI circulars. The appellant being aggrieved has filed the present appeal.

3. Having heard the learned counsel for the parties, we find that the web based investor grievance redressal portal known as SCORES was started by SEBI in the year 2011 and all the companies were required to obtain user ID and login password so that investor grievances could be settled 'on-line'. In this regard SEBI issued a circular dated August 13, 2012 fixing a time line for obtaining SCORES authentication. Since the appellant failed to obtain SCORES authentication the penalty of Rs. 5 lakh was imposed.

4. The learned counsel for the appellant contended that there was no deliberate intention on the part of the appellant in not obtaining SCORES authentication and the lapse occurred inadvertently. It was contended that since 1997 there has been no trading in the scrip of the appellant company as the same was suspended by the Calcutta Stock Exchange due to non-compliance of the grievances of listing agreement. It was also contended that in similar circumstances SEBI has imposed a minimum penalty of Rupees One Lakh for non-compliance of SCORES authentication to other entities whereas in the instant case the appellant has been discriminated and a penalty of Rs. 5 lakh has been imposed.

5. Having heard the learned counsel for the parties, we find that during pendency of the appeal the appellant has obtained the SCORES authentication. Further we find that, since the default was not intentional and considering the factors enumerated in Section 15J, we are of the opinion that the appellant did not get any unfair advantage nor any loss was caused to the investors. In this backdrop, the imposition of penalty of Rs. 5 lakh appears to be harsh and excessive.

6. For the reasons stated aforesaid, the appeal is partly allowed. The penalty is reduced from ₹ 5,00,000/- (Rupees Five Lakh Only) to ₹ 2,50,000/- (Rupees Two Lakh Fifty Thousand Only) which will be paid within four weeks from today.

Sd/-
Justice Tarun Agarwala
Presiding Officer

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

Sd/-
Justice M.T. Joshi
Judicial Member

10.04.2019

Prepared and compared by:msb