

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision : 14.06.2017

IRDA Appeal No. 6 of 2015

Lambach Insurance Brokers Private Limited
A-701, Trade World,
Kamla Mills Compound,
Senapati Bapat Marg, Lower Parel (W),
Mumbai – 400 013.Appellant

Versus

Insurance Regulatory and Development
Authority of India
Parisharam Bhavan, 3rd Floor,
Basheer Bagh,
Hyderabad – 500 004.Respondent

Mr. Ankit Lohia, Advocate with Mr. Ajai Achuthan and Mehul Jain,
Advocates i/b Bharucha & Partners for the Appellant.

Mr. Paritosh Jaiswal, Advocate i/b Daya Gupta for the Respondent.

CORAM : Justice J.P. Devadhar, Presiding Officer
Jog Singh, Member
Dr. C.K.G. Nair, Member

Per : Dr. C.K.G. Nair, Member (Oral)

1. This appeal is filed by the appellant aggrieved by the order of Member (Non-Life) of the Insurance Regulatory and Development Authority of India ('IRDAI' for short) dated February 6, 2015. By the said order seven penalties in the range of ₹ 20,000/- to ₹ 5 Lac each has been imposed on the appellant for various violations of the provisions of Insurance Act, 1938 and Regulations made there under. Further, for three violations the appellant has been let off with warning.

2. The appellant is an insurance broker since 2003. Various violations have been noticed by the IRDAI during an on-site inspection of the appellant carried out during 11-13 December, 2013. The inspection report

was forwarded to the appellant seeking their comments. After scrutiny of the comments received a show cause notice was issued to the appellant on August 5, 2014 and personal hearing was granted on November 20, 2014. Thus, following due process and on the basis of submissions made by the appellant the impugned order was passed on February 6, 2015.

3. Inter alia, the following violations have been made by the appellant :
 - (a) Amending the Memorandum of Association by incorporating commodity trading as a business and thereby trading in commodities.
 - (b) Delayed payment of the annual fee payable to IRDAI in 2 years.
 - (c) Exceeding the stipulated limit of 30% business from one client for two years (2011-13) despite a warning by the IRDA on this matter in 2010.
 - (d) Not disclosing details of engagement of agencies for professional services, consultation etc.

4. Shri Ankit Lohia, Learned Counsel for the appellant fairly stated that in the present case the appellant has admitted to have committed the violations. Some of the technical violations took place during the tenure of the old management and some of the violations inadvertently took place after the new management took over. Learned counsel for the appellant further submitted that the new management immediately after realizing the mistake took remedial steps to rectify the error and ensure that such violations are not committed again in the future. Learned counsel for the appellant on instruction further submits that the appellant in order to buy peace is ready and willing to pay the entire penalty amount of ₹ 15,20,000/- within 4 weeks from today, however, payment of penalty under the

impugned order ought not be treated as stigma on the appellant. Counsel for the respondent leaves it to the Tribunal.

5. In the peculiar facts of the present case, since remedial measures were taken by the new management of the appellant even before action was taken by the IRDAI and since the appellant is ready and willing to pay the penalty imposed, we dispose of the appeal by passing the following order:

- (a) Appellant shall pay the penalty amount of ₹ 15,20,000/- to the IRDAI within 4 weeks from today.
- (b) If the appellant pays the penalty amount of ₹ 15,20,000/- to IRDAI within the stipulated time, then IRDAI shall treat the matter as closed without having any adverse effect on the future business of the appellant as an insurance broker.

6. Appeal is disposed of in the aforesaid terms with no order as costs.

Sd/-
Justice J.P. Devadhar
Presiding Officer

Sd/-
Jog Singh
Member

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

14.06.2017
Prepared and compared by:
msb