

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision : 12.06.2017

**Misc. Application No. 228 of 2016
And
Appeal No. 283 of 2016**

Rajesh Pravinkumar Bhanushali
403, Mihir Co-op Housing Society,
Plot No. 18, Sector – 6, Airoli, ...Appellant
New Mumbai – 400 708.

Versus

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

Dr. S.K. Jain, Practicing Company Secretary for the Appellant.

Mr. Kumar Desai, Advocate with Mr. Vivek Shah and Mr. Tomu Francis,
Advocates for the Respondent.

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

Per : Justice J.P. Devadhar (Oral)

Misc. Application No. 228 of 2016:-

By this Misc. Application appellant seeks condonation of 182 days
delay in filing the appeal. For the reasons stated in the Misc. Application,
delay is condoned. Misc. Application stands disposed of accordingly.

Appeal No. 283 of 2016:-

1. Appellant is aggrieved by the ex-parte order passed by the Whole Time Member ('WTM' for short) of Securities and Exchange Board of India ('SEBI' for short) on January 4, 2016. By the said order the appellant is restrained from accessing the securities market for a period of 5 years from the date of the said order.

2. Grievance of the appellant is that the appellant is stationed outside India since 2011 and that he had neither received the show cause notice nor the notice of personal hearing issued by SEBI. Although it is contended on behalf of SEBI that someone had received notice on behalf of the appellant sent at the last known address of the appellant in India, in the facts of the present case since it is not seriously disputed that the appellant is residing outside India, we quash and set aside the ex-parte order dated January 4, 2016 qua the appellant and restore the matter to the file of the WTM of SEBI for fresh decision on merits and in accordance with law.

3. Counsel for the appellant stated that the appellant shall not access the securities market till a fresh order is passed by the WTM of SEBI. The said statement is accepted.

4. WTM of SEBI is directed to pass fresh order on merits and in accordance with law as expeditiously as possible preferably within a period 6 months from today.

5. Counsel for the appellant states that all communications to the appellant may be addressed to the address which reads thus:-

Dr. S.K. Jain
13/16 Kapadia Chamber, Gr. Floor,
599 JSS Road, Mumbai – 400 002.

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

Sd/-
Justice J.P. Devadhar
Presiding Officer

Sd/-
Jog Singh
Member

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

12.06.2017
Prepared and compared by:
msb