

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date : 1.11.2017

Appeal No.373 of 2016

DIAGEO PLC
Lakeside Drive, Park Royal,
London, NW107HQ,
United Kingdom.

.....Appellant

Versus

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

..... Respondent

Mr. P.N. Modi, Senior Advocate with Mr. M.P. Bharucha, Mr. Neville Lashkari, Ms. Sneha Jaisingh, Mr. Yashasvi Mohanram and Mr. Aayush Kumar, Advocates i/b. Bharucha & Partners for the Appellant.

Mr. Fredun De Vitre, Senior Advocate with Mr. Mihir Mody and Mr. Nishant Upadhyay, Advocates i/b K. Ashar & Co. 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)

1. This appeal is filed to challenge the communication issued by the Assistant General Manager ('AGM') of Securities and Exchange Board of India ('SEBI' for short) on June 16, 2016.

2. It is relevant to note that prior to issuance of the impugned communication dated June 16, 2016, very same AGM had issued a show cause notice to the appellant on March 23, 2016 calling upon the appellant to show cause on the issues set out therein.

3. By its reply dated April 20, 2016 appellant showed cause and requested that the proceedings be dropped in view of the facts set out in the said letter. It was also stated in the said letter that inspite of the cause shown if the AGM deemed it proper to pursue the matter, then the appellant reserves its right to make further submission and also seek personal hearing in the matter.

4. On perusal of the impugned communication it is seen that the AGM has neither considered the cause shown by the appellant in its reply dated April 20, 2016 nor the AGM has given an opportunity of hearing to the appellant even though specifically asked by the appellant. Moreover, the amount directed to be paid by the appellant to the shareholders who had tendered the shares of the Target Company in the open offer has also not been crystallized in the impugned communication.

5. In these circumstances, we direct that the impugned communication dated June 16, 2016 be treated as a supplementary show cause notice issued to the appellant and direct SEBI to pass a fresh order after giving an opportunity of hearing to the appellant. If the appellant deems it fit to file any additional reply, then the appellant may do so within a period of 4 weeks from today. SEBI is directed to pass a fresh order as expeditiously as possible.

6. Appeal is disposed of on 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