

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision: 11.08.2017

Appeal No. 180 of 2017

KKalpana Industries (India) Limited
2B, Pretoria Street,
Kolkata 700 071

...Appellant

Versus

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

2. BSE Limited
P.J. Towers, Dalal Street,
Mumbai- 400 001

...Respondents

Mr. Somasekhar Sundaresan, Advocate with Mr. Ravichandra Hegde,
Mr. Paras Parekh and Ms. Stuti Shah, Advocates i/b J. Sagar Associates
for the Appellant.

Mr. Gaurav Joshi, Senior Advocate with Mr. Tomu Francis and
Mr. Vivek Shah, Advocates for Respondent No. 1

Mr. Ajay Khaire, Advocate with Mr. Nair Renjith Ramesh, Advocate i/b
The Law Point for the Respondent No. 2

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

Per: Justice J.P. Devadhar (Oral)

1. Without conducting any investigation and without hearing the
appellant, whether the Securities and Exchange Board of India ("SEBI"
for short), solely based on the letter dated 09.06.2017 received from the
Ministry of Corporate Affairs (MCA), is justified in passing the ex-parte

order on 07.08.2017 and directing the stock exchanges to treat, inter alia, the appellant company as a 'suspected shell company' and suspend the daily trading in the securities of the appellant company on the stock exchanges by moving the securities of the appellant company to Stage VI of Graded Surveillance Measure ("GSM" for short) is the question raised in this appeal.

2. Similar question was raised in the case of J. Kumar Infraprojects Ltd. (Appeal No. 174 of 2017) and by our order dated 10.08.2017 we have stayed direction 1(a) & (b) contained in the impugned communication of SEBI dated 07.08.2017 qua the appellant therein.

3. In view of the facts set out in the Memorandum of Appeal and other documents tendered at the time of hearing relating to annual turnover of the appellant company for last three years, which even according to SEBI prima facie appear to be correct, we extend the said stay to the case of the appellant company herein and direct the stock exchanges to reverse their decision in respect of the appellant company as expeditiously as possible.

4. Appellant company has already made a representation to SEBI against the impugned communication of SEBI dated 07.08.2017. SEBI is directed to dispose of the said representation in accordance with law.

5. It is made clear that this order shall not come in the way of SEBI as well as the stock exchanges to investigate the case of the appellant company and initiate proceedings if deemed fit.

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

11.08.2017
Prepared & Compared By: PK