

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date : 2.8.2018

**Misc. Application No.184 of 2018
In
Appeal No.377 of 2016**

Prism Infracon Ltd.
124, Karaya Road,
Kolkata – 700017.
West Bengal

.... Applicant
(Org. Appellant)

Versus

Securities and Exchange Board of India
SEBI Bhavan, Plot No.C-4A,
G-Block, Bandra-Kurla Complex,
Bandra (East), Mumbai – 400051.

... Respondent

Mr. Terence Sequeira, Advocate with Mr. Anuj Dave, Advocate i/b. Probus
Legal for the Applicant/(Org. Appellant).

Mr. Mihir Mody, Advocate with Mr. Nishant Upadhyay, Advocate i/b. K.
Ashar & Co. for the Respondent.

CORAM : Dr. C.K.G. Nair, Member

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

1. This Misc. Application has been filed by the Applicant seeking further time for making representation including filing the details as directed by this Appellate Tribunal while disposing of Appeal no.377 of 2016 against the impugned order of SEBI dated 18th February, 2016.

2. Vide order dated 11th October, 2017 this Appellate Tribunal had granted 4 week's time to the appellant to make a representation, alongwith certain other details, to SEBI. Subsequently, on various dates the applicant sought further extension of time. It is on record that on 30th November,

2017 this Appellate Tribunal had granted another two weeks time as a last chance to the Applicant. Accordingly, the last date for submission of documents would have been 15th December, 2017.

3. Subsequently the Applicant moved this Appellate Tribunal for further extension of time only on 27th June, 2018 which is taken up for hearing today. Accordingly, between 15th December, 2017 and 27th June, 2018 the appellant had not approached this Appellate Tribunal for any further extension of time expired on 15th December, 2017.

4. The Applicant has not furnished any reason whatsoever why he did not approach this Appellate Tribunal before the expiry of the extended time granted i.e. before 15th December, 2017 for any further extension of time if there was a bonafide requirement. Rather in para 13 of this Misc. Application the Applicant states as follows:-

“The Applicant submits that between 30th November 2017 – May 2018, while the Applicant did not receive any communication from SEBI as regards further steps being taken in respect of the Applicant Company, the Applicant continued to compile, collate and consolidate the details required for preparing full and proper representation before SEBI. Simultaneously, the Applicant continued to pay its Debenture Holders from its business income, so as not to breach any orders passed by this Hon’ble Tribunal or SEBI.”

5. Learned counsel for the respondent SEBI submits that the company instead of either submitting a representation alongwith other details to SEBI has neither submitted the same nor sought any further extension from this Appellate Tribunal and the belated application moved now by this Misc. Application is only because of receiving the recovery notice dated 25th May, 2018 from SEBI. Accordingly it is delaying tactics from the side of the Applicant/Appellant.

6. Given the facts of the matter, I hold that the Applicant has not only failed to make out any case for seeking additional time for filing representation alongwith the details as ordered by this Appellate Tribunal

vide its two orders dated 11.10.2017 and 30.11.2017. After 15th December, 2017 the Applicant approached this Appellate Tribunal only on 27th June, 2018, after more than 6 ½ months. Undoubtedly this is delaying tactics from the part of the Applicant and gross disobedience of the order passed by this Appellate Tribunal. Further, it is a belated step taken by the Applicant following the recovery notice issued by SEBI on 25th May, 2018 which is another attempt in delaying implementation of the order issued by SEBI. As such the Applicant is trying to nullify the orders passed by both SEBI as well as this Appellate Tribunal. In normal situation rejection of this Misc. Application would have been alongwith costs; however since only a junior Advocate has represented the Applicant I refrain from doing so.

7. For the reasons stated above, the Misc. Application is dismissed with no order as to costs.

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

2.8.2018
Prepared and compared by
RHN