

BEFORE THE SECURITIES APPELLATE TRIBUNAL  
MUMBAI

**Date of Decision: 07/06/2018**

**Appeal No.324 of 2017**

Abhijit Dutta  
Flat No. B + B1  
Pushpahar Appt., 193  
Shanti Pally Kasba  
Kolkata – 700 017.

... Appellant

Versus

Securities and Exchange Board of India  
Plot No.C4-A, 'G' Block,  
Bandra Kurla Complex,  
Bandra (East),  
Mumbai – 400 051.

... Respondent

Mr. P.N. Modi, Senior Advocate a/w Mr. Kunal Katariya, Mr. Manish Chhangani and Ms. Enakshi Jha, Advocates i/b Khaitan & Co. for the Appellant.

Mr. Pradeep Sancheti, Senior Advocate a/w Mr. Mihir Mody and Mr. Nishant Upadhyay, Advocates i/b K. Ashar & Co. for the Respondent.

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

**Per** : Justice J.P. Devadhar (Oral)

1. This appeal is filed to challenge the order passed by the Whole Time Member ("WTM", for short) of Securities and Exchange Board of India ("SEBI", for short) on 15/11/2017. By the said order, while directing Rose Valley and Entertainments Limited ("company" for convenience) and its present directors to wind up the Holiday Membership Plan (HMP scheme) and to refund the amounts to the

investors within the time stipulated therein, the WTM of SEBI has restrained the past directors of the company including the appellant from accessing the securities market for a period of four years and further disqualified them from holding or assuming position as directors or key managerial personnel of any listed company for a period of four years from the date of that order.

2. Admittedly, appellant was a director and Chief Executive Officer (CEO) of the company during the period from 1/8/2011 to 31/1/2012.

3. Fact that the appellant has been the Managing Director and CEO of Nicco Parks and Resorts Limited a listed company, for the last 28 years barring a brief period of six months from 1/8/2011 till 21/1/2012 during which period the appellant was the director and CEO of the company is not in dispute. It is a matter of record that the Central Bureau of Investigation (CBI) and also the Enforcement Directorate (ED) have investigated the issue relating to the funds raised by the company and its directors. Neither in the report of CBI nor in the report of ED the appellant is found to have played a role in the company raising funds in violation of the regulations framed by SEBI.

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4. In these circumstances, without going into the merits of the case in detail, we deem it just and proper to modify the impugned order passed by the WTM of SEBI dated 15/11/2017 qua the appellant, by restricting the restraint order from 15/11/2017 till date only. In other

words, restrictions imposed on the appellant in the impugned order dated 15/11/2017 shall come to an end with immediate effect.

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

Sd/-  
Justice J.P. Devadhar  
Presiding Officer

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

07/06/2018  
prepared & compared by-dg

[\*] Deleted as per order dated 18.06.2018.