

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision : 04/01/2018

Appeal No.357 of 2017

Sh. Subhash Chand Bithal

A-8, 4th Floor, Crosswinds Luxury Homes,
Lodhi Club Road,
Ludhiana – 14 012.

... Appellant

Versus

National Stock Exchange of India Limited
NSE, Exchange Plaza,
C-1, Block G, Bandra Kurla Complex,
Bandra (E), Mumbai – 400 051.

... Respondent

Mr. Gaayan Sethi, Advocate for Appellants.

Mr. Sachin Chandarana a/w Ms. Lipsa Unadkat, Advocates i/b MKA &
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 communication of National Stock Exchange Ltd. ("NSE" for short) dated 30th June, 2017. By the said communication it is held that the claim of the appellant against expelled member Kassa Finvest Private Limited is admissible to the extent of Rs.1,70,69,707.50/-, however, it is held that the maximum

amount payable out of the Investor Protection Fund (IPF) is only Rs.15 lakh.

2. Counsel for the appellant submitted that once it is held that the claim admissible to the appellant is Rs.1,70,69,707.50/-, NSE is not justified in restricting the claim to Rs.15 lakh only. By referring to para 6.1 and 6.2 of the order passed by the Whole Time Member ("WTM" for short) of Securities and Exchange Board of India ("SEBI" for short) on 30th August, 2017 in the case of Kassa Finvest Private Limited, counsel for the appellants submitted that SEBI itself has found NSE guilty of not taking appropriate measures and, in such a case, it is submitted that since NSE failed to monitor the activities of its registered broker, NSE must be directed to pay entire claim admissible to the appellants.

3. We see no merit in the above contentions.

4. Fact that the claim held liable to be paid (admissible) by the erring broker to the appellants comes to Rs.1,70,69,707.50/- does not mean that NSE is liable to pay the said admissible amount to the appellants. Since the guidelines framed by NSE provide for maximum payment of Rs.15 lakh from IPF, the appellant is not justified in seeking amount in excess of Rs.15 lakh from IPF.

5. Reliance placed by counsel for the appellants on the order passed by the WTM of SEBI on 30th August, 2017 in case of Kassa Finvest Pvt. Ltd. , is misconceived. By that order, the WTM of SEBI has accepted the

explanation given by NSE and accordingly discharged the show-cause notice issued to the NSE. In such a case, question of making NSE liable to pay the amounts admissible to the appellants does not arise at all.

6. In these circumstances, we see no merit in the appeal and the same is hereby dismissed with no order as to costs.

Sd/-
Justice J. P. Devadhar
Presiding Officer

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

04/01/2018
prepared & compared by-dg