

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision : 04/01/2018

**Misc. Application No.86 of 2017
And
Appeal No.78 of 2017**

BDBS Associates Limited
(CIN – U22219WB1988PLC217742)
(PAN – AAACB8722D)
12, Shakespeare Sarani,
1st Floor,
Kolkata – 700 701.

... Appellant

Versus

Securities and Exchange Board of India
Eastern Region Office,
L&T Chambers, 3rd Floor,
16, Carnac Street,
Kolkata – 700 017

... Respondent

Mr. Akash Menon, Advocate i/b Mr. Vijay Kanoria, Advocate
for the Appellant.

Mr. Vishal Kanade, Advocate a/w Mr. Mihir Gupte, Advocate i/b
Singhania Legal Services for the Respondent.

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

Per : Justice J. P. Devadhar (Oral)

MISC. APPLICATION NO.86 OF 2017:

1. There is a delay of 259 days in filing this appeal. For the reasons
stated in the Misc. Application No.86 of 2017 the delay is condoned.

The Misc. Application is disposed of accordingly.

APPEAL NO.78 OF 2017:

2. This appeal is filed to challenge the order passed by the Adjudicating Officer (“AO” for short) of Securities and Exchange Board of India (“SEBI” for short) on 28th March, 2016. By the said order, penalty of Rs.2.5 lakh is imposed on the appellant under Section 15HB of SEBI Act, 1992 on ground that the appellant has failed to obtain SEBI Complaints Redressal System (SCORES) authentication within the stipulated time.

3. Counsel for the appellant submitted that the appellant-company in its Annual General Meeting held on 7/9/2001 had resolved to delist its shares from the Gauhati Stock Exchange and accordingly, on 29/10/2001 had written a letter to the Gauhati Stock Exchange for delisting its shares. It is submitted that thereafter there was no dealing of its shares in the Gauhati Stock Exchange and in the records of the Registrar of Companies and also on the portal of Ministry of Corporate Affairs, Government of India, status of the appellant-company is shown as “unlisted company”.

4. We see no merit in the above contentions. There is nothing on record to suggest that the Gauhati Stock Exchange had allowed delisting of the shares of the appellant-company. In the absence of any document issued by the Gauhati Stock Exchange to the effect that the appellant-company has been delisted, the AO was justified in

considering the appellant as a listed company and hence bound and liable to obtain SCORES authentication within the stipulated time.

5. Admittedly the appellant has not obtained the SCORES authentication. Moreover, the appellant has not even intimated to SEBI within the stipulated time that it was under the belief that it was an unlisted company. In these circumstances, decision of the AO in not considering the entries shown in the records of Registrar of Companies and the Ministry of Corporate Affairs, cannot be faulted. Penalty imposed for such violations under Section 15HB of the SEBI Act is up to Rs.1 crore. The AO after considering all mitigating factors has imposed penalty of Rs.2.5 lakh which cannot be said to be excessive or unreasonable.

6. In the result, 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