

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision: 07/05/2018

Appeal No.107 of 2018

Pashupati Cables Ltd.
27-A, 'C' Wing, Mhatre Plaza,
Ground Floor, Dhanukarwadi,
Kandivali (W), Mumbai – 400 067. ... Appellant

Versus

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

Mr. Kamal Agarwal, FCA and authorized representative for the Appellant.

Mr. Karan Bhosale a/w Mr. Pulkit Sukhramani and Ms. Vidhi Jhavar, Advocates i/b The Law Point 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 Adjudicating Officer ("AO", for short) of Securities and Exchange Board of India ("SEBI", for short) on 27th December, 2017. By that order, penalty of Rs.6 lac is imposed on the appellant under Section 15HB of Securities and Exchange Board of India Act, 1992 ("SEBI Act",

for short) for violating Circulars issued by SEBI on 3rd June, 2011, 13th August, 2012, 17th April, 2013 and 18th December, 2014.

2. Fact that the appellant failed to obtain SCORES authenticated in spite of SEBI issuing four circulars in that behalf is not in dispute. However, it is contended that the impugned order is bad-in-law, because, firstly the impugned order is passed without serving the show-cause notice on the appellant. Secondly, it is contended that since the trading in the scrip of the appellant has been suspended since 15th March, 1999, the appellant had not registered itself under SCORES. Thirdly, it is contended that in the absence of any investor complaints or any loss to the investors, the AO is not justified in imposing penalty on the appellant. Fourthly, it is contended that since the company itself has been delisted on 5/7/2017 the AO is not justified in passing the impugned order on 27/12/2017.

3. We see no merit in the aforesaid contentions.

4. Grievance of the appellant that the show-cause notice was not served on the appellant would not survive in the present case, because, it is admitted by the authorized representative of the appellant that SCORES authentication has not been obtained in spite of the circulars issued by SEBI from time to time. Once it is admitted that the appellant has violated SEBI Circulars, then directing issuance of a show-cause notice in that behalf would be futile and in such a case, the only

question to be considered would be, whether the penalty imposed in the present case is justified or not.

5. Argument of the appellant that the SCORES authentication was not obtained on account of the trading in the scrip of the appellant being suspended in the year 1999 is untenable, because, being a listed company, it was obligatory on part of the appellant to obtain SCORES authentication in terms of SEBI Circulars even if the trading in the scrip was suspended in the year 1999. Similarly, fact that there was no investor complaint or investor loss could not be a ground for not obtaining SCORES authentication, because, appellant was obliged to obtain SCORES authentication under the SEBI Circulars, even if there was no investor complaint or investor loss. It was not open to the appellant to contend that SCORES authentication would be obtained only after the investor complaint, if any, was filed.

6. Similarly, fact that the company has been delisted on 5/7/2017 cannot be a ground to escape penalty for the violations committed under the SEBI Act up to the date on which the appellant-company was delisted. However, all the aforesaid factors could be the mitigating factors required to be considered while imposing penalty for the violations committed.

7. Penalty imposable under Section 15HB of SEBI Act for non-compliance of the circulars issued by SEBI is up to Rs.One Crore. However, the AO, after taking into consideration all the aforesaid

mitigating factors has imposed penalty of Rs.6 lac which cannot be said to be unreasonable or excessive.

8. In these circumstances, we see no reason to interfere with the order impugned in the appeal.

9. Accordingly, the appeal is dismissed with no order as to costs.

Sd/-
Justice J.P. Devadhar
Presiding Officer

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

07/05/2018
prepared & compared by-dg