

BEFORE THE SECURITIES APPELLATE TRIBUNAL  
MUMBAI

**Date of Decision: 5.2.2018**

**Misc. Application No.5 of 2018**  
**And**  
**Appeal No.4 of 2018**

Rencal Chemicals (India) Ltd.  
24 Mahavir Centre Sector  
17, Vashi, Navi Mumbai – 400704. .... Appellant

Versus

Securities and Exchange Board of India  
SEBI Bhavan, Plot No.C4A, G Block,  
Bandra Kurla Complex, Bandra (East),  
Mumbai – 400051. ... Respondent

Mr. Yeshwanth Shenoy, Advocate i/b. Nahar Mahala for the Appellant.

Mr. Vishal Kanade, Advocate with Mr. Pranav N. Jain and Mr. Chirag Bhavsar, Advocates i/b. MDP & Partners 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 of Securities and Exchange Board of India (SEBI for short) on 29<sup>th</sup> November, 2017. By the said order penalty of Rs.6 lacs is imposed on the appellant under section 15HB of Securities and Exchange

Board of India Act, 1956 (SEBI Act for short) for failing to obtain SEBI Complaint Redressal System ('SCORES') authentication within the stipulated time inspite of SEBI issuing circulars in that behalf from time to time.

2. It is not in dispute that SEBI from 3.6.2011 has issued various circulars and finally by its consolidated circular dated 18<sup>th</sup> December, 2014 SEBI called upon all the listed companies to obtain SCORES authentication within the time stipulated therein. However, the appellant failed to apply for SCORES authentication and in fact applied for SCORES authentication belatedly on 28.10.2015 and the same was granted to the appellant on 21<sup>st</sup> January, 2016.

3. In view of the failure on the part of the appellant to comply with the SEBI circulars, proceedings were initiated against the appellant and by the impugned order penalty of Rs.6 lac is imposed on the appellant under Section 15HB of the SEBI Act. Challenging the aforesaid order the present appeal is filed.

4. Mr. Yeshwanth Shenoy, learned counsel appearing on behalf of the appellant submitted that firstly the delay in obtaining SCORES authentication did not in any way affect the investors because at the relevant time no investor grievance was pending. Secondly, it is submitted that in several cases the Adjudicating Officer has imposed penalty of Rs.1 lac whereas in the present case exorbitant penalty of Rs.6 lac is imposed on the appellant which is wholly unjustified. Thirdly, it is submitted that the mitigating factors set out in Section 15J of SEBI Act have not been taken

into consideration while passing the impugned order. Accordingly, it is submitted that the impugned order deserves to be quashed and set aside.

5. We see no merit in the above contentions.

6. Fact that no investor grievance were pending at the relevant time cannot be a ground for the appellant to disobey the circulars issued by SEBI from time to time. Whether there was any investor complaint or not, appellant was bound to comply with the circulars issued by SEBI within the time stipulated therein. In none of the circulars issued by SEBI it was stated that SCORES authentication has to be obtained only if there is a pending investor grievance. Therefore, the appellant who is guilty of disobeying the circulars issued by SEBI from time to time and who has applied for SCORES authentication after delay of 10 months from the date of issuing last circular dated December 18, 2014 is not justified in contending that no penalty could be imposed on the ground that no investor complaint was pending at the relevant time.

7. Argument of the appellant that lesser penalty has been imposed in several other cases is without any merit. Quantum of penalty depends upon facts of each case. Therefore, fact that in some cases lesser penalty has been imposed cannot be a ground to hold that even in the present case lesser penalty ought to have been imposed. Therefore, argument of the appellant that in several cases lesser penalty has been imposed merits no consideration.

8. Argument of the appellant that various mitigating factors set out in section 15J of the SEBI Act have not been taken into consideration while

imposing penalty against the appellant is also without any merit. Penalty imposed under Section 15HB of SEBI Act for disobeying the circulars issued by SEBI is up to Rs.1 crore. However, the AO after taking into consideration all the mitigating factors has imposed penalty of Rs.6 lac against imposed penalty of Rs.1 crore. In such a case, penalty of Rs.6 lac imposed against the appellant cannot be said to be harsh, excessive and exorbitant.

9. For all the aforesaid reasons, we see no merit in the appeal and the same is hereby dismissed with no order as to costs.

10. In view of the disposal of the appeal, the Misc. Application no.5 of 2018 does not survive and the same is also disposed of as infructuous.

Sd/-  
Justice J. P. Devadhar  
Presiding Officer

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

5.2.2018  
Prepared and compared by  
RHN