

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision : 01.03.2018

Appeal No. 66 of 2018

GRD Securities Limited
238A, A J C Bose Road,
6th Floor,
Kolkata – 700 012.

...Appellant

Versus

National Stock Exchange of India Limited
Exchange Plaza,
Bandra Kurla Complex,
Bandra East,
Mumbai – 400 051.

...Respondent

Mr. Jaikishan Lakhwani, Advocate for the Appellant.

Mr. Neville Lashkari, Advocate with Mr. Rashid Boatwalla and Mr. Rahul Jain, Advocates i/b Manilal Kher Ambalal for the Respondent.

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

Per : Justice J.P. Devadhar (Oral)

1. Not on Board. Mentioned by counsel for appellant and taken up for hearing by consent of both parties.

2. Appellant is aggrieved by the communication issued by the National Stock Exchange of India Limited ('NSE' for short) on February 26, 2018. By the said communication, the appellant is informed that the representation made on February 16, 2018 seeking stay of the order passed by the

Disciplinary Action Committee (DAC) of the NSE on February 8, 2018 has been rejected.

3. By order dated February 8, 2018 the DAC of NSE sought to impose monetary penalty of Rs. 2,05,43,900/- on the appellant and directed that the trading membership of the appellant in CD segment be suspended for a period of one trading day after giving 3 weeks' notice to the appellant.

4. Accordingly, by a letter dated February 8, 2018 (wrongly typed as February 08, 2017) Dr. Dinesh Kumar Soni, Head – Inspection & Exchange Compliance of NSE forwarded a copy of the order of DAC dated February 8, 2018 and called upon the appellant to pay the penalty amount of Rs. 2,05,43,900/- within 10 days and further stated that as per the order of DAC dated February 8, 2018 the trading membership of the appellant in CD segment will be suspended for a period of one day on Monday, March 05, 2018. In the said letter it was also stated that if the appellant was aggrieved by the order of DAC dated February 8, 2018, the appellant may file Review Application with documentary evidence within 90 days from February 8, 2018.

5. Thereafter, by a letter dated February 16, 2018 the appellant informed NSE that the Review Application is being filed by the appellant and till then operation of the order of DAC dated February 8, 2018 be stayed.

6. By the impugned communication dated February 26, 2018 NSE has informed the appellant that the DAC in its meeting held on February 19, 2018 considered the letter of the appellant dated February 16, 2018 and has

declined to grant stay and hence the order of DAC dated February 8, 2018 shall be implemented.

7. In our opinion, the decision of NSE is unsustainable for two reasons. Firstly, reasons given by DAC for rejecting the plea of the appellant seeking stay of the order dated February 8, 2018, if any, has not been communicated to the appellant which is totally improper. Secondly, having given 90 days time to the appellant to file Review Application, NSE is not justified in seeking to implement the order of DAC dated February 8, 2018 even before expiry of 90 days. NSE cannot treat the Review proceedings as an empty formality and seek to implement the order even before the period for filing Review Application has expired.

8. On behalf of NSE it is contended that the appellant has not yet filed the Review Application and hence, the appellant may at least be permitted to deposit the penalty amount. Having given 90 days time to file Review Application, before the expiry of 90 days it is not open to the NSE to contend that the appellant has not filed the Review Application till date. Similarly, the NSE is not justified in seeking implementation of the impugned order relating to penalty even before the appellant has filed the Review Application.

9. In these circumstances, we pass the following order:-

- (a) Communication of NSE being Exb. 'B' to the appeal dated February 8, 2018 (wrongly typed as February 08, 2017) is quashed and set aside.
- (b) Appellant is directed to file Review Application on or before March 15, 2018.

(c) Subject to the result of the Review Application NSE shall implement the order of DAC dated February 8, 2018.

10. 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

01.03.2018

Prepared and compared by:msb