

**BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI**

Order reserved on: 25-04-2019

Date of Decision : 15-05-2019

**Misc. Application No.354 of 2017
And
Appeal No.388 of 2017**

Pagita Leasing & Finance Company Ltd.
through Authorized Representative
Sh. Shashikant Sharma
205/206, 2nd Floor, Amar Chand Sharma
Complex, S.P. Road, Secunderabad – 500 003. Appellant
(Telangana)

Versus

Securities and Exchange Board of India
SEBI Bhavan, Plot No. C-4A, G-Block,
Bandra-Kurla Complex, Bandra (East),
Mumbai – 400 051. ...Respondent

Ms. R.K. Sanghi a/w Mr. Satyendra Kumar, Advocates
for the Appellant.

Mr. Sumit Rai a/w Mr. Kaushal Parsekar, Advocates
i/b Legasis Partners for the Respondent.

CORAM : Justice Tarun Agarwala, Presiding Officer
Dr. C.K.G. Nair, Member
Justice M.T. Joshi, Judicial Member

Per : Justice Tarun Agarwala, Presiding Officer

Misc. Application No.354 of 2017:

1. By this Misc. Application, appellant seeks exemption in filing certified copies of the impugned order dated 30/11/2017.

For the reasons stated in the Misc. Application, Misc. Application is allowed.

Appeal No.388 of 2017:

2. The appellant is aggrieved by the order of the Adjudicating Officer of Securities and Exchange Board of India (hereinafter "SEBI" for short) dated 30th November, 2017 by which a penalty of Rs.6 lakh under Section 15HB of the SEBI Act, 1992 has been imposed for not obtaining authentication on SCORES (SEBI Complaints Redress System) and violating the circulars/directions issued by SEBI in this regard.

3. SEBI initially issued a circular dated June 03, 2011 for obtaining authentication on SCORES for processing investor complaint received by SEBI. Consequently, another circular dated 18th December, 2014 was issued consolidating the earlier circulars in which all companies whose securities were listed on the stock exchange were directed to obtain SCORES authentication and also redress the pending investor grievances within the stipulated period. Since the company failed to comply with the circulars of SEBI, a show-cause notice dated 19th June, 2017 was issued to show cause as to why an enquiry should not be held and penalty be not imposed under Section 15HB of the SEBI Act. Since the appellant did not appear, an

order of penalty was passed. The appellant being aggrieved has filed the present appeal.

4. We have heard the learned counsel for the parties.

5. It was contended that the show-cause notice that was issued was never served as it was returned undelivered and that there is no proper service on the appellant of the said show-cause notice. It was also alleged that the notice should have been sent at the corporate address or at the address of the promoters or the email address submitted with the Registrar of Companies. Since the show-cause notice was not sent at the aforesaid addresses, the impugned order is in violation of the principles of natural justice as no opportunity of hearing was provided.

6. The impugned order as well as the reply by the respondent to the memo of appeal clearly indicates that initially a show-cause notice dated 19th June, 2017 was sent through the Speed Post but the same returned undelivered. However, the show-cause notice was served by way of affixation as per Rule 7(c) of the Adjudication Rules which was affixed at the registered address of the appellant on 6th July, 2017. It was thus contended that service by affixation was made which was sufficient and since the appellant failed to appear, the ex-parte order was passed which does not suffer from any error of law.

7. In rejoinder the appellant has reiterated that, service of the show-cause notice was insufficient as it was not sent to the corporate address or by email. The appellant has made wild allegation that proper address has not been indicated nor the date of signing of the witness has been mentioned. The report of the affixation has not been signed and only the name of Manoj Pawar has been indicated.

8. In our view, such contentions with regard to affixation cannot be raised for the first time in rejoinder. Such allegation should have been raised in the memo of appeal, which has not been done. In fact, the memo of appeal is silent on the question of service by affixation.

9. Having perused the impugned order and the memo of appeal, and the affidavits in reply as well as rejoinder, we are of the opinion that the requirement of law is to send the summons at the registered office of the company which in the instant case has been done when the show-cause notice was returned undelivered. The said show-cause notice was served by affixation at the registered address of the appellant. Once this has been done, it was not required to serve the appellant at the other addresses. Affixation of the show-cause notice has not been denied. What has been denied by the appellant is the

manner in which the affixation was done. In our opinion, there is no illegality in the affixation of the show-cause notice at the registered address of the appellant done by the respondent.

10. We are, therefore, of the opinion that the appellant was duly served with the show-cause notice by affixation. Since the appellant failed to appear, we do not find any infirmity in the impugned order.

11. The appeal fails and is dismissed. In the circumstances, there shall be no order as to costs.

Sd/-
Justice Tarun Agarwala
Presiding Officer

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

Sd/-
Justice M.T. Joshi
Judicial Member

15-05-2019
prepared & compared by-dg