

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision: 4.4.2019

**Misc. Application No.102 of 2017
And
Appeal No.89 of 2017**

Thapar Ispat Limited
Dhandari Khurd, Focal Point,
Phase-VII, Ludhiana (Punjab)-141010. Appellant

Versus

Securities and Exchange Board of India
SEBI Bhawan, Plot No.C-4A,
G Block, Bandra Kurla Complex,
Bandra (East), Mumbai – 400051. ... Respondent

Mr. Rakesh Puri, Advocate i/b. Mr. Devanshu Desai, for the
Appellant.

Mr. Aditya Chitale, Advocate with Mr. Anubhav Ghosh and
Ms. Vidhi Jhavar, Advocates i/b. The Law Point 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 (Oral)

Misc. Application No.102 of 2017

There is a delay of 12 days in filing this appeal. Cause shown is sufficient. The delay in filing the appeal is condoned. The application is allowed.

Appeal No.89 of 2017

1. The present appeal has been filed questioning the legality and veracity of the order dated 28th April, 2015 passed by the Adjudicating Officer of Securities and Exchange Board of India (referred to hereinafter as 'SEBI') wherein penalty of Rs.15 lakhs was imposed for not resolving the investors grievances within a time specified therein.

2. The grievance of the appellant is that 46 of such complaints were for the period prior to 2001 and records of such complaints were not available on account of a fire which broke out in the Company's office which resulted in the destruction of records. Further, the Company had become a sick industrial unit under the provisions of BIFR since 2001 as a result on account of inadequate staff, the complaints, if any, could not be redressed.

3. Having heard the learned counsel for the parties we find that admittedly the appellant had taken the SCORES

registration in the year 2013. Section 15C of the Securities and Exchange Board of India Act, 1992 (referred to hereinafter as 'SEBI Act') required the Company to redress the grievances of the investors within the time specified. A circular dated 17th April, 2013 was issued indicating that failure by Company to file action taken report under SCORES within 30 days of the date of receipt of the grievances may also attract the provisions of Section 15A(a) of the SEBI Act.

4. We find that the Adjudicating Officer found that after registration on the SCORES the appellant resolved 40 out of 46 complaints and six of these complaints still remained pending on the SCORES database and on account of the continuous default the penalty was imposed.

5. Having heard the learned counsel for the parties, we find that all the pending complaints have been resolved during the pendency of the appeal. Further, in view of the fact that the appellant had become a sick company and the complaints were of the period prior to 2001 we are of the view that since the investor grievances has now been redressed we deem it proper in the present circumstances of the case to reduce the penalty.

6. For the reasons stated aforesaid and considering the fact that the appellant has been undergoing financial constraint, in the fact and given circumstances, we reduce the penalty from Rs.15 lakh to Rs.5 lakh. The said amount shall be deposited before the respondent within six weeks from today. The appeal is partly allowed.

Sd/-
Justice Tarun Agarwala
Presiding Officer

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

Sd/-
Justice M.T. Joshi
Judicial Member

4.4.2019

Prepared and compared by
RHN