

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision : 4.9.2019

Misc. Application No.317 of 2019
And
Misc. Application No.429 of 2019
And
Appeal No.254 of 2019

Dr. Venkadasamy Venkataramanujam
Old No.27/2, New No.22,
26th Cross Road,
Besant Nagar, Chennai-600090. Appellant

Versus

1. Securities and Exchange Board of India
SEBI Bhavan, Plot No.C4-A,
G Block, Bandra Kurla Complex,
Bandra (East), Mumbai – 400 051.
2. Asurre Agrowtech Limited
Having Registered Office at
14, 1st Floor, Raheja Complex,
834, Anna Salai,
Chennai-600002. Respondents

Ms. Shubharanjani Ananth, Advocate with Mr. Avik Sarkar,
Advocate i/b. Kamal & Co. for the Appellant.

Mr. Anubhav Ghosh, Advocate 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.317 of 2019

1. The present appeal has been filed against the impugned order dated 9th May, 2015 passed by the Whole Time Member (hereinafter referred to as 'WTM'). There is a delay of 1060 days in filing the present appeal and accordingly an application for condoning the delay has also been filed.

2. The appellant contends that he was appointed as an independent director in the Company and was 70 years old at the time when the impugned order was passed. It was contended that he is a retired professor and Head of the Department of a Veterinary College and had no knowledge of the implications of SEBI laws arising out of the impugned order. Apart from the aforesaid, health condition of the appellant deteriorated and was suffering from various physiological ailments as well as from Cervical Spondylitis, Osteo Arthritic Condition of Knee joint and deteriorated Cervical Spine. As a result of the aforesaid health problems the appellant was continuously undergoing medical treatment and was advised against travel due to severe motion sickness, vertigo and osteo arthritis. In support of these medical

ailments certain medical certificates and medical prescriptions has been annexed to the application for condoning the delay. It was also asserted that upon receipt of the impugned order the appellant had approached the Company who assured the appellant that they would take all steps as per law and sort out the problem. On this assurance the appellant also did not pursue the matter but woke up when recovery certificates and attachment orders were issued.

3. The application for condonation of delay has been opposed by the respondent SEBI contending that there has been an inordinate delay which has not been explained satisfactorily. It was urged that no sufficient cause had been shown for condoning the delay and, therefore, the application should be rejected.

4. In **Ram Nath Sao alias Ram Nath Sahu and Others vs Gobardhan Sao And Others (2002) 3 SCC 195** the Supreme Court held that the expression 'sufficient cause' should receive a liberal construction so as to advance substantial justice when no negligence or inaction or want of bona fide is imputable to a party.

5. In **Balwant Singh (Dead) vs Jagdish Singh & Ors (2010) 8 SCC 685** the Supreme Court held that the expression “sufficient cause” was explained to imply the presence of legal or adequate reasons.

6. In **Ummer vs. Pottengal Subida & Ors. (2018) 15 SCC 127** the Supreme Court held that where reasons assigned for prolonged illness are genuine the delay should be condoned and the requirement of explanation of each day’s delay was no longer required.

7. In the light of the aforesaid, we find that evidence had been placed to show that the appellant was suffering from various health conditions over a period of time and has filed medical certificates and prescriptions to prove his prolonged illness. The genuineness of these medical records have not been disputed by the respondents. Thus, we are of the opinion that a liberal approach should be taken. The appellant has shown sufficient cause which has been adequately and satisfactorily explained.

8. For the reasons stated aforesaid, delay of 1060 days in filing the appeal is condoned on payment of costs of Rs.25,000/- which shall be deposited before the Registrar of

this Tribunal on or before 27/9/2019. Misc. Application No.317 of 2019 is allowed.

Misc. Application No.429 of 2019 and 254 of 2019

Three weeks time is allowed to the respondent to file a reply to the memo of appeal as well as to the Misc. Application No.429 of 2019. Misc. Application would be listed for orders on September 27, 2019.

Sd/-
Justice Tarun Agarwala
Presiding Officer

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

Sd/-
Justice M.T. Joshi
Judicial Member

4.9.2019

Prepared and compared by
RHN