

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision : 17.08.2020

Misc. Application No. 220 of 2020
In
Appeal No. 146 of 2020

Axis Bank Limited
having its registered address at Trishul”,
3rd Floor, Opposite Samartheshwar Temple,
Near Law Garden, Ellisbridge,
Ahmedabad 380-006.
and its corporate office at Axis House,
Bombay Dyeing Mills Compound, Pandurang
Budhkar Marg, Worli,
Mumbai – 400 025.

...Applicant

In the matter of:-

Axis Bank Limited
having its registered address at Trishul”,
3rd Floor, Opposite Samartheshwar Temple,
Near Law Garden, Ellisbridge,
Ahmedabad 380-006.
and its corporate office at Axis House,
Bombay Dyeing Mills Compound, Pandurang
Budhkar Marg, Worli,
Mumbai – 400 025.

...Appellant

Versus

1. Securities and Exchange Board of India,
SEBI Bhavan, Plot No. C-4A, G-Block,
Bandra-Kurla Complex, Bandra (East),
Mumbai – 400 051.
2. Modex International Securities Ltd.
having its registered office at 507, Padma
Tower-II, 22, Rajendra Place, New Delhi-
110008 and its head office

at 1003-1004 Surya Kiran Building,
Kasturba Gandhi Marg,
New Delhi – 110001.

3. National Securities Depositories Ltd.
4th Floor, “A” Wing, Trade World, Kamala
Mills Compound,
Senapati Bapat Marg, Lower Parel,
Mumbai – 400 013.
4. Central Depository Services (India) Limited
Marathon Futurex, A-Wing, 25th floor,
N.M. Joshi Marg, Lower Parel,
Mumbai - 400 013.
5. The National Stock Exchange of India Ltd.
Exchange Plaza, Plot No. C/1, G Block,
Bandra Kurla Complex, Bandra (E),
Mumbai – 400 051.
6. NSE Clearing Ltd.
Exchange Plaza, Plot No. C/1, G Block,
Bandra Kurla Complex, Bandra (E),
Mumbai – 400 051. ...Respondents

Mr. Gaurav Joshi, Senior Advocate with Mr. Neville Lashkari,
Mr. Chaitanya D. Mehta, Ms. Sonali Aggarwal and Mr. Bhanu
Chopra, Advocates i/b M/s. Dhruve Liladhar & Co. for the
Appellant.

Mr. Rafique Dada, Senior Advocate with Mr. Anubhav Ghosh,
Advocate i/b The Law Point for the Respondent No. 1.

Mr. Ankur Loona, Advocate with Ms. Aparna Wagle, Advocate
i/b Alliance Law for the Respondent No. 2.

Ms. Amita Paunekar, Advocate i/b VP – Legal & Secretarial for
the Respondent No.4.

Mr. Venkatesh Dhond, Senior Advocate with Mr. Vikram
Trivedi, Mr. Rashid Boatwalla, Mr. Rahul Jain and Mr. Pruthvi
Dhinoja, Advocates i/b M/s. Manilal Kher Ambalal & Co. for
Respondent No. 5.

Mr. P.N. Modi, Senior Advocate with Mr. Tushar Ajinkya and Mr. Abhiraj Arora, Advocates i/b ELP for the Respondent No. 6.

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

Per: Justice Tarun Agarwala, Presiding Officer (Oral)

1. The appellant had filed the appeal in the capacity of a Professional Clearing Member (PCM) being aggrieved by the orders dated May 28, 2020 and June 8, 2020 issued by the National Stock Exchange of India Limited ('NSE' for short) (Respondent No. 5) whereby the said respondent directed the appellant to release certain securities which were at security for the trading of Respondent No. 2. By our order dated June 19, 2020, we had directed the NSE to reconcile the statement, based on which, the Minutes of June 29, 2020 was drawn and, on that basis, the appeal of the appellant was disposed of by our order dated July 3, 2020.

2. This Tribunal directed that the securities mentioned in Column (E) and (G) in the Minutes of Meeting dated June 29, 2020 be sold by the appellant for the purpose of recovery of their dues amounting to Rs. 21.61 crore and the surplus, if any,

should be returned to the clients. The Tribunal further directed that the securities mentioned in Column (B) should also be released.

3. An application has now been filed by the appellant seeking clarification / modification / review of our order dated July 7, 2020 contending that the securities in Column (D) of the Minutes of Meeting dated June 29, 2020 has been returned and recovery of almost 21.61 crore (less Rs.14,965/) has been recovered from the securities mentioned in Column (E) and (G). It was contended that apart from the aforesaid amount of Rs. 21.61 crore, the appellant is entitled to recover interest and certain PCM charges which as on date amounts to Rs. 1,00,48,624.96. It was urged that suitable orders be issued directing the appellant to recover the said amount from the securities.

4. Having heard Shri Gaurav Joshi, the learned senior counsel for the appellant, we are of the opinion that the application is misconceived. The relief claimed by the appellant through this Misc. Application is beyond the relief claimed in the memo of appeal. Our order dated July 3, 2020 is clear and requires no clarification or modification. The present

application seeking further relief of Rs. 1,00,48,624.96 was not a relief claimed in the original appeal and cannot be granted in the present application through a review.

5. Consequently no directions can be issued by this Tribunal. The application being misconceived is rejected summarily.

6. The present matter was heard through video conference due to Covid-19 pandemic. At this stage it is not possible to sign a copy of this order nor a certified copy of this order could be issued by the registry. In these circumstances, this order will be digitally signed by the Presiding Officer on behalf of the bench and all concerned parties are directed to act on the digitally signed copy of this order. Parties will act on production of a digitally signed copy sent by fax and/or email.

Sd/-
Justice Tarun Agarwala
Presiding Officer

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

Sd/-
Justice M.T. Joshi
Judicial Member

17.08.2020
msb