

BEFORE THE SECURITIES APPELLATE TRIBUNAL  
MUMBAI

**Date of Decision : 07.08.2020**

**Appeal No. 161 of 2020**

Sanjay Padmakar Adgaonkar  
Flat No. 23, Alkapuri Apartments,  
Opposite ICICI ATM Center, Near  
Deep Bunglow Chowk, Model Colony,  
Pune - 411016, Maharashtra, India. .... 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. Motilal Oswal Financial Services Ltd.  
2<sup>nd</sup> Floor, Palm Spring Centre,  
Next to D-Mart Shopping Centre, Link Road,  
Malad (West), Mumbai - 400064. ... Respondents

Mr. Ninad Deshpande, Advocate i/b Ninad Deshpande & Co. for the  
Appellant.

Mr. Pradeep Sancheti, Senior Advocate with Mr. Mihir Mody, Mr. Shehaab Roshan, Advocates i/b K. Ashar & Co. for the Respondent Nos. 1.

Mr. Ravichandra S. Hegde, Advocate with Mr. Ashish Venugopal, Advocate i/b Parinam Law Associates for the Respondent Nos. 2.

CORAM : Justice Tarun Agarwala, Presiding Officer  
Justice M. T. Joshi, Judicial Member

Per : Justice Tarun Agarwala, Presiding Officer (Oral)

1. We have heard Shri Ninad Deshpande, the learned counsel for the appellant, Mr. Pradeep Sancheti, the learned senior counsel alongwith Mr. Mihir Mody, the learned counsel for Securities and Exchange Board of India (hereinafter referred to as 'SEBI') and Mr. Ravichandra Hegde, the learned counsel for the Depository Participant, respondent No. 2.

2. The present appeal has been filed against the summary disposal of the appellant's complaint on the SCORES platform.

3. The facts leading to the filing of the present appeal is, that the applicant has a demat account with the Depository Participant, namely, respondent No. 2. According to him, the statement of account as on March 31, 2014 showed that he had stocks of approximately Rs. 32,76,163/-. It is alleged that his email ID and mobile number had been changed fraudulently without his knowledge and consent and, when he came to know about this change, he made a complaint to respondent No. 2 on December 15, 2019 contending that stocks worth around Rs. 50 lacs had been transferred without his knowledge and consent. His complaint was rejected by respondent No. 2 on January 1, 2020 and again on January 13, 2020 on the ground that the matter is an old one and that they do not have the necessary documents, namely, Delivery

Instructions Slip (DIS) and transfer / modification form. The appellant thereafter filed a complaint on the SCORES platform which was closed by SEBI by the impugned order of March 3, 2020 upon being satisfied by the reply given by the respondent no. 2 Depository Participant.

4. Before this Tribunal, we find that respondent No. 2 has filed certain documents, namely, the modification forms in order to show that the mobile number and email ID were changed as per the instructions given by the appellant. We find it strange that these documents earlier were not available / traceable by the respondent No. 2 and now all of sudden these documents have been brought on record. We are constrained to observe that the action of respondent No. 2 was not fair.

5. At this stage, the learned senior counsel for SEBI submitted that the matter may be remitted back to SEBI for reinvestigation of

the complaint of the appellant. This suggestion was accepted by the learned counsel for the respondent no. 2 as well as by the appellant.

6. Accordingly, with the consent of the parties, the impugned order of March 3, 2020 closing the complaint of the appellant on SCORES platform is set aside. The appeal is allowed. The matter is remitted to SEBI to reconsider the matter *denovo*. We direct SEBI to conduct an investigation and pass an appropriate order. Any document that is furnished by respondent No. 2 should be made available to the appellant and, if necessary, seek necessary response from the appellant. In view of the aforesaid, parties shall bear their own costs.

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.

Justice Tarun Agarwala  
Presiding Officer

Justice M. T. Joshi  
Judicial Member

07.08.2020  
PTM