

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision : 04.01.2021

Appeal No. 524 of 2020

Mukesh Chauradiya
B203, Sanmay Apartments,
Opp. Prestige Towers,
Judges Bungalow Road, Bodakdev,
Ahmedabad – 380 054, Gujarat. ...Appellant

Versus

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

Mr. Mukesh Chauradiya, Appellant in person and Mr. Devendra Dhanesha, Authorised Representative for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Kinjal Bhatt and Mr. Hersh Chaudhary, Advocates i/b Vidhii 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 (Oral)

1. We have heard the learned counsel for the parties through video conference and perused the reply filed by the respondent.
2. The present appeal has been filed against the order dated September 29, 2020 imposing a penalty of Rs. 10 lakh upon the appellant.
3. The contention of the learned counsel for the appellant is that they had filed the reply to the show cause on June 1, 2020 which was sent through e-mail which has not been considered. Further, the matter was listed for hearing on September 22, 2020 and an e-mail was sent by the appellant on September 21, 2020 praying for an adjournment and fixing another date. It is contended that the e-mail was duly received and the same was not considered. The Adjudicating Officer ('AO' for short) proceeded ex-parte against the appellant and passed the impugned order.
4. Upon hearing the learned counsel for the parties and upon perusal of the reply filed by the respondent we find that admittedly the reply filed by the appellant was not considered while passing the impugned order which in our opinion is in

violation of the principles of natural justice. Even if the appellant did not appear it is the onerous duty of the AO to consider the reply and decide the matter on merits. We also find that the request for an adjournment was not arbitrary and therefore the AO should have considered the adjournment request.

5. In the light of the aforesaid and without going into the merits, we are of the opinion that there has been a violation of the principles of natural justice and therefore on this short ground the impugned order is quashed insofar as it relates to the appellant. The appeal is allowed. The matter is remitted to the AO to decide the matter afresh after giving an opportunity of hearing to the appellant. In the circumstances of the case, 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 Private Secretary 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

Dr. C.K.G. Nair
Member

Justice M.T. Joshi
Judicial Member

04.01.2021
msb