

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision : 05.09.2022

Appeal No. 694 of 2021

Sapna Karmokar
Room No. 6, Kishore Nandoskar Chawl,
Krishna Nagar, Andheri Kurla Road,
Safed Pool, Mumbai - 400 072. Appellant

Versus

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

Mr. Piyush Raheja, Advocate with Mr. Feroz Patel, Mr. Vikrant
Zunjarrao, Mr. Pranav Shah, Advocates i/b Zunjarrao & Co. for the
Appellant.

Mr. Suraj Chaudhary, Advocate with Mr. Chirag Shah, Mr. Veer
Ashar, Ms. Daksha Kasekar, Advocates i/b Mansukhlal Hiralal &
Co. for the Respondent.

CORAM : Justice Tarun Agarwala, Presiding Officer
Justice M. T. Joshi, Judicial Member
Ms. Meera Swarup, Technical Member

Per : Justice Tarun Agarwala, Presiding Officer (Oral)

1. We have heard the learned counsel for the parties. The present appeal has been filed by the appellant who was noticee no. 8 in the proceedings before the Whole Time Member (hereinafter referred to as 'WTM') who has passed an ex-parte order dated April 20, 2021 restraining the appellant from holding any post of a director or any key managerial post for a period of five years and further restrained the appellant from accessing the securities market for a period of five years.

2. We find that show cause notice of the proceeding was served upon the appellant at the company's address. We also find that the appellant had resigned on June 9, 2012 whereas the summons was served much later on March 24, 2017 at the company's address. Since the appellant had already resigned, the question of service upon the appellant does not arise. There is nothing to indicate that the company had forwarded the show cause notice to the appellant.

3. We also find for similar violation, the Adjudicating Officer (hereinafter referred to as 'AO') had issued notices which were duly served and the appellant appeared and participated in the proceedings. The AO by an order dated May 31, 2022 has exonerated the appellant from the charges levelled against her in the show cause notice.

4. In view of the aforesaid, we are satisfied that it is a fit case for remand. Since the matter proceeded ex-parte, we set aside the order of the WTM in so far as it relates to the appellant and remit the matter to the WTM to pass a fresh order in accordance with law after giving an opportunity of hearing. The WTM will also consider the order of the AO. The appeal is allowed.

5. In this regard, the appellant will appear before the WTM on September 30, 2022 and the matter will proceed from there onwards.

6. 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. Certified copy of this order is also available from the Registry on payment of usual charges.

Justice Tarun Agarwala
Presiding Officer

Justice M. T. Joshi
Judicial Member

Ms. Meera Swarup
Technical Member

05.09.2022
PTM