

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision: 16.9.2022

**Misc. Application No.991 of 2022
And
Appeal No.562 of 2022**

K. Sera Sera Box Office Pvt. Ltd.
Unit No.101A & 102,
1st Floor, Plot No.B-17,
Morya Landmark II, Near Infinity Mall,
Andheri (West), Mumbai – 400053. ...Appellant

Versus

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

Mr. Muthahar Khan, Advocate with Mr. Jitendra Sharda,
Advocate for the Appellant.

Mr. Akash Rebello, Advocate with Mr. Abhiraj Arora and Mr.
Shourya Tanay, Advocates i/b. ELP 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. For the reasons stated in the application, the delay in the filing of the appeal is condoned. The application is allowed.
2. We have heard the learned counsel for the parties. Attachment proceedings were initiated against the defaulter known as Cherry Cosmetics P. Ltd. In spite of the attachment of the defaulter's account it is alleged that a sum of Rs.9.12 lakhs was transferred to the appellant's account. Accordingly the appellant received a certificate no.1997 of 2019 dated 8th April, 2022 from the Recovery Officer stating that the aforesaid amount is liable to be recovered from the appellant as it was wrongly transferred by the defaulter into the appellant's account. The appellant being aggrieved by the attachment and recovery notice dated 8th April, 2022 has filed the present appeal.

3. The respondent has produced a letter dated 15th September, 2022 issued by the Recovery Officer directing the banks to release the bank account/locker of the appellants subject to a creation of a lien of Rs.9,39,635/-.
4. Since no plausible explanation is being given by the appellant as to how and under what circumstances the defaulter had transferred the amount to the appellant's account, we dispose of the appeal directing the appellant to make an appropriate representation before the Recovery Officer. If such a representation is made the Recovery Officer will decide the matter after giving an opportunity of hearing. Till then the communication dated 15th September, 2022 issued by the Recovery Officer will continue to operate.
5. 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

16.9.2022
RHN