

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision:8.12.2020

**Misc. Application No.358 of 2020
And
Appeal No.356 of 2020**

Mridula Bhandari
HB-288/2, Sector-III,
Salt Lake City, Calcutta 700091. ...Appellant

Versus

Securities and Exchange Board of India
SEBI Bhavan, Plot No.C4A, Block 'G',
Bandra Kurla Complex, Bandra (East),
Mumbai – 400051. ...Respondent

Mr. Rajendra Kumar Agrawal, Advocate with Ms. Anjali
Agrawal, Advocate i/b. Anjali Agrawal for the Appellant.

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

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

Per: Justice Tarun Agarwala, Presiding Officer (Oral)

1. The appellant being aggrieved by the disposal of the complaint on the SCORES platform by an order of 27th September, 2019 has filed the present appeal. There is a delay of 110 days in filing the present appeal and,

accordingly, an application for condonation of delay has been filed. The ground urged is, that the appellant is 83 years old and is totally dependent on her advocate Mrs. Anjali Agrawal. It was contended that her advocate was undergoing a lot of stress on account of medical emergencies of her son and daughter as a result of which she had to undertake travel to US and Australia where her children were staying. It was also contended that on her return she was afflicted by severe back pain as a result of which she was advised complete bed rest. It was, thus, contended that since her advocate was out of India from 26th December, 2019 to 12th January, 2020 the appellant had no knowledge of the disposal of her complaint and only came to know when her advocate checked on the SCORES platform on 19th January, 2020.

2. On these reasons prima facie there was sufficient justification for condoning the delay but this delay application was contested by the respondent contending that it is a misuse of the process of the law.

3. Having heard Mr. Rajendra Kumar Agrawal, Advocate assisted by Ms. Anjali Agrawal, Advocate for the Appellant and Mr. Pradeep Sancheti, Senior Advocate assisted by Mr. Mihir Mody, Advocate for the Respondent we find that the appellant's husband had filed a suit no.2916 of 1997 against Hindustan Lever Ltd with regard to the non-transfer of 550 shares. This suit was decreed on 3rd November, 2008 against which the company filed appeal no.156 of 2009 which is pending consideration before the Calcutta High Court. Notwithstanding the aforesaid, the appellant filed execution proceeding in the year 2017 and thereafter filed a complaint on the SCORES platform against the company with regard to the same non-transfer of shares on 6th September, 2018 and again on 11th October, 2018 which was disposed of by the respondent on 19th October, 2018. Not being satisfied with the disposal of her complaint, a fresh complaint was filed on 12th November, 2018 which was again disposed of on 14th November, 2018.

Thereafter, another complaint was filed on 16th November, 2018 which was disposed of on 30th November, 2018. The appellant again filed a complaint on 6th February, 2019 which was disposed on the SCORES platform on 26th March 2019. The appellant thereafter file another complaint on 12th April, 2019 which was disposed of on 31st May, 2019 and lastly, a complaint was filed on 16th July, 2019 which was disposed of by the impugned order of 27th September, 2019.

4. All the complaints relate to the same issue, ie, non-transfer of 550 shares which were all disposed of by the respondent SEBI on the SCORES platform.
5. We are of the opinion that there is an inordinate delay in the filing of the appeal. Merely by filing a complaint and getting an order of disposal of the complaint will not enlarge the time for challenging and raising the issue which was decided earlier on the SCORES platform. Such complaint being filed repeatedly on the same issue is a misuse of the process

of law and the Limitation Act cannot be circumvented in such fashion. We find that the same complaint was earlier disposed of on 19th October, 2018, 14th November, 2018, 30th November, 2018, 26th March, 2019 and 31st May, 2019 which has not been challenged and, therefore, it is no longer open to the appellant to raise the same issue again and, thereafter, challenge the order which disposed of the complaint.

6. In our opinion there is an inordinate delay in the filing of the appeal quite apart from the fact that successive complaints being filed was a misuse of the process of law.
7. For the reasons stated aforesaid, on account of the inordinate delay in the filing of the appeal the application for condonation of delay is rejected as a result of which the appeal is also dismissed with no order as to costs.
8. 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

8.12.2020
RHN