

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date : 19/01/2017

Appeal No.512 of 2015

Mr. Sandeep Kumar
Dhirenpuri, Sadanand Road,
Hazaribagh, Jharkhand - 825 301.

... Appellant

Versus

Securities and Exchange Board of India
SEBI Bhavan, Plot No.C4-A,
G-Block, Bandra-Kurla Complex,
Bandra (East),
Mumbai - 400 051.

... Respondent

Mr. Deepak Dhane a/w Ms. Vinita Nair, Advocates i/b Joby Mathew &
Associates for the Appellant.

Mr. Pradeep Sancheti, Senior Advocate with Mr. Anubhav Ghosh,
Advocate i/b The Law Point for the Respondent.

CORAM : Justice J.P. Devadhar, Presiding Officer
Jog Singh, Member
Dr. C.K.G. Nair, Member

Per : Justice J.P. Devadhar (Oral)



1. Appellant is aggrieved by the order passed by the Whole Time Member ("WTM" for short) of Securities and Exchange Board of India ("SEBI" for short) on 19th October, 2015. By that order, Megasys Medi Life Ltd. ("company" for convenience) and its directors including the appellant herein are, inter alia, jointly and severally directed to refund the money collected by the company through the issuance of secured redeemable debentures with interest at 15% per annum compounded at

half yearly intervals from the date when the repayments became due to the investors till the date of actual repayment.

2. It is the case of the appellant that he had resigned as a director of the company on 9th August, 2010 and out of the amount of Rs.52.79 lac collected through secured redeemable debentures during the years 2010-2011 to 2012-2013, only amount of Rs.2.97 lac was collected during the period when the appellant was the director. It is contended on behalf of the appellant that since recovery proceedings have already been initiated by SEBI against the company and other directors for recovery of the entire amount with interest which the company has failed to refund to the investors, recovery against the appellant be restricted to the amount collected during the period when the appellant was director of the company. To prove the bona fides, Counsel for the appellant on instruction submitted that the appellant would submit a fixed deposit receipt of nationalized bank for Rs.5 lac to SEBI on or before 31/1/2017 which SEBI shall be at liberty to encash in case SEBI is unable to recover the entire amount from the company and other directors. Counsel for appellant further states that the appellant shall not dilute the fixed deposit of Rs.5 lac in any manner whatsoever till entire amount under the impugned order is recovered by SEBI.
3. Counsel for SEBI fairly stated that recovery proceedings have been initiated by SEBI against the company and several other directors



by attaching their immovable properties, bank accounts, demat accounts, mutual fund folios, etc., however, recovery is yet to be made.

4. In these circumstances, in the peculiar facts of present case, without going into the merits of the case, we dispose of the appeal by passing the following order:-

(a) Statement made by Counsel for appellant that the appellant shall furnish to SEBI a fixed deposit receipt of a nationalized bank for a sum of Rs.5 lac on or before 31st January, 2017 is accepted. SEBI shall be at liberty to encash the said fixed deposit amount of Rs.5 lac if SEBI is unable to recover entire amount under the impugned order from the assets of the company and other directors attached by SEBI.

(b) Statement made by Counsel for the appellant that the appellant shall not dilute the fixed deposit of Rs.5 lac till the entire dues under the impugned order are recovered to the satisfaction of SEBI is accepted.



(c) Subject to the appellant furnishing a fixed deposit for Rs.5 lac on or before 31/1/2017, SEBI is directed not to take any coercive action and/or enforce the impugned order till the recovery proceedings are completed.

(d) This order is passed in the peculiar facts of the present case and shall not be treated as a precedent in any other matter

and would not come in the way of SEBI in carrying on its recovery proceedings in accordance with law against the company and other directors.

5. Appeal is disposed of in the aforesaid terms with no order as to costs.



Sd/-
Justice J.P. Devadhar
Presiding Officer

Sd/-
Jog Singh
Member

Sd/-
Dr. C.K.G. Nair
Member

19/01/2017

Prepared & compared by-ddg

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REGISTRAR
SECURITIES APPELLATE TRIBUNAL
MUMBAI

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