

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date : 20.4.2018

Appeal No.340 of 2017

Mr. Girishchandra Mukundram Baluni
L-112, Swatantra Senaninagar,
Near Akhbarnagar, New Wadaj,
Ahmedabad – 380013.

.... Appellant

Versus

Securities and Exchange Board of India
SEBI Bhavan, Bandra Kurla Complex,
Mumbai – 400 051.

... Respondent

Mr. Rakesh Puri, Advocate for the Appellant.

Mr. Mustafa Doctor, Senior Advocate with Mr. Nikhil R. Kaoor, Mr. Pulkit Sukhramani and Ms. Vidhi Jhavar, Advocates i/b. The Law Point for the Respondent.

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

Per : Justice J. P. Devadhar (Oral)

1. This appeal is filed to challenge the order passed by the Whole Time Member (WTM) of Securities and Exchange Board of India ('SEBI' for short) on 20th September, 2017. By the said order appellant is held liable to refund the amounts collected by Neesa Technologies Limited jointly and severally with Neesa Technologies Ltd. and its other current directors.
2. In the impugned order it is held that although appellant was not a director when the amounts were collected by the company, being a current director appellant is liable to discharge the liability of the company jointly and severally with the company and other current directors.

3. Before the WTM, appellant contended that he had resigned as director on 4.3.2015, however, in the absence of any documentary evidence, the plea of the appellant was rejected.

4. In the affidavit in rejoinder, filed on 17.4.2018, the appellant has annexed a letter dated 13.4.2018 received from the Registrar of Companies, Gujarat, Dadra and Nagar Haveli wherein it is stated that the appellant was the additional director of Neesa Technologies Ltd up to 27.5.2015 and that the appellant has also filed form no. DIR II with the MCA portal on 3.6.2015.

5. In view of the above document which is not disputed by SEBI, it becomes evident that the appellant cannot be said to be a current director of Neesa Technologies Ltd.

6. In these circumstances decision of the WTM that the appellant continues to be a director of Neesa Technologies Ltd cannot be sustained. Consequently, directions issued against the appellant to refund the monies collected by Neesa Technologies Ltd along with other directors jointly and severally cannot be sustained.

7. In the result impugned order is quashed and set aside qua the appellant and the appeal is allowed in the aforesaid terms with no order as to costs.

Sd/-
Justice J.P. Devadhar
Presiding Officer

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