

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision : 01.02.2022

Appeal No. 746 of 2021

1. Mr. Akash Patni
2. Mr. Vimal Kumar Patni
3. Mr. Vikash Patni

Shanti Niwas, 229,
Goms Defence Colony,
8th Avenue, Vaishali Nagar,
Jaipur 302021, Rajasthan.

....Appellants

Versus

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

... Respondent

Mr. Bhavik Lalan, Advocate with Mr. Kunal Chheda, Advocate i/b
Mr. Kunal Chheda, Advocate for the Appellants.

Mr. Mihir Mody, Advocate with Mr. Arnav Misra, Mr. Mayur
Jaisingh, Advocates 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 present appeal has been filed against the order dated
September 29, 2021 passed by the Whole Time Member (hereinafter

referred to as 'WTM') of Securities and Exchange Board of India (hereinafter referred to as 'SEBI'). It is alleged that the ex-parte order was passed without issuing show cause notice and without giving an opportunity of hearing. In this regard, we had directed the respondent to file a reply. From a perusal of a reply, it is clear that the show cause notice was not served but the same was deemed to have been served by public notices issued in the newspaper published from Kolkata.

2. We find that the show cause notice was sent to the company's address as well as to the residential address. The company was taken over by the official liquidator appointed by the High Court and the residence of the appellants was sold in auction by the bank. All this had happened before the issuance of the show cause notice and, thereafter the appellants had shifted from Kolkata to Jaipur.

3. Considering the aforesaid, we find that the service of the show cause notice was not served upon the appellants and, therefore, the entire proceedings proceeded ex-parte against the appellants. Thus, on this short ground we find that on account of violation of principles of natural justice, the impugned order in so far as it relates to the appellants are concerned cannot be sustained and are quashed.

4. The appeal is allowed. The matter is remitted to the WTM to pass a fresh order in accordance with law after giving an opportunity

of hearing to the appellants. In this regard, we direct the appellants to appear before the WTM on February 18, 2022 on which date a show cause notice will be served upon the appellants and from there onwards the WTM will proceed in accordance with law. In the circumstances of the case, parties shall bear their own costs.

5. 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 Private Secretary 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

01.02.2022
PTM