

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision: 13.05.2022

Misc. Application No. 31 of 2020
And
Appeal No. 94 of 2020

Maheshwari Financial Services Limited
PI-1, River View Apartment,
Patho Ki Magri Udaipur,
Rajasthan- 313 001 ...Appellant

Versus

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

Mr. Kunal Kataria, Advocate with Ms. Aparna Wagle and
Ms. Sonakshi Sahay, Advocates i/b Alliance Law for the
Appellant.

Mr. Shyam Mehta, Senior Advocate with Mr. Mihir Mody,
Mr. Arnav Mishra and Mr. Mayur Jaisingh, Advocates i/b K.
Ashar & Co. 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 Misc. Application is
allowed.

2. The present appeal has been filed against the order dated March 27, 2019 passed by the Whole Time Member (“WTM” for convenience) of the Securities and Exchange Board of India (“SEBI” for convenience) whereby the appellant was debarred from accessing the securities market for a period of eight years and was further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner.

3. The short ground urged is, that the impugned order is an ex-parte order. The show cause notice was never served upon the appellant nor any opportunity of hearing was provided and, therefore, on this ground the impugned order is liable to be set aside for violation of the principles of natural justice.

4. In this regard, we find from the impugned order that there is no clear indication of service being made upon the appellant. The reply of the respondent indicates that service was made by affixation. Admittedly, the show cause notice dated June 14, 2017 came back undelivered and thereafter the same was served by affixation. We find that the registered office of the appellant had changed w.e.f. April 13, 2017. The affixation of the summons was made at the previous registered office of the appellant. Therefore, we are satisfied that the appellant was not

served with the show cause notice and, consequently, proceedings made by the WTM were violative of the principles of natural justice.

5. For the reasons stated aforesaid, the impugned order cannot be sustained and is set aside. The matter is remitted to the WTM to decide the matter afresh after serving the show cause notice to the appellant. In this regard, the appellant shall appear before the WTM on June 06, 2022 on which date the show cause notice will be served and from there onwards the matter will proceed and will be decided in accordance with law after giving an opportunity of hearing.

6. 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