
Balkrishna Kamalakar Tendulkar Vs BSE Ltd And Others

Miscellaneous Application No.678, 679, 733 Of 2021, Appeal No. 421 Of 2021

Court: Securities Appellate Tribunal Mumbai

Date of Decision: July 1, 2021

Acts Referred:

Securities And Exchange Board Of India (Delisting Of Equity Shares) Regulations, 2009 &"
Regulation 24(1), 24(2)

Hon'ble Judges: Tarun Agarwala, Presiding Officer; M. T. Joshi, J

Bench: Division Bench

Advocate: J. J. Bhatt, Hetal Joshi, Tomu Francis, Zarnaab Aswad

Final Decision: Dismissed

Judgement

Tarun Agarwala, Presiding Officer

1. The appellant has challenged the order dated May 16, 2018 whereby the demat account of the appellant was frozen. According to the own case of

the appellant, the impugned order was made known to him in October 2019. There is a delay in the filing of the appeal. According to the appellant, the

delay is 92 days counting from the last date of correspondence which was made on March 18, 2021.

2. In our view, the delay indicated by the appellant is patently erroneous. The delay has to be counted from the date of the impugned order, namely,

May 16, 2018 and according to the registry the delay works out to 1067 days. No steps whatsoever was taken by the appellant to file an appeal

immediately after knowing about the impugned order. Merely because, the appellant chose to correspond with the Stock Exchange will not extend the

period of limitation. In our view, the appellant has not taken proper steps to file an appeal within the period of limitation..
Consequently, we are of the

opinion that there is an inordinate delay in the filing of the appeal. Sufficient cause has not been shown and, therefore, the delay cannot be condoned.

3. Further, the demat account was frozen on May 16, 2018 because the company was compulsorily delisted under the Securities and Exchange Board

of India (Delisting of Equity Shares) Regulations, 2009 (hereinafter referred to as "Delisting Regulations"). The appellant admittedly is a

promoter of that company and as per Section 24(1) of the Delisting Regulations, the appellant is restrained from accessing the securities market for a

period of 10 years, as the consequence of this debarment the demat account is frozen.

4. It has also been stated that as per the Regulation 24(2) if the value of the shares is NIL, in which case the demat account cannot be frozen.

However, in the instant case, the stock exchange has given a positive value of Rs. 1/ per share which according to the appellant is stated to be

incorrect. This aspect cannot be dealt with in this appeal as we stated this appeal was filed belatedly.

5. We accordingly dismiss the appeal on the ground of laches as being heavily barred by limitation. The appeal is dismissed with the observation that it

will be open to the appellant to move an appropriate application before the stock exchange with regard to the valuation of the shares by giving

appropriate evidence. If such an application is filed, the stock exchange will deal with it appropriately.

6. 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.