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SAT's Key Judgments : 2019 to 2024

Introduction

This compendium presents a curated collection of judgments rendered by the Hon'ble Securities Appellate Tribunal ("**SAT**") from 2019 to 2024. Established to hear and dispose of appeals against orders passed by the Securities and Exchange Board of India (SEBI), the Insurance Regulatory and Development Authority of India (IRDAI), and the Pension Fund Regulatory and Development Authority (PFRDA), SAT plays a pivotal role in shaping the regulatory landscape of the financial and securities markets in India.

Over the past five years, SAT has adjudicated on a wide array of issues, ranging from market manipulation and insider trading to corporate governance and investor protection. This period has witnessed significant developments in securities law, influenced by evolving market practices and regulatory reforms aimed at enhancing transparency, accountability, and fairness in the financial sector.

A notable figure during this period has been Justice Tarun Agarwala, who served as the Presiding Officer of SAT. Justice Agarwala brought a wealth of experience and judicial acumen to the Tribunal, having previously served as a judge in various high courts across India. His tenure at SAT was marked by a commitment to delivering fair and well-reasoned judgments, which have significantly contributed to the development of securities jurisprudence in the country even in the midst of a pandemic crisis. Under his leadership, the Tribunal navigated complex legal issues with clarity and ensured that the principles of justice were upheld in the regulatory framework governing the securities markets.

The judgments included in this compendium not only reflect the Tribunal's interpretations and applications of the law but also provide critical insights into the regulatory priorities and enforcement strategies of SEBI and other associated authorities. By compiling some of these rulings, we aim to offer a comprehensive resource for legal practitioners, scholars, regulators, and market participants who seek to understand the nuances of securities regulation and its impact on the market.

Each judgment is accompanied by a succinct summary that highlights the key issues and conclusions. These summaries are designed to provide a quick reference and this ensures that readers can engage with the material as a high-level overview and can quickly refer to the full text of the judgments for a granular and detailed understanding of the law laid down by SAT.

We hope this compendium serves as a valuable tool for fostering a deeper understanding of securities law and contributes to the ongoing discourse on market regulation in India. As the financial markets continue to evolve, the role of judicial oversight by bodies like SAT remains crucial in maintaining the integrity and stability of the financial system.

In order to prepare this Compendium, we have categorized the relevant judgments into topics and have included those judgments which, in our view, were relevant and interesting.

The present Compendium is the first volume of a three-volume series with each volume covering different topics.
Happy reading!

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SEBI COMPLAINT REDRESSAL SYSTEM (SCORES)

SCORES is an online platform designed to help complainants to lodge their complaints with SEBI against listed companies and SEBI registered intermediaries. On 1st April 2024, SEBI introduced SCORES 2.0 which assures a strengthened and more efficient complaint redressal mechanism in the securities market.

Certain interesting judgments on the topic are as follows:

Appeal No. 205 of 2018 – Ankit Mehta – Ex-Director of M/s. Janice Textiles Ltd. v. SEBI

Background

SAT dealt with an order of SEBI passed in respect of Janice Textiles Limited ("**Janice**"). The issue pertains to a penalty imposed on Janice Textiles Ltd. for not obtaining SCORES authentication.

Arguments

Appellant's contention: Janice stood dissolved, without winding up, pursuant to a scheme of amalgamation sanctioned by Bombay high Court and Gujarat High Court. It was further contended that they have complied with all necessary legal procedures and communicated the status change to the BSE and the ROC.

SEBI's contention: Janice was listed on the BSE till 2015, hence, SEBI imposed penalty for non – compliance with SCORES.

Findings

SAT held that merely because the exchange continued to list and show Janice as a listed company, the fault cannot be attributed to Janice. SAT further concluded that upon amalgamation and subsequent dissolution, Janice ceased to exist as a corporate entity. Consequently, SEBI's circulars in relation to SCORES, issued in 2012, 2013 and 2015 (i.e. post-dissolution) were not applicable to Janice. Hence, the Appeal was allowed.

Appeal No. 437 of 2018 – Kitex Garments Ltd. v. SEBI

Background

Kitex Garments Ltd. ("**Kitex**") appealed against an order by SEBI, which imposed penalties for failing to resolve a shareholder complaint registered on SCORES within the stipulated timeframe.

Arguments

Appellant's contention: The transactions leading to the complaint occurred in 2006. Kitex stated that it had issued certain post-split shares to previous shareholders, which has caused the issue. Kitex stated that despite the event occurring in 2006, the complaint was filed by the shareholder only in 2015. It also stated that the shareholder's grievance was ultimately resolved by transferring the required shares to his demat account after SEBI's impugned order.

SEBI's contention: The Appellant had failed to act promptly. SEBI emphasized that the resolution only occurred after the order, showing that the appellant could have acted sooner.

Findings

SAT noted that the complaint had remained unresolved for a period of three years, until the passing of the impugned order by SEBI. SAT held that Kitex had erred in addressing the SCORES complaint. Hence, the Appeal was dismissed.

Appeal No. 550 of 2022 – Dalhousie Holdings Ltd. v SEBI and Ors.

Background

The case involves an appeal by Dalhousie Holdings Ltd. ("**Dalhousie**") against SEBI in relation to the disposal of a complaint made by it on SCORES. The complaint was in relation to alleged non-disclosures under SEBI regulations by the acquirers of Dalhousie.

Arguments

Appellant's contention: SEBI did not adequately address their complaint. They contended that SEBI's response, which had only attached the company's reply, without any reasoning, demonstrated a lack of due consideration and application of mind by SEBI.

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SEBI's contention: The complaint primarily pertained to non-response from the company, hence, the response was provided. Additionally, SEBI stated that the Appellant was engaging in forum shopping since similar issues were pending before the NCLT.

Findings

SAT held that reasons, howsoever brief, must be given while disposing of the complaint on the SCORES platform. Merely attaching the company's reply tantamount to non-application of mind. Accordingly, the Appeal was allowed and the impugned order passed by SEBI was set aside.

Appeal No. 389 of 2020 – Rajen Kirtanlal Shah v SEBI and Ors.

Background

The Appellant had entered into a Portfolio Management Agreement with Piramal Fund Management Pvt. Ltd. ("**Piramal**") on 13th December 2017. The agreement was to manage Appellant's investments. Disputes arose between the parties. The Appellant inter alia alleged that the terms and conditions in the term sheet were unilaterally altered to his disadvantage by Piramal. Consequently, the Appellant lodged a complaint on the SCORES platform, seeking the cancellation of Piramal's registration as a Portfolio Manager due to an alleged breach of duty and lack of diligence.

Arguments

Appellant's contention: The alteration to the terms and conditions of the terms sheet was detrimental to the interests of the Appellant and Piramal's registration as a Portfolio Manager should be cancelled.

SEBI and Piramal's contention: The complaint was a private dispute concerning financial transactions, which is not within the purview of the SCORES platform for adjudication.

Findings

The complaint of the Appellant was purely a private dispute and such private disputes relating to financial transactions cannot be adjudicated on the SCORES platform. Although, the reasoning provided was brief, it did not vitiate the order. Accordingly, the Appeal was dismissed.

PERSONS ACTING IN CONCERT

Persons acting in concert is defined in Section 2(q) of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 ("**SAST Regulations**"). The definition includes persons whose common objective is substantial acquisition of shares, or voting rights or for exercising control over a target company. Key factors for persons acting in concert are that such persons must: (i) have a common objective or purpose; (ii) be acting pursuant to an agreement or understanding (be it formal or informal); (iii) must be cooperating with each other, either directly or indirectly. Regulation 2(q)(2) of SAST creates a deeming fiction for a category of persons who shall be deemed to be persons acting in concert. The onus, of proving otherwise, will be on such persons.

Certain interesting judgments on the topic are as follows:

Appeal No. 457 of 2020 – Trishla Jain and Ors. v. SEBI

Background

The Appellants challenged the decision of SEBI which imposed penalties and directed them to make a public announcement of an open offer for acquiring shares of Focus Industrial Resources Ltd. ("**FIRL**"). SEBI's decision was pursuant to Appellants' failure to comply with SAST despite acquiring more than 5% shares of FIRL without making a public offer.

Arguments

Appellant's contention: The appellants claimed they were not acting in concert with other promoters during the relevant period and were not promoters of FIRL. It was also submitted by the Appellants that their shareholdings in FIRL resulted from a merger and not from any concerted action to acquire shares.

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SEBI's contention: SEBI stated that the Appellants were listed as promoters in FIRL's disclosures to stock exchanges and the Appellants had not objected to this classification. It was also submitted on behalf of SEBI that the Appellants were deemed to be persons acting concert, unless proven otherwise as per SAST.

Findings

SAT held that in terms of SAST, promoters are deemed to be acting in concert unless proved otherwise. SAT also observed that the Appellants were listed as promoters in FIRL's disclosures and they had not objected to this classification. Accordingly, the Appeal was dismissed.

Appeal No. 250 of 2017 – Sungold Capital Limited and Ors. v. SEBI

Background

The Appellants, Sungold Capital Limited and its directors/promoters, challenged SEBI's orders. The orders penalized them for non-compliance with several SEBI regulations, including failing to disclose promoter group shareholding accurately and not reporting changes in the shareholding of the immediate relatives of the promoter. The primary issue was the misclassification of shares held by the promoter's relatives as public holdings, violating various SEBI regulations.

Arguments

Appellant's contention: That the purported misclassification was due to strained personal relationships, particularly between Rajiv R. Kotia and his wife and son, which led to them living separately. Consequently, it was also submitted on behalf of the Appellants that relatives of Rajiv Kotia's wife should not be considered part of the promoter group.

SEBI's contention: SEBI maintained that the promoter group includes immediate relatives regardless of personal estrangement, as defined by Regulation 2(zb) of the ICDR Regulations

Findings

SAT held that personal estrangement does not exempt a promoter from regulatory requirements to disclose shareholdings of immediate relatives. SAT also noted that since there was no judicial separation between the Appellant and his wife, the disclosures ought to have been made. Accordingly, the Appeal was dismissed.

Appeal No. 583 of 2019 – ICICI Bank Ltd. v SEBI

Background

SAT was dealing with a question as to whether a binding implementation agreement was liable to be disclosed on an immediate basis under Clause 36 of the Listing Agreement and Regulation 12(2) of the PIT Regulations.

Arguments

Appellant's contention: The Appellant contended that certain conditions precedent had to be fulfilled, without which, the agreement was nothing but a bundle of papers. Further, the Appellant argued that the agreement was a contingent agreement, not a certainty, and therefore, did not have to be disclosed.

SEBI's contention: SAT maintained that the binding agreement ought to have been disclosed on an immediate basis.

Findings

SAT held that disclosure regulations and the provisions of the Indian Contract Act, 1872 stood on a different footing. It further held that while certainty is paramount for a contract, materiality of an event is what is tested in disclosure. It held that disclosure provisions both under Clause 36 read with Section 21of SCRA and under the PIT Regulations would necessitate disclosure of the since what is liable to be disclosed is material and price sensitive information relating to the performance of a company on a continuous basis. Accordingly, the Appeal was dismissed.

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INSIDER TRADING

Insider trading means trading in shares of a company while in possession of Unpublished Price Sensitive Information ("**UPSI**"). This is prohibited under the SEBI (Prohibition of Insider Trading) Regulations, 2015 ("**PIT Regulations**"). The prohibition on insider trading is based on the premise that trading in a security by an insider may be influenced by UPSI, which would be detrimental to the interests of other investors in the market.

Certain interesting judgments on the topic are as follows:

Appeal No. 467 of 2021 – Aptech Ltd. v. SEBI

Background

The Appellant entered into a non-disclosure agreement with Montana International Pre-School Pvt. Ltd. ("**Montana**") on 14th March 2016. Thereafter, on 7th September 2016, the Appellant made an announcement on the Stock Exchange inter alia informing of its partnership with Montana and stating that it was foraying into preschool education. SEBI passed an order imposing penalty on the Appellant for non – compliance with PIT regulations. SEBI deemed the agreement with Montana to be UPSI and accordingly, required the Appellant to close its trading window.

Arguments

Appellant's contention: The information was not material in terms of the SEBI (Listing Obligation and Disclosure Requirements) Regulations, 2015. It further stated that the Appellant had framed a Policy on Determination of Materiality of Events and Information for Disclosure to the Stock Exchanges ("**Policy**"). As per the said Policy only a major expansion was considered material. In the present case the Appellant's collaboration with Montana was in the same field of education it was already involved in and therefore it was an activity in the regular course of business. Accordingly, there was no expansion of business which is a deemed UPSI under Regulation 2(1)(n)(vi) of PIT Regulations.

SEBI's contention: SEBI alleged that the information in relation to expansion of business was UPSI in terms of PIT Regulations. Hence, the Appellant was required to close its trading window for trading by the designated persons of the appellant.

Findings

SAT held that the press release by the Appellant would show that it was foraying in the new venture in collaboration with Montana, which can be considered as an expansion of business. Regulation 2(1)(n)(iv) provides that expansion of business would be deemed to be UPSI. Accordingly, the Appeal was dismissed.

Appeal no. 298 of 2020 – Avenue Supermarts Limited v. SEBI

Background

The Appeal was against an order dated 31st July 2020. By the order, SEBI imposed a penalty for the delay in making the disclosures under Regulation 7(2)(a) & (b) of PIT Regulations. An employee of the Appellant, Mr. Vidyadhar D. Vardam, who was a store manager sold 5000 shares of the Appellant on 3rd April 2018 aggregating to Rs. 67.90 lakhs. Under the relevant regulations, the employee was required to inform the Company of the transaction, which he failed to do. Accordingly, a show cause notice was issued to the employee, the Appellant and its Compliance Officer. It was alleged that the employee has violated Regulation 7(2)(a) of the PIT Regulations for not informing the Appellant about the transactions and the Appellant violated Regulation 7(2)(b) of the PIT Regulations for not informing the stock exchange within two trading days of receipt of the disclosure or from becoming aware of such information.

Arguments

Appellant's contention: The Appellant contended that they became aware of the transaction done by the employee when it was informed of the same by the employee. Immediately thereafter, they notified the stock exchange.

SEBI's contention: The beneficiary position report (i.e. Benpos report) submitted by the

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Registrar and Share Transfer Agent on 9th April 2018 reveals the transactions made by the employee and, therefore, the disclosure made by the Appellant on 29th July 2019 was delayed by 474 days in violation of Regulation 7(2)(b) of the PIT Regulations.

Findings

SAT stated that the Benpos report is submitted under the Depositories Act and is generated for updating register of members. SAT also stated that it is not possible for a company nor expected of it to analyze the Benpos report and identify trades. While the SAT set aside the impugned order, it upheld the monetary penalty levied on the Appellant since it had failed to take any steps of making disclosures after being informed of the transaction pursuant to SEBI's show cause notice.

Appeal No. 430 of 2019 – Utsav Pathak v. SEBI

Background

The Appeal was against an order passed by SEBI holding the Appellant guilty of insider trading, but no penalty was imposed. SEBI's case was that the Appellant was an employee of a merchant banker who was appointed to work on the open offer assignment for acquisition of shares of a target company. SEBI concluded, based on circumstantial evidence, that the Appellant shared UPSI regarding the target company with close relatives ("**Tippees**"), who then traded shares and profited from this information.

Arguments

Appellant's contention: SEBI's decision was based on surmises and conjectures rather than solid evidence. He contended that the statements of his sister, brother-in-law, and father-in-law, which could demonstrate that the Tippees were independent decision-makers, were not adequately considered. It was further contended by the Appellant that the inference against him was drawn only on the strength of proximity of relationship with his close relatives.

SEBI's contention: SEBI maintained that direct evidence in insider trading cases is rare, and circumstantial evidence should be sufficient. They argued that the foundational facts indicated that Pathak had access to UPSI and a close relationship with the Tippees.

Findings

SAT noted that it is a fundamental principle of law that proving of an allegation levelled against a person can be derived either from direct substantive evidence or can be inferred by a logical process of reasoning from the totality of attending facts and circumstances surrounding the allegations made and levelled. SAT stated that insider trading can often be proven through circumstantial evidence, and in this case, the established facts were sufficient to support SEBI's findings. Accordingly, the Appeal was dismissed.

FRAUDULENT AND UNFAIR TRADE PRACTICES

The SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 ("**PFUTP Regulations**") aim to protect investors and maintain market integrity by preventing fraudulent activities and market manipulation. They ensure transparency, fairness and ethical conduct among market participants to fster a trustworthy securities market.

Certain interesting judgments on the topic are as follows:

Appeal No. 739 of 2022 – Scan Infrastructure Ltd. v. SEBI

Background

SEBI investigated the Appellant, Scan Infrastructure Ltd. and other associated entities for alleged fraudulent activities concerning the preferential allotment of shares. The investigation revealed that funds were being round-tripped between the Appellant and various entities to create an illusion of genuine capital infusion. This scheme involved the Company funding the preferential allottees,

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who in turn would subscribe to the Appellant's shares, thus completing a circular flow of funds that violated securities laws.

Arguments

Appellant's contention: The Appellant contended that it had made payments as a part of regular business transactions and were not intended to fund the preferential allotment.

SEBI's contention: SEBI maintained that the Company, through its conduits, funded the preferential allottees, demonstrating fraudulent intent. It stated that the scheme violated Section 12A of the SEBI Act, 1992 ("**SEBI Act**") and Regulations 3 and 4 of the PFUTP Regulations due to the non-disclosure of the shareholding pattern of the promoters and fraudulent round-tripping of funds.

Findings

The Tribunal confirmed SEBI's findings that the Company had engaged in round-tripping of funds. This was evidenced by the quick movement of funds between the Company, conduits, and preferential allottees, indicating no genuine capital infusion. Accordingly, the Appeal was dismissed.

Appeal No. 63 of 2018 – R. S. Agarwal v. SEBI

Background

The issue arose from a statement made by the Appellant, a chairman of Emami Ltd., to a journalist indicating an interest in acquiring Amrutanjan Healthcare Ltd. This statement, reported in the Times of India led SEBI to investigate whether this statement constituted a violation of the PFUTP Regulations. SEBI passed an order holding the Appellant to be in violation of PFUTP Regulations.

Arguments

Appellant's contention: The statement was a general expression of interest in acquisitions within the Pharma and FMCG sectors and there was no actual move to acquire Amrutanjan and no shares of Amrutanjan were purchased by him or Emami Ltd. Further, Emami Ltd. promptly clarified the statement to the National Stock Exchange (NSE), stating it was a general expression of interest and that they did not hold any shares in Amrutanjan.

SEBI's contention: The statement had a significant impact on the stock price and trading volumes of Amrutanjan, which constituted market manipulation under PFUTP Regulations.

Findings

SAT noted that the Chairman had not acquired any shares of Amrutanjan and had not made any effort for acquisition as well. It stated that in the absence of any motive or a scheme or any evidence, a reported news item alone is not sufficient to prove a serious charge like fraud. Accordingly, the Appeal was allowed.

LIABILITY OF DIRECTORS

Section 27 of the SEBI Act deals with offences committed by a company. It states that "*Where a contravention of any of the provisions of this Act or any rule, regulation, direction or order made thereunder has been committed by a company, every person who at the time the contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:*"

It also carves out an exception which reads as follows "*Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such contravention*".

An interesting judgment on the topic is as follows:

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Appeal No. 406 of 2020 - Gurmeet Singh v. SEBI

Background

SAT dealt with a batch Appeals where SEBI imposed penalties on the Appellants for *inter alia* inadequate disclosures made in relation to the issuance of Global Depositary Receipts ("*GDR*"). Certain penalties were imposed on directors on the basis that they had signed the resolution authorizing the managing director to raise monies pursuant to the GDR.

Arguments

Appellant's contention: Merely being signatories to a resolution authorising the managing director is not adequate to allege fraud.

SEBI's contention: The directors who signed the resolution authorising Managing Director to sign the documents facilitated the execution of the fraudulent scheme.

Findings

SAT *inter alia* held that the only person liable was the managing director since he was involved in the day-today affairs of the company. SAT also held that merely being signatories to a resolution is not sufficient to allege fraud. Hence, the directors who had signed the resolution were exonerated.

SUBSTANTIAL ACQUISITION OF SHARES AND TAKEOVERS

SEBI (Substantial Acquisition of Shares and Takeovers) Regulations 2011 ("**SAST Regulations**") aim to ensure transparency and fairness in the process of substantial acquisition of shares and control in listed companies. The key objectives are to protect the interests of minority shareholders, provide them with exit opportunities during takeovers and maintain an orderly and fair process for corporate takeovers.

Certain interesting judgments on the topic are as follows:

Appeal No. 748 of 2021[1] - Reliance Industries Holding Private Limited & Ors. v. SEBI

Background

The issue in the case was regarding the issuance of non-convertible secured redeemable debentures with warrants by Reliance Industries Ltd. to certain connected parties in 1994. The warrants were exercised and accordingly, equity shares were allotted to these parties.

Arguments

Appellant's contention: The appellants argued that their acquisition of detachable warrants occurred in January 1994, before the SAST Regulations of 1997 came into effect. Therefore, the SAST regulations should not apply retroactively to their case.

SEBI's contention: SEBI argued that the acquisition of warrants equates to an intention to acquire shares with voting rights, thus triggering the obligation to make an open offer under the SAST Regulations.

Findings

SAT held that the SAST Regulations of 1997 is prospective in nature. SAT quashed SEBI's order and held that a person will be considered to be an 'acquirer' under the SAST only if he had acquired convertible securities *after* the SAST had come into effect. Accordingly, the Appeal was allowed.

1 Civil Appeal No. 6595 of 2023 filed by SEBI before the Hon'ble Supreme Court of India against the SAT's order is pending as on date.

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Appeal No. 740 of 2022 – Pooja R. Tikmani & Ors. v. SEB

Background

The Appellants challenged an order of SEBI which *inter alia* held the Appellants in violation of Regulation 14(1) of SAST Regulations. The issue originated from a show cause notice alleging that the appellants, acting in concert, made an open offer in 2016 for acquiring shares of Alfa ICA India Limited. It was claimed that this triggered earlier violations from 2003 and 2010-11 regarding the acquisition of shares and the requirement to make an open offer under the SAST Regulations.

Arguments

Appellant's contention: The shares in question were bought using the funds of the HUF and were held in the name of the existing Karta on behalf of the HUF, following SEBI's rules which initially did not allow HUFs to dematerialize shares directly. The acquisition of shares by the HUF did not trigger an open offer obligation as it was a ministerial act, not an acquisition under the SAST Regulations.

SEBI's contention: Acquisition of shares by the HUF in 2010-11 should have triggered an open offer, which was not made, leading to a violation of Regulation 14(1).

Findings

SAT held that the transfer of shares from the Karta of an HUF to the HUF itself does not trigger open offer under Regulations 10 and 11 as there is no acquisition of shares but only a ministerial act. Accordingly, the Appeal was allowed.

Appeal No. 325 of 2016[2] - Premier Capital Services Ltd. & Ors. v. SEBI

Background

The Appellant Company and its directors were penalized by SEBI for failing to make requisite disclosures under Regulation 8(3) and for violations of Regulations 10 and 11 of the SAST Regulations. The appellants challenged the penalties imposed, arguing that disclosures were unnecessary in the absence of shareholding changes and that there was inconsistency in the penalties imposed on different parties for similar violations.

Arguments

Appellant's contention: Regulations 10 and 11 of the Takeover Code, 1997 operated in different spheres and could not be applied to the same transaction.

SEBI's contention: That penalties could be imposed for violation of Regulation 10 and 11 of the Takeover Code, 1997.

Findings

SAT held that SEBI could pursue actions under Regulations 10 and 11 of the Takeover Code, 1997 simultaneously. Accordingly, the Appeal was dismissed.

Appeal No. 349 of 2019 - M/s Thern Flow Engineers Pvt. Ltd. v. SEBI

Background

The Appellant challenged an order issued by the WTM of SEBI. The order mandated the Appellant to make a public announcement to acquire shares of Patel Airtemp (India) Limited ("**Target Company**") within 45 days and to pay interest at 10% per annum. This was due to the appellant's acquisition of 15,000 shares (0.30%) from a fellow promoter, which raised its holding from 24.74% to 25.04%, surpassing the regulatory threshold and allegedly triggering an open offer obligation under the SAST.

Arguments

Appellant's contention: The Appellant argued that since the total holding of promoters as a collective unit remained unchanged, the regulations should not apply. The Appellant acknowledged the acquisition exceeded the exempted limit but argued the breach was minimal.

SEBI's contention: SEBI maintained that the acquisition price of the Target Company

2 Civil Appeal No. 864 of 2021 filed by the erstwhile promoters of Premier Capital Services Ltd. before the Hon'ble Supreme Court of India against the SAT's order is pending as on date.

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exceeded the permissible limit of 125% of the volume-weighted average market price, thus triggering the open offer obligation.

Findings

SAT noted that the acquisition of shares was of a miniscule proportion and varied SEBI's order and directed the appellant to transfer certain shares in the open market in addition to depositing a certain amount in the IPEF. It also reiterated its decision in the case of *Nirvana Holdings Pvt. Ltd. v. SEBI*, Appeal No. 31 of 2011 to state that deviation could be made from the normal rule under the Takeover Code, 2011 in the interest of the securities market.

RELATED PARTY TRANSACTIONS

Related party transaction is defined in Section 2(zc) of SEBI LODR. It refers to any transfer of resources, services, or obligations between a listed entity and a related party. This includes both monetary and non-monetary transactions, regardless of whether a price is charged. The objective is to ensure transparency and protect minority shareholders by mandating disclosure and approval of such transactions

An interesting judgment on the topic is as follows:

Appeal No. 357 of 2019 – ITC Ltd. v. SEBI and Ors.

Background

The Appeal was filed being aggrieved by a common order of SEBI in relation to a grievance against the proposed sale transaction of the substantial assets of Respondent no.2 Company for which the Postal Ballot Notice was issued. Under the said notice the Company sought shareholders approval through special resolution inter alia regarding the sale of assets of the Company to one BSREP III Indian Ballet Pte. Ltd or its affiliates.

Arguments

Appellant's contention: The appellant's grievance was that through the proposed transaction Company's Directors and Promoters are also attempting to gain certain benefits through "additional transactions" which are not part of the proposed resolution. In fact, all these transactions are part of the composite transactions and, therefore, these being related party transaction, the related parties cannot vote to approve the same.

SEBI's contention: SEBI determined that most of the additional transactions were not related party transactions, except for one of the transfers. SEBI directed that specific disclosures be made and a fresh postal ballot notice be issued to ensure transparency.

Findings

SAT refused to interfere with the order of SEBI on the basis that the definition of the term 'related party' does not require any interpretation. SAT further said that the scope of definition cannot be widened to bring in its scope any transaction in which the directors could have any real or perceived interest.

PRINCIPLES OF NATURAL JUSTICE

The principles of natural justice act as a guarantee against arbitrary action, both in terms of procedure and substance, by judicial, quasi – judicial and administrative authorities. They constitute substantive obligations that need to be followed by a decision -making and adjudicating authorities. SEBI being a quasi – judicial authority is also required to adhere to the principles of natural justice.

Certain interesting judgments on the topic are as follows:

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Appeal No. 540 of 2021 – A.T. Rajan v. SEBI

Background

SAT was dealing with an Appeal where the issue was whether an opinion formed by the authority under Rule 4(3) of Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 ("Rules of 1995") to the effect that an inquiry should be held is an order which is appealable under Section 15T of the SEBI Act and further whether any opportunity of hearing is required to be given before forming an opinion under Rule 4(3) of the Rules of 1995.

Arguments

Appellant's contention: Since an opinion has been formed by SEBI to hold an inquiry in accordance with Rule 4(3) of the Rules of 1995, it was contended that before forming an opinion the appellants ought to have been heard. By not giving an opportunity of hearing the impugned order is erroneous and violative of the principles of natural justice.

SEBI's contention: The appeals were not maintainable under Section 15T of the SEBI Act.

Findings

SAT held that the opinion formed by the Board under Rule 4(3) of the Rules of 1995 is not an order contemplated under Section 15T and the opinion formed by the Board is the subjective satisfaction that an enquiry should be held for adjudication of the alleged violation in the show cause notice.

Appeal No. 245 of 2019 – Kaynet Capital ltd. v. BSE and Anr.:

Background

SAT was dealing with a matter where the Appellant contended that the Order of the exchange was passed by a person who had no authority to pass the suspension order.

Arguments

Appellant's contention: The impugned order was illegal, as it was issued by a Deputy General Manager, who lacked the authority to do so under the relevant rules, which only empower the Managing Director or the relevant authority to pass such orders.

Stock Exchange's contention: The stock exchange contended that the decision to suspend the trading terminal was taken by the competent authority, only the communication of the suspension was intimated by the impugned order.

Findings

SAT noted that the managing director had merely approved the recommendation to pass the suspension order. It further stated that merely approving the recommendation does not mean that the managing director gave any opinion / reasons and the circumstances as to why it was necessary to pass the impugned order. Accordingly, the Appeal was allowed.

MINIMUM PUBLIC SHAREHOLDING NORMS

Minimum Public Shareholding ("**MPS**") norms require listed companies to ensure that at least 25% of their shares are held by public shareholders (10% for certain public sector enterprises), promoting market liquidity and preventing manipulation by a few dominant shareholders. Companies must comply within a specified timeframe, and non-compliance can result in penalties or trading restrictions.

An interesting judgment on the topic is as follows:

Appeal No. 352 of 2020 – Kesar Petroproducts Ltd. v. SEBI:

Background

The Appellant filed an appeal against an order where SEBI imposed penalty for non-compliance with MPS and using a non-prescribed method to meet MPS norms. Facts of the case were that the Appellant company was declared a sick company under SICA. On 17th August 2007, BIFR sanctioned a scheme

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of rehabilitation of the Appellant Company. Pursuant to the scheme, new promoters took control of the Appellant Company. Importantly, from September 2007, the shares of the Company were suspended from trading on the stock exchange platform. This suspension continued till February 2014.

Arguments

Appellant's contention: Rule 19A of the Securities Contract Regulation Rules, 1957 (SCR Rules), which introduced the MPS requirement, came into force in June 2010, after the rehabilitation scheme was sanctioned. Hence, MPS norms did not apply.

SEBI's contention: SEBI maintained that the company failed to comply with the MPS requirement within the stipulated period and used non-prescribed methods to meet the MPS norms.

Findings

SAT held that the scheme for rehabilitation was approved in 2007, when there was no requirement for complying with MPS norms. However, after the scheme was implemented in December 2014, the Company took immediate steps to comply with MPS norms. Accordingly, the SEBI order in that regard was set aside. Importantly, SAT has also noted that Rule 19A was amended on July 24, 2018 by which Rule 19A(5) was inserted which stipulated that if a public shareholding in a listed company fell below 25%, as a result of implementation of the resolution plan approved under Section 31 of Insolvency and Bankruptcy Code, 2016 ("**IBC**"), then such company was given a period of three years to bring the public shareholding to 25%. Similar provision is however lacking and the framers of Rule 19A did not factor the rehabilitation scheme under SICA while framing the SCRR. Accordingly, the Appeal was allowed.

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INSOLVENCY AND BANKRUPTCY CODE

SAT dealt with multiple cases of listed entities against which insolvency proceedings were initiated. SAT ensured that the interest of investors and creditors were appropriately balanced and the provision of IBC and the securities law were harmoniously applied. .

Certain interesting judgments on IBC's interplay with SEBI are as follows:

Appeal No. 206 of 2020 - Dewan Housing Finance Corporation Ltd. and Anr. v. SEBI and Anr.:

Background

DHFL was undergoing insolvency proceedings. During this period, SEBI initiated adjudication proceedings against DHFL, alleging violations of securities laws and imposing penalties. DHFL contested these proceedings, arguing that the initiation and continuation of such proceedings were barred by the moratorium under Section 14 of the IBC, which prohibits the institution of suits or continuation of pending suits against the corporate debtor.

Arguments

Appellant's contention: DHFL argued that the moratorium under Section 14 of the IBC bars the initiation and continuation of proceedings, including adjudication proceedings by SEBI, once insolvency proceedings commence. DHFL claimed that SEBI's adjudication proceedings initiated after the moratorium were illegal and should be quashed.

SEBI's contention: SEBI argued that the term "proceedings" under Section 14(1) of the IBC should not be interpreted expansively to include adjudication proceedings initiated by SEBI.

Findings

SAT held that once a moratorium is declared under Section 14 of IBC, the adjudicating officer will have no jurisdiction to initiate any proceedings. Accordingly, the Appeal was allowed.

Appeal No. 238 of 2020 - Monnet Ispat & Energy Limited v. SEBI:

Background

SAT was dealing with an order passed by the adjudicating officer, which was passed after approval of a resolution plan, in relation to a company, which was undergoing CIRP under IBC. The limited question before the SAT was whether a penalty can be imposed on a company, for alleged contravention, during the period prior to the approval of resolution plan.

Arguments

Appellant's contention: The Appellant argued that the imposition of the penalty by SEBI was not permissible after the approval of the resolution plan under IBC. They contended that the resolution plan, once approved, binds all creditors, including government authorities, thereby nullifying the grounds for penalties post-approval.

SEBI's contention: SEBI maintained that the adjudicating officer acted within the scope of their authority and that the resolution plan under IBC does not absolve the company from compliance with securities regulations.

Findings:

The Hon'ble SAT noted that the resolution plan *inter alia* provided for extinguishment of all liabilities in relation to enquiry, investigations, causes of action and regulatory proceedings. The Hon'ble SAT held once a resolution plan is approved by the appropriate authority, under the IBC, the same becomes binding on all concerned It was also observed that what could not done by SEBI when the moratorium under section 14(1) of the IBC was in force cannot certainly be done after a resolution plan is approved. Accordingly, the Appeal was allowed.

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This compendium was prepared by

Vaibhav Singh
Partner
+91 84339 77483
E: vaibhav.singh@amsshardul.com

Manas Kotak
Associate
+91 84335 79201
E: manas.kotak@amsshardul.com