BEFORE THE SECURITIES APPELLATE TRIBUNAL MUMBAI

Appeal No. 179 of 2009

Date of Decision: 11.12.2009

CSX Members Welfare Association
75 ATT Colony, Coimbatore- 641018 …… Appellant

Versus

Securities and Exchange Board of India
SEBI Bhavan,
Plot No. C4-A, "G" Block,
Bandra Kurla Complex, Bandra (East), Mumbai. …… Respondent

Mr. T. J. Raghu Veeran, Chartered Accountant for the Appellant.

Dr. Poornima Advani with Ms. Harshada Nagare, Advocates for the Respondent.

CORAM : Justice N.K. Sodhi, Presiding Officer
Samar Ray, Member

Per : Justice N. K. Sodhi, Presiding Officer (Oral)

The dispute herein pertains to the non-payment of broker/turnover fee which is payable by every broker in accordance with the provisions of the Securities and Exchange Board of India (Stockbrokers and sub-brokers) Regulations, 1992. Since a large number of brokers had not paid their fee, the whole time member by his order dated August 10, 2009 has ordered the suspension of their certificates of registration for the period mentioned in the order. It is against this order that the CSX Members Welfare Association has filed the present appeal. The individual brokers whose certificates of registration have been suspended have not come up in appeal.

2. At the outset, the learned counsel appearing for the respondent Board has raised a preliminary objection that the appellant has no locus standi to file the present appeal as it is not a "person aggrieved" within the meaning of Section 15T of the Securities and Exchange Board of India Act, 1992 (for short the Act). The relevant part of Section 15T reads as under:-

> "Appeal to the Securities Appellate Tribunal – (1) Save as provided in sub-section (2), any person aggrieved-
>
> (a) by an order of the Board……
>
> (b) by an order made by an adjudicating officer under this Act, may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.
>
> (2) to (6)……"

A reading of the aforesaid provision makes it clear that only a "person aggrieved" could file an appeal against an order passed by the Board. Although the words "person aggrieved" have not been defined in the Act, they have a specific connotation and are well understood by courts and tribunals. In Jasbhai Motibhai Desai vs. Roshan Kumar and others AIR 1976 SC 578, the learned judges of the Supreme Court were examining the question of locus standi of the appellants therein and laid down the following tests to determine when a person can be said to be aggrieved so as to get a right to appeal.

> "Whether the applicant is a person whose legal right has been infringed? Has he suffered a legal wrong or injury, in the sense, that his interest, recognised by law, has been prejudicially and directly affected by the act or omission of the authority, complained of? Is he a person who has suffered a legal grievance, a person "against whom a decision has been pronounced which has wrongfully deprived him of something or wrongfully refused him something, or wrongfully affected his title to something? Has he a special and substantial grievance of his own beyond some grievance or inconvenience suffered by him in common with the rest of the public? Was he entitled to object and be heard by the authority before it took the impugned action? If so, was he prejudicially affected in the exercise of that right by the act of usurpation of jurisdiction on the part of the authority? Is the stature, in context of which the scope of the words "person aggrieved" is being considered, a social welfare measure designated to lay down ethical or professional standards of conduct for the community? Or is it a stature dealing with private rights or particular individuals?"

When we apply the aforesaid tests to the facts of the present case, our answer to each test is in the negative. The appellant is a welfare association and its members are stockbrokers on the Coimbatore Stock Exchange Ltd., and Interconnected Stock Exchange of India Ltd. The impugned order has not been passed against the appellant association. By the impugned order, the certificates of registration of the stockbrokers who, according to the respondent Board have not paid their broker fee have been suspended. It is open to every such stockbroker to prefer an appeal against

the impugned order but the association has no locus standi as it cannot be said to be "person aggrieved". It has suffered no legal wrong or injury nor has its interest been prejudicially affected in any manner whatsoever.

In this view of the matter, we have no hesitation in upholding the preliminary objection on behalf of the respondent Board which we hereby do. The appeal is accordingly dismissed as not maintainable. No costs.

Sd/-
Justice N.K. Sodhi
Presiding Officer

Sd/-
Samar Ray
Member

11.12.2009
pmb

Prepared and compared by
Prerana