BEFORE THE SECURITIES APPELLATE TRIBUNAL MUMBAI

Review Application No. 2 of 2012
In
Appeal No. 29 of 2011

Date of decision: 26.06.2012

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

Versus

1. Jayesh P. Khandwala HUF
   Proprietor : Zealous Trading Company,
   1, Alap Bungalows, Part-I,
   Near Mayurpankh Society, Satellite,
   Ahmedabad – 380 015.

2. Jayesh P. Khandwala
   1, Alap Bungalows, Part-I,
   Near Mayurpankh Society, Satellite,
   Ahmedabad – 380 015. … Respondents
   (Org. Appellants)

Mr. Kumar Desai, Advocate with Mr. Mihir Mody and Mr. Akhilesh Singh, Advocates for the Applicant.

Mr. Somasekhar Sundaresan, Advocate with Mr. Paras Parekh, Advocate for Respondents.

Coram : P. K. Malhotra, Member & Officiating Presiding Officer
S.S.N. Moorthy, Member

Per : P. K. Malhotra

This review application has been filed by the Securities and Exchange Board of India (for short the Board) in the order dated April 3, 2012 passed by this Tribunal in Appeal no. 29 of 2011, Jayesh P. Khandwala HUF and anr. vs. Securities and Exchange Board of India. By the said order, the matter has been remanded to the Board for

holding fresh proceedings against the appellants after giving them an opportunity of hearing. It was also stated in the said order that this Tribunal is not expressing any view on any of the issues raised in the appeal which shall remain open. It is stated in the review application that the Tribunal order suffers from mistakes and/or errors apparent from the face of the record, **contains erroneous findings of fact and law** (emphasis supplied), and is liable to be reviewed.

2. We have perused the application and also heard learned counsel for the parties for some time. While remanding the matter to the Board, the Tribunal has not expressed any view on any of the issues and has specifically stated that the issues raised in the appeal shall remain open. While passing the order, the Board is free to re-examine the whole matter. If the grievance of the applicant is that the order contains erroneous findings of fact and law, the same cannot be the subject-matter of review. The scope of the power of review is very limited. The review must be confined to the errors apparent on the face of the record. Reappraisal of the evidence for finding out the error would amount to exercise of appellate jurisdiction which is not permissible.

We, therefore, do not find any merit in the review application and the same is rejected.

Sd/-
P. K. Malhotra
Member &
Presiding Officer (*Offg.*)

Sd/-
S.S.N. Moorthy
Member

26.6.2012
Prepared & compared by-ddg