BEFORE THE SECURITIES APPELLATE TRIBUNAL MUMBAI

Appeal No. 151 of 2012

Date of decision: 25.07.2012

1. Mr. Dhan Raj Bagrecha
2. Mrs. Chandu Bala Bagrecha
15, Bagrecha Building,
Tripolia Bazar,
Jodhpur (Raj.) 342 001. … Appellants

Versus

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

2. Ms. Pantaloon Retail (India) Ltd.
Knowledge House, Shyam Nagar Off Jogeshwari
Vikhroli Link Road, Jogeshwari (E),
Mumbai – 400 060.

3. Ms. Link Intime (India) Ltd.
C-13, Pannalal Silk Mills Compound,
L. B. S. Marg, Bhandup (W),
Mumbai – 400 078. … Respondents

None for Appellants.

Mr. Mihir Mody, Advocate with Mr. Mobin Shaikh, Advocate for Respondent No. 1.

Mr. J. J. Bhatt, Senior Advocate with Mr. S. D. Israni, Mr. S. S. Israni, Advocates for Respondent Nos. 2 and 3.

CORAM : P. K. Malhotra, Member & Presiding Officer (*Offg.*)
S. S. N. Moorthy, Member

Per : P. K. Malhotra (Oral)

None appears on behalf of the appellants. A letter dated July 21, 2012 addressed to the Registrar has been received on July 23, 2012 from the appellants containing written submissions stating that instead of appearing personally, appellants are making written submissions. We are proceeding to deal with the matter on the basis of material available on record.

2. The grievance of the appellants is against Respondent no. 2 and M/s. Link Intime (India) Ltd., Respondent no. 3 relating to delay in issue of share certificates (Sub-division) and payment of dividend to the appellants.

3. Mrs. Chandu Bala Bagrecha, appellant 2 is the shareholder of M/s. Pantaloon Retail (India) Ltd., holding 500 shares (after sub-division) of the company. In the year 2006, the appellants made application to respondent 2 for issue of duplicate certificates in lieu of lost/misplaced share certificates. It appears from record that the appellants failed to comply with certain procedural requirements for issue of duplicate certificates and dividend warrants. Therefore, respondents 2 and 3 could not accede to appellant's request. It appears from the record that the appellants finally settled the matter with the company vide settlement dated April 11, 2012 which reads as under:-

"**To Whomsoever It may Concerned**

The matter referred in SEBI's Adjudication Order dt. 13th Oct., 2011 as follows –

Quote:

8(b) With Respect to Complaints of Mrs. Bagrecha the alleged grievances were (i) delay on the part of Noticee to issue duplicate Share Certificates (ii) delay in payment of dividends for the period 2005-06 and 2006-07 (iii) the shareholder had suffered loss of Profit due to delay in issuance of duplicate share Certificate.

8(h) Despite the repeated request from the RTA she failed to submit correct and proper documents. She instead preferred pressure tactics by writing number of Complaints to various regulatory authorities. With a view to resolve her grievance the noticee decided to waive its standard Procedure and instructed the RTA to issue duplicate Share Certificates. Accordingly on July 11, 2008 the RTA dispatched the Subdivided Share Certificate no 520 bearing distinctive numbers 295256 – 295755 of 500 Shares of Rs. 2/- each issued in lieu of the share certificate no 24052 for 100 shares of Rs. 10/- lost by the Shareholder.

Unquote:

The Above matter is amicably settled at the meeting held at Jodhpur between Mr. Sanjay Rathi representative of M/s Pantaloon Retail (India) Ltd. and Mr. Dhan Raj Bagrecha husband of Mrs. Chandubala Bagrecha the Complainant. The proceedings of Meeting held in presence of Mrs. Chandubala Bagrecha and all the participants of the meeting signed the settlements."

4. It is also seen from the record that the appellants were simultaneously pursuing certain other remedies and calling for information from the Board through various applications filed under the Right to Information Act, 2005. These applications have finally been disposed of by the Chief Information Commission by its order dated May 10, 2012 observing that there is no information which can be provided to the appellants other than whatever has been given by the CPIO.

5. In the forwarding letter of the appeal, the appellants have stated that the appeal is being filed within time because the last order in the matter was of Central Information Commission dated May 10, 2012. However, in the appeal, the appellants are seeking relief with regard to loss suffered due to collusion of Board officials and praying for imposing fine on the respondents with a further prayer that whole or part thereof be awarded to the appellants.

6. Learned counsel for the respondents have taken a preliminary objection as to the maintainability of the appeal and we find merit in the objection. Section 15T of the Securities and Exchange Board of India Act, 1992 (the Act), *interalia*, provides that any person aggrieved by an order of the Board or by an order made by an adjudicating officer under the Act may prefer an appeal before this Tribunal within forty five days from the date on which a copy of the order made is received by him. Two essential conditions for maintainability of the appeal under Section 15T of the Act are (i) it must be preferred against an 'order' of the Board or the adjudicating officer and (ii) the appeal must be made by a 'person aggrieved'. In the present case, there is no order of the Board that has been impugned or challenged by the appellants. As per settlement noted above, the appellants have already settled the matter with the company. In so far as information required by appellants under RTI Act is concerned, the matter has already been adjudicated by the Central Information Commission by its order dated May 10, 2012. If

appellants are aggrieved by that order, remedy lies elsewhere and not before this Tribunal. As regards relief pertaining to alleged loss incurred by the appellants, the remedy lies before Civil Court and not before this Forum.

7. We, therefore, uphold the objection raised by the respondents with regard to maintainability of the appeal.

The appeal is dismissed as not maintainable. No costs.

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

Sd/-
S. S. N. Moorthy
Member

25.07.2012
Prepared & Compared by
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