IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22-8-2013

CORAM

THE HONOURABLE MR.R.K.AGRAWAL, THE ACTING CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT APPEAL Nos.405 and 406 of 2013

and

M.P.Nos.1, 1 and 2 of 2013

A.Venkatramani .. Appellant/Petitioner in WA 405/2013

M/s.Ram Kashyap Investment Ltd.,
Rep. By its Director
33/8, B.R. Complex,
II Floor, C.P. Ramasamy Road
Alwarpet, Chennai 600 018. .. Appellant/Petitioner in WA 406/2013

vs

1.Securities and Exchange Board of India
Southern Regional Office
Overseas Towers, 7th Floor
756-L, Anna Salai
Chennai 600 002.

2.Union of India
Rep. by its Secretary
Ministry of Finance
Department of Economic Affairs
North Block, New Delhi.
(R2 impleaded vide order of Court dated 23.4.2013 made in MP Nos.2 & 3/2013) .. Respondents/Respondents in both appeals

Writ appeals preferred under Clause 15 of the Letters Patent against the common order of this Court passed in W.P.Nos.1292 and 1214 of 2013 dated 20.2.2013

WP.Nos.1214 and 1292 of 2013: Writ Petition are filed U/A 226 of the Constitution of India for issuance of a Writ of Certiorarified

Cc 0083794

Mandamus calling for the records of the Respondent relating to its order No.WTM/RKA/SRO/66/2012 dated 31.12.2012, quash the same and directing the Respondent to forbear from Preventing the Petitioner company from accessing the capital Market under the Pretext of the impugned order (WP.NO.1214/13) calling for the records of the Respondent relating to its order NO.WTM/RKA/SRO/66/2012 dated 31.12.2012 and quash the same (WP.NO.1292/2013)

For Appellants : Mr.K.Ravi
for M/s.Rugan and Arya
in WA 405/2013

Mr.R.Gandhi
Senior Counsel
for M/s.Rugan and Arya
in WA 406/2013

For Respondents : Mr.G.Masilamani
Additional Solicitor General
assisted by Mr.Shivakumar
for R1

Mr.V.Bharathidasan for R2
SCCG

COMMON JUDGMENT

(Judgment of the Court was delivered by M.SATHYANARAYANAN, J.)

The writ petitions filed by the Company as well as by the promoter respectively, were dismissed on the ground that an effective alternative remedy is available before the Securities Appellate Tribunal and now, challenge is made to the said common order passed in the writ petitions, by preferring these writ appeals.

2.When the writ appeals were listed for admission, it was represented that the Securities Appellate Tribunal is not having a Judicial Member and it is functioning with a single Non-Judicial Member and therefore, as on date of moving the writ appeals, there is no possibility of preferring the appeals before the Tribunal. This Court taking into consideration the said fact, granted interim order for a period of two weeks and that has been extended from time to time.

3.Mr.G.Masilamani, the learned Additional Solicitor General, represented that as per the notification issued by the Ministry of Finance (Department of Economic Affairs) (Capital Market Division) dated 11.7.2013, Justice Shri Jaiprakash P. Devadhar, former Judge of Mumbai High Court, has been appointed as the Presiding

Cc 0083795

Officer/Judicial Member for the Securities Appellate Tribunal, Mumbai, and therefore, there is no impediment for the appellants herein to move the Appellate Tribunal.

4.Heard the submissions of the learned Counsel appearing for the appellants, and also the learned Counsel appearing for the second respondent.

5.In view of the constitution of the Securities Appellate Tribunal, the appellants herein are at liberty to invoke the appeal remedy before the said Tribunal and file appeals within a period of two weeks from the date of receipt of copy of this judgment and pending disposal of the appeals, are also at liberty to move interlocutory applications for grant of interim orders and till the appeal petitions are entertained and orders are passed in the interlocutory applications, the interim order granted by this Court on 7.3.2013, and extended from time to time, shall continue. The Securities Appellate Tribunal need not insist upon the limitation for filing the appeals before it, if the same are filed within the period of two weeks from the date of receipt of copy of this judgment. Both these writ appeals are disposed of accordingly. No costs. Consequently, connected MPs are closed.

-s/d-
Assistant Registrar

True copy

Sub Assistant Registrar

nsv

To:

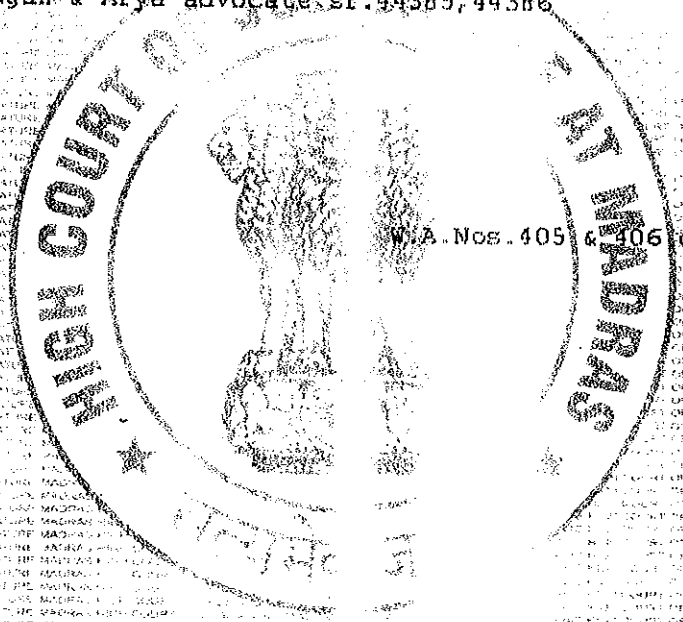
1.The Authorized Officer
Securities and Exchange Board
of India
Southern Regional Office
Overseas Towers, 7th Floor
756-L, Anna Salai, Chennai 600 002.

2.The Secretary
Ministry of Finance
Department of Economic Affairs
North Block, New Delhi.
(R2 impleaded vide order of
Court dated 23.4.2013 made
in MP Nos.2 & 3/2013)

Cc 0083798

3.The Presiding Officer
Securities Appellate Tribunal
Earnest House
14th Floor, NCPA Marg
Nariman Point,
Mumbai 400 021.

+1 cc to Mr.V.Bharathidasan, SCCG, Sr.44455
+1 cc to Mr.shivkumar &suresh, advocate sr.44480
+2 cc to M/S.Rugan & Arya advocate sr.44385,44386



W.A.Nos.405 & 406 of 2013

pvr(co)
dd 23/08/2013

Cc 0083797