BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Misc. Application No. 124 of 2015
In
Misc. Application No. 166 of 2014
And
Appeal No. 379 of 2014

Date of Decision : 10.04.2015

Rakan Steels Limited
(Formerly known as
Karamchand Harichand Steels Ltd.)
77/39, Agarwal Building,
Coolie Bazar,
Kanpur, (U.P.) – 208 001. …Appellant

Versus

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

Mr. Abhishek Lakhotia, Practicing Company Secretary for the Appellant.

Mr. Roopdaksha Basu, Advocate i/b The Law Point for the Respondent.

CORAM : Justice J.P. Devadhar, Presiding Officer

Per : J.P. Devadhar (Oral)

1. Above Miscellaneous Application is filed by the appellant seeking restoration of the appeal which was dismissed on account of the fact that none appeared on behalf of the appellant on 26.11.2014, 01.12.2014 and 16.02.2015. Representative of the appellant submitted that he could not attend the last hearing in time as he was held up in traffic jam. He submits that by consent the appeal be restored and by consent the restored appeal be taken up for hearing

forthwith. Accordingly, by consent the appeal is restored and taken up for hearing.

2. Appellant is aggrieved by the adjudication order dated 17.07.2014 whereby penalty of Rs. 1 lac is imposed on the appellant under section 15C of the Securities and Exchange Board of India Act, 1992 (‘SEBI Act’ for short).

3. Reason for imposing penalty of Rs. 1 lac is that inspite of several circulars and advertisements the appellant has failed to obtain SEBI Complaints Redress System (SCORES) Login ID and the password and thereafter redress the grievances of the investor within the time stipulated by SEBI and therefore the appellant has violated section 15C of the SEBI Act.

4. Representative of the appellant submitted that the appellant has been a sick industrial undertaking and commercial operations of the appellant company had remained suspended until the financial year 2012-13 and therefore the appellant could not get the registration under SCORES within the time stipulated by SEBI. However, immediately on receiving notice from SEBI the appellant has applied for and obtained SCORES registration on 05.04.2014. Inspite of obtaining SCORES registration, the appellant could not access information and pending one investor complaint came to the knowledge of the appellant only on 20.06.2014. Immediately thereafter appellant took steps to resolve the said investor complaint. In these circumstances and in view of the poor financial condition of the appellant company, it is submitted that imposition of Rs. 1 lac penalty under section 15C of the SEBI Act is unjustified and hence deserves to be quashed and set aside.

5. There is no merit in the above contentions.

6. Admittedly, by circulars dated 03.06.2011 and 13.08.2012, SEBI called upon all the companies to obtain SCORES Login ID and password so that the investor grievances are redressed expeditiously. In the circular dated 13.08.2012 it was specifically stated that if SCORES registration is not obtained by 14.09.2012 enforcement action would be taken. Inspite of the said direction, the appellant failed and neglected to get the SCORES Login ID and password within time stipulated in the Circular dated 13.08.2012.

7. Thereafter SEBI issued two advertisements dated 06.10.2012 and 21.10.2012 in the newspapers in respect of companies which had not obtained SCORES Login ID and password and advised those companies to get the SCORES authentication expeditiously. However, no steps were taken in that behalf.

8. It is only after SEBI notice dated 21.03.2014 the appellant chose to apply for and obtain SCORES registration on 05.04.2014. Fact that the appellant on receipt of notice took immediate steps to obtain SCORES Login ID and password and also took steps to resolve the investor grievances immediately thereafter would not obliterate the inordinate delay on part of the appellant in applying for and obtaining SCORES Login ID and password. If the appellant had obtained the SCORES Login ID and password within time stipulated by SEBI then the appellant could attend to the investor grievance much earlier. Therefore, it is apparent that time and again the appellant has failed to obtain the SCORES registration within the time stipulated by SEBI and thereby the appellant has failed to resolve the investor grievances within the time stipulated by SEBI. Fact that there was only one investor grievance and the fact that appellant took steps to resolve the same immediately after

receiving the show cause notice from SEBI does not wash out the inordinate delay in taking the first step under SCORES i.e. obtaining Login ID and password and thereafter resolve the investor grievances within the time stipulated by SEBI. In these circumstances, failure to obtain SCORES Login ID and password for redressing the investor grievances within the time stipulated by SEBI would constitute violation of Section 15C of SEBI Act.

9. For violating provisions contained under section 15C of SEBI Act, penalty is imposable at the relevant time was Rs. 1 lac per day during which the failure continues or Rs. 1 crore whichever is less. In the present case, failure on part of the appellant to obtain SCORES Login ID and password is more than one and half year and therefore the penalty imposable would be Rs. 1 crore. However, after taking all mitigating factors into consideration the adjudicating officer has imposed nominal penalty of Rs. 1 lac on the appellant which cannot be said to be excessive or arbitrary or unreasonable. Thus, no case is made out to interfere with the order passed by the adjudicating officer, wherein imposing nominal penalty of Rs. 1 lac is imposed on the appellant.

10. Accordingly, by consent, the Misc. Application No. 124 of 2015 is allowed by restoring the appeal. However, the restored appeal after hearing the parties is dismissed as no case is made out for interfering with the impugned order. No costs.

Sd/-
Justice J.P. Devadhar
Presiding Officer

10.04.2015
Prepared and compared by:
msb