Bombay High Court B.P.Plc (Formerly B.P.Amoco Plc) ... vs The Securities And Exchange Board ... on 2 May, 2002 Equivalent citations: 2002 (4) BomCR 79, 2003 113 CompCas 182 Bom, 2002 (3) MhLj 402 Author: S Radhakrishnan Bench: C Thakker, S Radhakrishnan JUDGMENT S. Radhakrishnan, J. 1. By this Appeal both the Appellants herein are challenging the order dated 5th September, 2001 passed by the Securities Appellate Tribunal, Mumbai in Appeal No.37 of 2001. Both the Appellants in this Appeal are public limited companies incorporated in the United Kingdom. Burma Castrol Plc is also a public limited company incorporated in United Kingdom. It appears that pursuant to an offer by Appellant No.1 viz. Burma Castrol Plc became its wholly owned subsidiary. Burma Castrol Plc has a subsidiary viz. Burma Castrol Holdings Ltd. which in turn has a subsidiary viz. Castrol Limited. The said Castrol Limited is Appellant No.2 in this Appeal. The Appellant No.2 Castrol Limited has a subsidiary company viz. Castrol India Ltd. with 51% share holding. Castrol India Ltd. is also a public limited company which is incorporated in India. The Equity shares of Castrol India Ltd. are listed on the Stock Exchange of Bombay and are also permitted to be traded on the National Stock Exchange. The main challenge by the Appellants to the said order of Securities Appellate Tribunal is on three grounds. Firstly, the Appellants contend that the Securities & Exchange Board of India (for short hereinafter referred to as "SEBI") has no express statutory power to award interest as awarded. Secondly, the Appellants contend that the interest could not have been awarded from 14.7.2000 and at the most it could have been awarded only from 7.11.2000. Thirdly, the challenge is that the award of interest at the rate of 15% p.a. to be is exhorbitant and the award ought to be at 5-6% as prevalent in United Kingdom. 2. We have heard both the learned Counsel at length. Perused the record as well as the impugned order dated 5th September, 2001 passed by the Securities Appellate Tribunal. As far as the first issue is concerned i.e. the SEBI has no statutory power to award interest, Mr.Setalvad, the learned Senior Advocate, appearing for the Appellants brought to our notice that the only Regulations viz.Regulation 22(12) of SEBI (Acquisition of Shares) Regulations, 1997 provides for award of interest if there is a delay beyond 30 days. Therefore, Mr.Setalvad contended that the only provision in the said Regulation empowers the SEBI to award interest is under Regulation 22 and there is no other provision which expressly empowers the SEBI to award such interest. Mr.Setalvad contended that the Respondents contention that such an interest could be awarded under Section 11(1) of the SEBI Act is totally untenable inasmuch as the said provisions were by way of general provisions and the same cannot justify award of interest. Mr.Setalvad also contended that such an award of interest almost amounts to a levy of penalty and as such SEBI relying on Section 11(1) of the said Act would not be fair and proper. In that behalf Mr.Setalvad contended that as the only provision for award of interest as mentioned hereinabove was under Regulation 22(12) of the said SEBI (Acquisition of Shares) Regulation 1997 and hence he relied on a maxim "expressio unis est exclusio alterius" to contend that the SEBI cannot refer to and rely on any other mode other than Regulation 22(12) as such SEBI could not have awarded any interest whatsoever. 3. With regard to first con-

tention that there is no express power to award interest Mr.Setalwad referred to and relied on a judgment of the Apex Court in Satinder Singh and Ors. v. Amrao Singh and Ors and in the aforesaid judgment the Apex Court has held in very clear terms that the Court can allow interest in cases specified therein. The Court has also held that the power to allow interest on equitable ground or under any other provision is expressly saved by proviso to Section 1 of Interest Act, 1839. In the said judgment the Apex Court has also referred to a Privy Council decision in Bengal Nagpur Rly.Co.Ltd. v. Rattanji Ramji wherein the Privy Council has clearly held that the Court of equity exercises its jurisdiction to allow interest. Thereafter Mr.Setalvad referred to and relied on a decision of the House of Lords in Swit and Co. Vs. Board of Trade, [(1925) AC 520], wherein the House of Lords have observed in the said Judgment that unless the Regulation itself authorises the award of interest, no interest can be given. That is to say unless there is an express provision for awarding of interest no such interest can be awarded. Mr.Setalvad thereafter referred to a judgment of Privy Council in New Port Borough Council Vs. Monmouthshire Country Council [(1947) AC 520]. Wherein also the Privy Council has held that as a matter of construction there must be found in section a power express or implied given to the Arbitrator to award interest. Therefore, if such power was not to be there no interest could be levied. Mr.Setalwad referred to a judgment in Radio Companies Ltd. Vs. Phonographic Performance Ltd. [(1994) RPC 143], wherein also it is held that unless thereis an express provision for award of interest the same cannot be awarded. 4. Mr.Setalvad referred to the Halsburys Laws of England, 4th Edition, Reissue of 1999 and in clause -109 it is held that the Court always has a right of award interest which is by way of an equitable right. 5. Mr.Setalvad also referred to and relied on a Clause 35 of SEBI (Mutual Funds) Regulations, 1996 wherein there is a provision for payment of interest at 15% in the event of failure to refund the amount with regard to mutual fund. Similarly Mr.Setalvad referred to clause 31 of SEBI (Collective Investment Schemes) Regulation, 1999 wherein also it is provided that in the event of failure to refund the amount within a period specified, the Applicants are entitled to 15% interest p.a. on the expiry of six weeks from the date of closure of the subscription list. After referring to the aforesaid two provisions Mr.Setalvad referred to the abovementioned Latin maxim "expressio unis est exclusio alterius" to contend that as the mode of levy of interest was provided in the aforesaid two regulations, the SEBI was precluded from awarding interest other than what is provided in the aforesaid Regulations. That is to say, as per the principle, when a mode is prescribed, only such a mode can be exercised and no other mode can be adopted. In that behalf Mr.Setalvad referred a Judgment of the Privy Council in William Blackburn Vs. John Flavelle, [(1881)6 AC 628]. In the said Judgment the Privy Council has clearly held that adopting the above principle of "expressio unis est exclusio alterius" when a particular mode is prescribed no other mode can be adopted. Similarly, Mr.Setalvad referred to another judgment in Moore Vs. Assignment Courier Ltd., [(1977)2 All ER 841] wherein it is held that unless there is an express provision for awarding of interim payment the same cannot be done without such a power. Mr.Setalvad

thereafter referred to Felix Vs. Shiva [(1983) QB 82] wherein the Queens Bench has held that if the power is given by a statute and the statute lays down the way in which the power is brought in to existence and it must be brought into existence only by that method and by none other. 6. Mr.Setalvad contended that the aforesaid award of interest at the rate of 15% p.a. almost amounted to levy of penalty and in that behalf he referred to one unreported judgment of Securities Appellate Tribunal in Appeal No.20 of 2001 in Sterlite Industries (India) Ltd. Vs. SEBI, wherein the Securities Appellate Tribunal has held that under Section 11(1) a direction cannot be issued to cover imposition of penalties therefore Mr.Setalvad contended that this award of interest almost amounted to levy of penalty and as such SEBI could not have done the same as has been held in the above case. 7. Mr.Setalvad also referred to a judgment of the Apex Court in Ahmedabad Urban Development Authorities Vs. Sharad Kumar, to contend that unless there is an express provision for compulsory exaction of any money, there is no room for intendment. He also referred to another judgment of the Apex Court in Khemka and Co.Vs. State of Maharashtra, wherein also it was held that in the absence of any express provision there cannot be any imposition of penalty for non payment of tax within the prescribed period. 8. Mr.Setalvad also contended that interest could not have been awarded even assuming such a power existed from 14.7.2000 and at the most it could have been awarded from 7.11.2000 and not from 7.7.2000 when the minimum acquisition of 50% had taken place. Therefore, he contended that award of interest at the most could be from 7.11.2000 and not from 7.7.2000. Mr.Setalvad also contended that Appellants are from United Kingdom and there the prevalent rate of interest was of 5-6% p.a. and the award of interest at 15% p.a. to be highly exhorbitant which almost amounted to levy of penalty. 9. Mr.Goolam Vahanvati, the learned Advocate General on behalf of the Respondent contended that as far as the date is concerned for award of interest, the correct date would be 14.7.2000 inasmuch as the decision to acquire took place on 14.3.2000 and thereafter giving a period of four months for the procedural formalities the date would be 14.7.2000. In that behalf Mr.Vahanvati pointed that the Securities Appellate Tribunal in the earlier order had categorically held that the relevant date for the purposes of computation of the price of the shares was 14.3.2000 and which was also accepted by this Court in Appeal No.582 of 2001 in a judgment dated 8th August, 2001. The above order was also accepted by the Appellants and did not challenge the same before the Honble Apex Court. Under these circumstances Mr.Vahanvati contended that the computation from 14.7.2000 for the purpose of award of interest was the correct date and that no one can find fault with the same. 10. Mr.Vahanvati dealing with the first issue regarding power to award interest by SEBI brought to our notice that under Section 11(1) of SEBI Act, SEBI has been mandated to protect the interest of investors by "taking such measures as it thinks fit". Mr.Vahanvati contended that Section 11(2) does not render Section 11(1) nugatory. In fact Section 11(2) makes it clear that notwithstanding what is contended in Section 11(1), Section 11(2) has been enacted. Mr.Vahanvati contended that in view of Section 11(1) read with SEBI Regulation 44, SEBI had all the authority to award such interest.

The said power is inherent in Section 11(2) read with Regulation 44 and if such a power were not to be construed then severe prejudice will be caused to investors. He further pointed out that as per Section 11(1) it was the duty of SEBI to protect the interest of the investors and securities and promote the development of and to regulate the securities market by taking measures as it thinks fit. He also brought to our notice that under Section 11(2) which clearly mentions that without prejudice to the generality of the foregoing provisions the following measures were taken. He also laid emphasis on said Regulation 44 there are various powers conferred on the Board to protect the interest of the investors to ensure that the companies function within certain parameters. In that behalf Mr.Vahanvati referred to and relied on a judgment of the Gujarat High Court in SEBI Vs. Alka Synthetics Ltd.(Guj.) [1999 Company Cases 772] wherein Gujarat High Court has clearly held that SEBI has to protect the interest of the investors in securities and the measures referred to in Section 11(2) does not mean that such measures will have to be laid down in advance. The High Court has also held that it is a matter of common knowledge that the SEBI has to regulate a speculative market and in the case of a speculative market varied situations may arise and all such exigencies and situations cannot be contemplated in advance and, therefore, looking to the exigencies and the requirement, SEBI has been entrusted with the duty and function to take such measures as it thinks fit. Thus, the measures cannot be laid down as a one time exercise to be followed in defined cases. The SEBI has to rise to the occasion for taking appropriate measures to combat even such situations in the speculative market, which may or may not be conceived in advance. 11. Mr.Vahanvati referred to and relied on a Division Bench judgment of our High Court in Anand Rathi Vs. SEBI (Bom) [2001 Vol.32 SCL 227], wherein our Division Bench in para 18 has in unequivocal terms held that the Court has to adopt a construction that gives force and life to the legislative intention rather than the one which would defeat the same and render the protection illusory. The said paragraph 18 reads as under:- "18. While considering the question as to whether the SEBI has augthority of law under sections 11 and 11B to order interim suspension, we have to bear in mind that SEBI is invested with statutory powers to regulate securities market with the object of ensuring investors protection, orderly and healthy growth of securities market so as to make SEBIs control over the capital market to be effective and meaningful. It cannot be gainsaid that SEBI has to regulate speculative market and in case of speculative market varied situations may arise and looking into the exigencies and requirements, it has been entrusted with the duty and functions to take such measures as it thinks fit. Section 11B is an enabling provision enacted to empower the SEBI Board to regulate securities market in order to protect the interests of the investors. Such an enabling provision must be so construed as to subserve the purpose for which it has been enacted. It is well settled principle of statutory construction that it is the duty of the Court to further Parliaments aim of providing of a remedy for the mischief against which enactment is directed and the Court should prefer construction which will supress the mischief and advance remedy and avoid evasions for the continuance of the mischief. We

may quote the words of Denning, L.J. in Seaford Court Estates Ltd. v. Asher [1949] 2 All E.R.155, at page 164, namely :-"... when a defect appears, a Judge cannot simply fold his hands and blame the draftsmen. He must set to work on the constructive tasks of finding the intention of Parliament, and he must do this, nor only from the language of the statute, but also from a consideration of the social conditions which give rise to it, and of the mischief which it was passed to remedy, and then he must supplement the written word so as to give force and life to the intention of the Legislature." We have, therefore, to adopt the construction that gives force and life to the legislative intention rather than the one which would defeat the same and render the protection illusory. In the matter of construction of enabling statute, the principle applicable is that if the Legislature enable something to be done, it gives power at the sametime, by necessary implication, to do everything which is indispensable for the purpose of carrying out the purpose in view. We thus find that the SEBI has ample authority in law to take the action under Section 11B as has been taken by it." 12. Therefore, Mr.Vahanvati contended that in view of the Section 11(1) of SEBI Act read with SEBI Regulations 44, the SEBI has the authority to award such an interest all the more because the main objective and purpose for which SEBI was constituted was to protect the interest of the investors and if such a power were not to be construed under Section 11 read with Regulations 44, the main objective of setting up of SEBI would be defeated therefore Mr.Vahanvati contended that the award of interest was to protect interests of the shareholders otherwise the companies may hold the investors to ransom. As has been held in both the aforesaid judgments the power to award interest is inherent in the aforesaid provisions of SEBI Act and the Regulations. 13. As far as the second issue is concerned that is the award of interest from 14.7.2000 is concerned it has been held by the Securities Appellate Tribunal which was confirmed by this Court in Appeal No.582 of 2001 that the relevant date for fixing the price was 14.3.2000 and if that was so then 14.7.2000 could be appropriate date and in any event the Securities Appellate Tribunal has construed the date to be 8th August, 2000 by the impugned order holding that the formal letter of offer to shareholders from Burma Castrol was dated 8.6.2000 and the payment of consideration was to be on 8.6.2000 and accordingly the Tribunal has held that the relevant date would be 8.8.2000. Mr.Vahanvati contended that though 14.7.2000 would be the appropriate date however, as the Securities Appellate Tribunal has held that the relevant date would be 8.8.2000, the SEBI is not contesting the same and are accepting the same. 14. As far as the third issue with regard to the rate of interest at the rate of 15% p.a. Mr.Vahanvati pointed out that as provided under various provisions of the Regulations as referred to by the learned Counsel for the Appellant that 15% p.a. has been provided at the time of refund and what one has to see is the conditions in India and not U.K. and the award of interest at the rate of 15% p.a. is not at all exhorbitant and nothing penal about the same. The learned Counsel also submitted that the award of 15% interest was in consonance with various SEBI Regulations providing for interest at 15% per annum for delayed refund of amounts. Under these circumstances the learned Advocate General contended that this Court ought not to interfere

with the order passed by the Securities Appellate Tribunal. 15. Our attention was drawn to the following cases by the learned Counsel for the Appellants to contend that no interest could have been awarded in this case, but they will not apply in the facts and circumstances of this case, for the following reasons :- i) In Laxmichand Vs. Indore Improvement Trust, , the argument was that the compensation was inadequate because there was no interest awarded. In this case it was held that the scheme of the Act itself was self contained and in the absence of any provisions to authorise the Tribunal to award interest it did not have the power to do so. The Petitioners in this case did not claim any interest - they wanted the order of acquisition to be quashed. This judgment is in no way relevant to the present case. ii) The judgment of the Supreme Court in Charan Singh Vs. Birla Textiles, was again a case where it was conceded that there was no provision in the Act for payment of interest. This judgment has no application as in the instant case, as the Respondents contend that Sec.11(1) of SEBI Act and Regulation 44 empowers the Board to award interest. iii) The same applies to the Allahabad High Court in the case of Presstige Engineering India Pvt.Ltd. Vs. Union of India, where it was held that since the Act did not provide for rules for payment of interest in case of refund of duty, the authorities under the Act including CEGAT had no power to award interest. The court was really dealing with whether the Court in writ jurisdiction could award such an interest in the absence of any legal provision. This judgment will not apply in the instant case. iv) With regard to the judgment of the CEGAT in the case of Sachin Textiles Private Ltd. Vs. Commissioner of Central Excise, Surat-I, the judgment merely follows the judgment of the Allahabad High Court in Prestige Engineerings case, hence has no application here. v) The judgment of the Supreme Court in Mahabir Prasad Vs. Durga Datta, dealt with the question of entitlement of interest in a suit and whether interest was awardable by way of damages. This case is not applicable to the present case. vi) The judgment in the case of Bhishamber Dayal Vs. State of U.P. and Ors., reiterates the well settled proposition of law namely that all executive action must be routed under some provision of law. It is SEBIs contention that SEBI has the power to award interest by reason of the provisions quoted hereinabove. If this is so, the action cannot be characterised as being unauthorised by law or not having the force of law, hence this judgment has no application in the instant case. vii) Even the judgment of the Supreme Court in Thawardas Pherumal Vs. Union of India, does not take the matter any further as what the Court had held was that the arbitrator there was not "a court" and was hence not entitled to award interest. This view has not been accepted by the Constitution Bench of the Apex Court in Secretary, Irrigation Department Vs. G.C.Roy, . viii) As far as Satinder Singh & Ors. Vs. Umro Singh & Anr., is concerned, in the said case, the Apex Court had considered Bengal Nagpur Railway Co. Ltd. Vs. Ruttanji Ramji, (1937) 66 I.A. 66 AND ALSO Thawardas Pherumal Vs. Union of India, , and had held that the power to award interest on equitable grounds or under any other provisions of law is expressly saved, hence the above case will be of no assistance to the Appellants. ix) As we have construed Sec.11(1) of SEBI Act read with SEBI Regulations 44, to empower SEBI to award interest, the

authorities cited by the learned Counsel for the Appellants, viz. Swift & Co. Vs. Board of Trade (1925 AC 520), New Port Borough Council Vs. Monmouthshire County Council (1947 AC 520) and Radio Companies Ltd. Vs. Phonographic Performance Ltd. (1994 R.P.C.143) will have no

application.

x) Similarly the maxim "expressio unis est exclusio alterius" has no application in this case, in view of our interpretation of Sec.11(1) of SEBI Act, read with Regulation 44. On the same lines, in view of our interpretation of Sec.11(1) of SEBI Act read with Regulation 44, the Apex Court judgments in Ahmedabad Urban Development Authorities Vs. Sharad Kumar and Khemka & Co. Vs. State of Maharashtra also will have no application.

xi) Similarly also we do not find any substance in the contention that the award of interest would amount to penalty.

16. In the context of arbitral proceedings, with regard to the power to grant of interest, Honble Supreme Court in the case of Secretary, Irrigation Department Vs. G.C.Roy, , has held as under : "43. The question still remains whether arbitrator has the power to award interest pendente lite, and if so on what principle. We must reiterate that we are dealing with the situation where the agreement does not provide for grant of such interest nor does it prohibit such grant. In other words, we are dealing with a case where the agreement is silent as to award of interest. On a conspectus of aforementioned decisions, the following principles emerge:

(i) A person deprived of the use of money to which he is legitimately entitled has a right to be compensated for the deprivation, call it by any name. It may be called interest, compensation or damages. This basic consideration is as valid for the period the dispute is pending before the arbitrator as it is for the period prior to the arbitrator entering upon the reference. This is the principle of Section 34, C.P.C., and there is no reason or principle to hold otherwise in the case of arbitrator.

(ii) An arbitrator is an alternative form of resolution of disputes arising between the parties. If so, he must have the power to decide all the disputes or differences arising between the parties. If the arbitrator has no power to award interest pendente lite, the party claiming it would have to approach the court for that purpose, even though he may have obtained satisfaction in respect of their claims from the arbitrator. This would lead to multiplicity of proceedings.

(iii) An arbitrator is the creature of an agreement. It is open to the parties to confer upon him such powers and prescribe such procedure for him to follow, as they think fit, so long as they are not opposed to law. (The proviso to Section 41 and Section 3 of Arbitration Act illustrate this point). All the same, the agreement must be in conformity with law. The arbitrator must also act and make his award in accordance with the general law of the land and the agreement.

(iv) Over the years, the English and Indian Courts have acted on the assumption that where the agreement does not prohibit and a party to the reference makes a claim for interest, the arbitrator must havet the power to award interest pendente lite. Thawardas has not been followed in the later decisions of this Court. It has been explained and distinguished on the basis that in that case there was no claim for interest but only a claim for unliquidated damages. It has been said repeatedly that observations in the said judgment were not intended to lay down any such absolute or universal rule as they appear to, on first impression. Until Jenas case almost all the courts in the country had upheld the power of the arbitrator to award interest pendente lite. Continuity and certainty is a highly desirable feature of law.

(v) Interest pendente lite is not a matter of substantive law, like interest for the period anterior to reference (pre-reference period). For doing complete justice between the parties, such power has always been inferred.

44. Having regard to the above considerations, we think that the following is the correct principle which should be followed in this behalf :

45. Where the agreement between the parties does not prohibit grant of interest and where a party claims interest and that dispute (alongwith the claim for principal amount or independently) is referred to the arbitrator, he shall have the power to award interest pendente lite. This is for the reason that in such a case it must be presumed that interest was an implied term of the agreement between the parties and therefore when the parties refer all their disputes- or refer the disputes as to interest as such- to the arbitrator, he shall have the power to award interest. This does not mean that in every case the arbitrator should necessarily award interest pendente lite. It is a matter within his discretion to be exercised in the light of all the facts and circumstances of the case, keeping the ends of justice in view."

46. The Apex Court in State of Orissa Vs. B.N.Agarwalla, has held that interest can be awarded even during the pre- reference period, and observed as under :- " 18. In view of the aforesaid decisions there can now be no doubt with regard to the jurisdiction of the Arbitrator to grant interest. The principles which can now be said to be well settled are that the Arbitrator has the jurisdiction to award pre-reference interest in cases which arose after the Interest Act, 1978 has become applicable. With regard to those cases pertaining to period prior to the applicability of the Interest Act, 1978, in the absence of any substantive law, contract or usage, the Arbi-

trator has no jurisdiction award interest. For the period during which the arbitration proceedings were pending in view of the decision in G.C.Roys case (1992 AIR SCW

389) (supra) and Hindustan Construction Ltd. case (1992 AIR SCW 2647)(supra), the Arbitrator has the power to award interest. The power of the Arbitrator to award interest for the post award period also exists and this aspect has been considered in the discussion relating to Civil Appeal No.9234 of 1994 in the later part of this judgment."

18. Similarly in Hindustan Construction Co.Ltd. Vs. State of Jammu & Kashmir, , the issue of award of interest during the period of post award till realisation was dealt with by the Supreme Court as under :- " 5. The question of interest can be easily disposed of as it is covered by recent decisions of this Court. It is sufficient to refer to the latest decision of a five judge Bench of this Court in Secretary Irrigation Department of Orissa v. G.C.Roy . Though the said decision deals with the power of the Arbitrator to award interest pendente lite, the principle of the decision makes it clear that the arbitrator is competent to award interest for the period commencing with the date of award to the date of decree or date of realisation, whichever is earlier. This is also quite logical for, while award of interest for the period prior to a arbitrator entering upon the reference is a matter of substantive law, the grant of interest for the post-award period is a matter of procedure. Section 34 of Code of Civil Procedure provides both for awarding of interest pendente lite as well as for the post-decree period and the principle of Section 34 has been held applicable to proceedings before the arbitrator, though the section as such may not apply. In this connection, the decision in Union of India v. Bango Steel Furniture (P.)Ltd. may be seen as also the decision in Gujarat Water Supply and Sewarage Board v. Unique Erectors, which upholds the said power though on a somewhat different reasoning. We, therefore, think that the award on item No.8 should have been upheld."
19. After considering the rival contentions of both the parties we find as far as the first issue is concerned i.e. whether SEBI has statutory power to award interest or not one has to see the main objective of the said Act which is to protect the interest of the investors securities and also to promote the development of and to regulate the securities market. Section 11(1) of SEBI Act clearly provides that it is the duty of the Board to protect the interest of investors in securities and they have been empowered to take such measures and regulations as it thinks fit. Section 11(2) also makes it clear that without prejudice to the generality of the above provisions in Section 11(1) certain measures have been mentioned in Section 11(2). That is to say Section 11(2) does not preclude SEBI from taking such measures as and when need arises. If one were to read Section 11(1) with Regulation 44 it is clear that SEBI has ample power to award such interest

when SEBIs main duty is to protect the interests of the investors. There is no regulation or statutotry provision which debars SEBI from awarding such an interest. Section 11(1) r/w Regulation 44, it is abundantly clear that SEBI has inherent power to award such an interest.

20. This is all the more clear from the Division Bench judgment of our High Court in Anand Rathi Vs.SEBI (supra) which mentions that the Court has to interpret the provisions in consonance with the legislative intention so as to give life to the said legislation. Over and above, the Appellants were held liable to pay the investors as per our judgment in First Appeal No.582 of 2001 in SEBI Appeal No.11 of 2001, which judgment was not challenged by the Appellants in the Supreme Court and the Appellants have acted on the same. Applying the principles regarding award of interest as has been held by the Apex Court in Secretary, Irrigation Department Vs. G.C.Roy (supra) to the effect "a person deprived of the use of money to which he is legitimately entitled to has a right to be compensated for the deprivation, call it by any name. It may be called"interest, compensation or damages," the investors are entitled to be compensated by way of interest for delayed payment. Under these circumstances we find no substance that there is no power to award such an interest.

21. As far as second issue is concerned whether interest could be levied from 14.7.2000 or rather 8.8.2000 as has been held by the Securities Appellate Tribunal. As was held earlier by the Securities Appellate Tribunal and confirmed by this Court in Appeal No.582 of 2001 that the relevant date for the purposes of fixing the price was 14.3.2000 if that be so the Appellant cannot now turn around and argue the same was wrong inasmuch as the Appellants have accepted the said judgment delivered by this Court in the aforesaid Appeal, since Appellants have not challenged the same in the Apex Court. That is to say the Appellants have accepted 14.3.2000 to be the relevant date for the purpose of fixing the price viz. the date on which the public announcement was made and decision was taken to acquire. Once the decision was taken to acquire from this very date a period of four months can be given so as to complete the formalities, i.e. 14.7.2000 for the purpose of fixing the liability of interest to be calculated from that date. However, the Tribunal has held that the date would be 8th August, 2000 inasmuch as the formal letter of offer was posted on 8.6.2000 and the period of two months counted therefrom comes to 8th August, 2000. The SEBI is not contesting the date of 8th August, 2000. Under these circumstances we do not find anything erroneous in the said view adopted by the Securities Appellate Tribunal. As far as the third issue is concerned whether the award of 15% p.a. interest to be exhorbitant or by way of penalty we do not find substance in the said contention inasmuch as the SEBI Regulations themselves in certain provisions, very clearly provide that in case of delay in refund 15% p.a. interest can be awarded. Quantum of 15% interest in the facts and circumstances of the case cannot be said to be unjust, exhorbitant, arbitrary and in no way the same can be construed as amounting to penalty. The prevalent rate of interest in the United

Kingdom at 5-6% has no relevance here and as such we do not find any substance in the third ground of objection directing the Appellants to pay the interest at the rate of 15% p.a.

22. Under these circumstances we do not find anything erroneous, perverse or unjust in the reasonings adopted by the Securities Appellate Tribunal in the aforesaid Appeal by its judgment dated 5th September, 2001. The Appeal is devoid of merits and the same stands dismissed with costs.
23. After the above order was passed the learned Counsel for Appellants prays for stay of this order for a period of six weeks. He also submitted that the Appellants have already furnished a bank guarantee for the entire amount of interest awardable with the SEBI and the same bank guarantee is still alive and he states that the said bank guarantee will be kept alive for at least a period of eight more weeks. In view of the aforesaid facts and circumstances our order is stayed for a period of six weeks.
24. Personal Assistant to issue an ordinary copy of the order to the parties. Parties to act on an ordinary copy of the order duly authenticated by the Associate of this Court.
25. Issuance of certified copy expedited.