

BEFORE THE SECURITIES APPELLATE TRIBUNAL  
MUMBAI

**Misc. Application No. 62 of 2013  
And  
Misc. Application No. 38 of 2014  
And  
Appeal No. 55 of 2013**

**Date of Decision : 14.03.2014**

T.A.N. Murti  
6/3/562/5  
Above GNFC, Erra Manzil,  
Vankata Ramana Colony,  
Hyderabad – 500 004.

...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. Zal Andhyarujina, Advocate with Mr. Joby Mathew and Mr. Deepak Dhane, Advocates for the Appellant.

Mr. Shiraz Rustomjee, Senior Advocate with Mr. Mihir Mody and Mr. Pratham V. Masurekar, Advocates for the Respondent.

CORAM : Justice J.P. Devadhar, Presiding Officer  
Jog Singh, Member  
A.S. Lamba, Member

Per : J.P. Devadhar (Oral)

1. Appeal No. 55 of 2013 is filed to challenge adjudication order dated December 21, 2012. By Misc. Application No. 62 of 2013 appellant wants to bring the statement of Mr. Satti on record. By Misc. Application No. 38 of 2014 respondent wants to bring on record an e-mail dated December 14, 2008 and letter dated January 5, 2010. Instead of considering applicability of these documents in appeal, in our opinion, it would be just and proper to

set aside the impugned order dated December 21, 2012 and remand the matter to the file of adjudication officer for passing fresh order on merits in accordance with law after considering applicability of aforesaid documents.

2. Accordingly, the impugned order dated December 21, 2012 is quashed and set aside and the matter remanded to the file of adjudicating officer for passing fresh order on merits. It would be open to the respondent to issue supplementary notice to the appellant and it would be open to the appellant to file additional affidavit. All contentions of both parties are kept open.

3. Appeal No. 55 of 2013 as also Misc. Application No. 62 of 2013 and Misc. Application No. 38 of 2014 stand disposed of in above terms with no order as to costs.

Sd/-  
Justice J.P. Devadhar  
Presiding Officer

Sd/-  
Jog Singh  
Member

14.03.2014  
Prepared and compared by:  
msb

Per : A.S. Lamba

1. Appeal No. 55 of 2013 was preferred by T.A.N. Murti (Appellant) vs. Adjudication Officer, Securities and Exchange Board of India (Respondent) in matter of imposition of penalty of Rs. 65,00,000/- on Appellant in terms of Section 15G of the SEBI Act, 1992 for violation of Regulation 3(i) of PIT Regulations read with Section 12A (e) and (d) of the SEBI Act vide Respondent's order dated 21<sup>st</sup> December, 2012. The impugned appeal came up for hearing on 14<sup>th</sup> March, 2014, wherein Ld. Counsel for both Appellant and Respondent pleaded for remand of case to Adjudication Officer, SEBI since Appellant wants to bring vide his Misc. Application No. 62 of 2013, statement of Mr. Satti on record and vide Misc. Application No. 38 of 2014, Respondent, wants placing of record - e-mail dated December 14, 2008 and letter dated 5<sup>th</sup> January, 2010.

2. It is seen from case record of Appeal No. 55 of 2013 that the same was admitted by this Tribunal on 7<sup>th</sup> May, 2013 by condoning delay of one day in filing of appeal and Respondent was given four weeks' time to file its reply and rejoinder, if any, was to be filed within one week thereafter. Thereafter the appeal came up for hearing on 17<sup>th</sup> June, 2013, when it was held that there are two appeals (impugned appeal being one) with some commonality, although issues are different, and in interest of justice, these two matters need to be taken up together; other matter related to Appeal No. 182 of 2012 preferred by G. Jayaraman vs. SEBI. Both appeals were arising out of proposed acquisition of two companies by SATYAM, where G. Jayaraman was Company Secretary and T.A.N. Murti was "Handling Investor Relations" of SATYAM. Appeal came up for hearing subsequently on 19<sup>th</sup> July, 2013, 29<sup>th</sup> July, 2013, 6<sup>th</sup> September, 2013, 11<sup>th</sup> October, 2013,

3<sup>rd</sup> December, 2013, 19<sup>th</sup> December, 2013, 3<sup>rd</sup> February, 2014 and on 14<sup>th</sup> March, 2014.

3. First taking up plea of Appellant vide its Misc. Application No. 62 of 2013, it is stated therein briefly that Mr. Satti was heading Mergers and Acquisitions Team of SATYAM during investigation and SEBI had sought all information on or around 1<sup>st</sup> July 2010 with regard to said acquisition of MAYTAS with SATYAM and Satti provided this information, for which Appellant requested for a copy of same. Appellant perused this statement of Satti which is regarding telephonic calls / or SMS's between Appellant and Mr. Satti, and these telephonic calls and SMS's have been relied heavily by Respondent while passing impugned order.

4. As per Appellant, on perusal of statement of Mr. Satti, Appellant is convinced that case under PIT Regulations does not get proved against him and annexes a copy of statement of Mr. Satti with Misc. Application No. 62 of 2013, with request to this Tribunal to take statement of Mr. Satti on record.

5. Misc. Application of Respondent, which contains e-mail dated 14<sup>th</sup> December, 2008 and letter dated 5<sup>th</sup> January, 2010, does not have any number or date on same, but since two mentioned enclosures are found in application by Respondent, it is taken to be Misc. Application No. 38 of 2014, but still without date, received in SAT's registry on 11<sup>th</sup> March, 2014. With regard to enclosures to Misc. Application No. 38 of 2014 it may be noted that e-mail dated 14<sup>th</sup> December, 2008 forms part of MOA (at pages 69-74) and with regard to letter dated 5<sup>th</sup> January, 2010, enclosed with Misc. Application No. 38 of 2014 (received in Registry on 11<sup>th</sup> March, 2014), it may be stated that this letter was enclosed with Affidavit-in-

Rejoinder of the Appellant dated 27<sup>th</sup> July, 2017 at pages 21-24. Hence, what new documents have been furnished by Counsel for Respondent in Misc. Application No. 38 of 2014 (received on 11<sup>th</sup> March, 2014) is not understood.

6. Prayer in Misc. Application No. 38 of 2014, is for taking e-mail dated 14<sup>th</sup> December, 2008 and letter dated 5<sup>th</sup> January, 2010 on record in present application, while deciding the present appeal.

7. Since none of Misc. Applications of Appellant (No. 62 of 2013) and of Respondent (No. 38 of 2014) request for remand of case, how can the Learned Counsel request for remand of case to AO and to quash order of AO, SEBI dated 21<sup>st</sup> December, 2012 but it may be mentioned that Ld. Counsel for Appellant did ask for remand of impugned Appeal to AO, SEBI and quashing of order of AO dated 21<sup>st</sup> December, 2012, which was duly supported by Ld. Counsel for Respondent; during hearing on 14<sup>th</sup> March, 2014.

8. I must mention two other observations first being that both Misc. Application Nos. 62 of 2013 and 38 of 2014 do not ask for remand of appeal to AO, SEBI and when this relief is not sought in Misc. Applications, and why would this Tribunal hear pleas of Appellant and Respondent for remand of appeal and agree to this request, without going into merits of the case.

9. Secondly, in my view, as already stated, two appeals relating to SATYAM taking over MAYTAS were clubbed together for hearing together, in interest of justice, though these two appeals dealt with different issues and Appeal No. 182 of 2012 of Mr. G. Jayaraman vs. SEBI has already been decided by this Tribunal, wherein order of SEBI was upheld

and decision of SAT in Mr. G. Jayaraman vs. SEBI has “perhaps” worked on Appellant to have the matter remanded, to gain time, since any adverse ruling of this Tribunal against Appellant may affect his long term career prospects adversely.

10. Hence, in the circumstances, there appears no case for remand of present appeal to AO, SEBI, firstly, since no one, “in writing” is asking for same and no one can go beyond averments taken in Appeal / Affidavit-in-Reply / Re-joinder/ Misc. Application, etc. and secondly since most of the issues sought to be brought now by two Ld. Counsel, already existed in case record (in case of Respondent) or had been relied by AO in his order (statement of Mr. Satti), which would have been supplied to Appellant earlier, if he had asked for same.

11. In the circumstances, considering totality of circumstances and law, I do not find any grounds for remand of impugned appeal or quashing of order of AO dated 21<sup>st</sup> December, 2012 and hence order that appeal must proceed in Tribunal, after taking into account statement of Mr. Satti, as per Misc. Application No. 62 of 2013 of Appellant and also taking on record e-mail of 14<sup>th</sup> December, 2008 and letter dated 5<sup>th</sup> January, 2010, as per request of Respondent which already exist in case record.

Sd/-  
A.S. Lamba  
Member

14.03.2014  
Prepared and compared by:  
msb