

Securities Appellate Tribunal

Vikas Wsp Ltd. vs Securities And Exchange Board Of ... on 22 March, 2006

Bench: N Sodhi, C Bhattacharya, R Bhardwaj

JUDGMENT N.K. Sodhi, J. (Presiding Officer)

1. The appellant is a public limited company registered under the provisions of the Companies Act, 1956 and is carrying on its business under the name and style of Vikas WSP Ltd. (hereinafter called "the Company"). Its shareholders had made several complaints which were not redressed by the Board of Directors. One of the major complaints was that the interim dividend declared by the Company had not been paid to the shareholders. When these complaints came to the notice of Securities and Exchange Board of India (for short "the Board"), it addressed a letter dated April 29, 2003 directing the Company to redress the grievances/complaints of the investors. The Company was informed that as many as 205 complaints of the investors were pending redressal and that the same be redressed within 30 days of the receipt of the letter. It is not in dispute that the Company failed to redress the grievance within the time allowed by the Board. It was thereafter that the Board decided to initiate penalty proceedings against the Company under Section 15C of the Securities and Exchange Board of India Act (for short "the Act"). By order dated 7.7.2003 the Board appointed an adjudicating officer to hold an enquiry in terms of Rule 4 of Securities and Exchange Board of India (Procedure for Holding Enquiry and Imposing Penalty by Adjudicating Officer) Rules, 1995. The adjudicating officer issued a notice to the Company calling upon it to show cause why penalty be not imposed under Section 15C of the Act. A detailed reply was filed in which it was pointed out that most of the complaints of the investors had by then been redressed. On a consideration of the reply filed by the appellant and the submissions made by it at the time of personal hearing, the adjudicating officer found that most of the grievances had been redressed and the amounts that were due to the investors had been paid but all this was done after the proceedings under Section 15C of the Act had been initiated. He also took note of the other mitigating factors and by his order dated 1.11.2004 imposed a penalty of Rs. 1 lakh on the Company for its failure to redress the grievances of its shareholders within the time allowed by the Board. It is against this order that the present appeal has been filed under Section 15T of the Act.

2. We have heard the learned representative of the Company and also the learned Counsel appearing for the Board and are of the view that the impugned order does not call for any interference. It is true that by the time the proceedings were being conducted by the adjudicating officer, the Company had redressed the grievances of 201 shareholders and only 4 complaints remained pending which could not be settled for no fault of the Company but all this happened after initiation of the proceedings. We are in agreement with the view expressed by the adjudicating officer that there were mitigating circumstances which prevented the Company from redressing the grievances and taking note of those he was justified in imposing a token penalty for a day's default. Section 15C of the Act was amended with effect from 29.10.2002 and the penalty provisions were made more stringent. The liability to pay penalty was increased from an amount not exceeding Rs. 10,000/- for each failure to Rs. 1 lakh for each day's delay during which the failure to redress the grievances continues. As already observed, the adjudicating officer has imposed a token penalty for one day's delay though the default on the part of the Company was for a longer period. This he did because of the mitigating factors which he has taken note of in the impugned order. We do not find any ground

to interfere with the said order. There is, thus, no merit in the appeal and the same stands dismissed leaving the parties to bear their own costs.