IN THE SECURITIES APPELLATE TRIBUNAL AT MUMBAI

DATED THIS THE 15TH DAY OF APRIL, 2025

CORAM : Justice P. S. Dinesh Kumar, Presiding Officer
Ms. Meera Swarup, Technical Member
Dr. Dheeraj Bhatnagar, Technical Member

Appeal No. 100 of 2025
With
Misc. Application No. 180 of 2025
With
Misc. Application No. 229 of 2025

Between

Laxman Chandra Ghosh
7C, Kiran Shankar Ray Road,
Hastings Chamber, Basement,
Unit-BL, Room No 12,
Kolkata – 700 001, West Bengal.

…. Appellant

By Mr. Pranit Bag, Barrister for the Appellant.

And

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

…. Respondent

By Mr. Ravi Shekhar Pandey, Advocate with Mr. Anuj V. R., Advocate i/b Agama Law Associates for the Respondent.

THIS APPEAL IS FILED UNDER SECTION 15T OF SEBI ACT, 1992 TO SET ASIDE THE ORDER DATED NOVEMBER 1, 2016 (EX-A) PASSED BY WTM, SEBI.

THIS APPEAL COMING ON FOR HEARING THIS 15TH DAY OF APRIL 2025, THIS TRIBUNAL PASSED THE FOLLOWING:

O R D E R

Per : Justice P. S. Dinesh Kumar, Presiding Officer (Oral)

This appeal is directed against the order dated November 1, 2016 passed by the WTM, SEBI, *inter alia*, directing the appellant and 18 other noticees to refund the monies collected by Cemendia Infrastructures Limited by issuing Non-Convertible Redeemable Secured Debentures (NCDs), with interest at 15% p.a. within a period of three months. The appellant was on the board of directors of the said Company.

2. The main allegation against the Company is that the Company had allotted NCDs amounting to **Rs. 1.31 crores** during the financial year 2011-12 to 1665 investors. After holding a proper enquiry and granting opportunity of personal hearing, the WTM by the impugned order has issued several directions. Pursuant thereto recovery proceedings were initiated against the noticees. As many as 10 appeals challenging the recovery proceedings were filed by the appellant and other directors of said Company in Appeal Nos. 12 to 21 of 2020 in this Tribunal. Those

appeals were dismissed holding that the Adjudication Order dated November 1, 2016 was not challenged by the appellants. The appellant has now challenged the Adjudication Order in this appeal. There is a delay of about 4 years in challenging the Adjudication Order. In the application for condonation of delay, it is stated thus:

> *"The present Appeal is being filed on the substantial ground (significant events occurred) challenging the investigation process carried by the respondent Security and Exchange Board of India against the alleged company namely Cemendia Infrastructures Limited where the name of the appellant has been entangle with the said alleged company by an order dated 1st November 2016, though the appellant neither had been served the copy of the said impugned order passed by the Whole Time Member of the respondent Security and Exchange Board of India nor appellant had been called ever by the investigation officer of the respondent SEBI authority but the appellant had knowledge about the impugned order of the respondent of SEBI by dated 21.02.2020 but could not file appeal due to having mental trauma causing appellant's daughter health issue who subsequently suicide by 06.08.2021 and subsequently the appellant and his family also effected very badly by Covid 19 which prevent / restrained him to file appeal at that point of time and the situation was not control under the appellant at that point of time which would be a sufficient cause for delay to file appeal.*
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> *Moreover, there is a substantial cause arose by dated 06.11.2024, when the recovery officer of the respondent SEBI authority debited the amount from the current Bank account of the appellant namely "Kohinoor Securities" having current Bank account being No. 238010200015473 with Axis Bank at Bongaon Branch at West Bengal therefore, the present appeal is under limitation under the Limitation Act, 1963 and present appeal is been filed by 5th February 2025 where total delay is 1735 counting from the date of knowledge i.e. 21.02.2020 of the impugned order dated 01.11.2016 to the date of debiting the amount by the recovery officer of the respondent i.e. 06.11.2024 which may be excluded by an order of this Hon'ble Tribunal for the interest of justice.*

> *The appellant also pray for condone of delay of further 89 days counting from dated 06.11.2024 (date of subsequent cause of action arose) to dated 05.02.2025 (date of filing of present appeal) for the interest of justice."*

3. On April 3, 2025, when this appeal was taken up for hearing, learned Advocate for the SEBI[1] had submitted that Appellant had challenged the recovery certificate in Appeal No. 18 of 2020. Shri Avijit Ghoshal, learned Advocate for the appellant had strongly denied that appellant had ever filed any appeal. He had submitted that appellant was shown as a director without his knowledge and his signature was forged by Noticee No. 1 Company. To support this contention he had placed reliance on a consent letter filed at page 70 of the memorandum of appeal which according to him is forged signature.

4. In order to satisfy ourselves, we had called for the original file of Appeal No. 18 of 2020. The same is placed before us for perusal. We notice that the signature of the appellant in this appeal and the one found in the affidavit filed in Appeal No. 18 of 2020 are one and the same.

5. Today, Shri Pranit Bag, learned barrister appeared and submitted that he has been instructed to appear. We have heard him. He submitted that the appellant had several difficulties in view of the health condition of his daughter, who later passed away in 2018 and pleaded that the appeal may be heard on merits.

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[1] Securities & Exchange Board of India

6. We may record that in view of vehement denial of appellant's signature by the learned Advocate Shri. Avijit Ghoshal on the last date of hearing, before proceeding further, it is necessary to record a finding whether the appellant had indeed filed Appeal No. 18 of 2020 against the recovery certificate. The records in the Appeal No. 18 of 2020, particularly the sworn affidavit clearly indicates that signatures found in Appeal No. 18 of 2020 and the present Appeal No. 100 of 2025 are one and the same.

7. The Adjudication Order impugned is of the year 2016. Reckoned from that date, there is a delay of about 9 years. Reckoned from the date of filing of Appeal No. 18 of 2020, the delay is about four years. Except stating that appellant was undergoing hardship due to the health condition of his daughter, there is no satisfactory explanation for the delay. Appellant has, in fact, challenged the recovery proceedings in 2020 and there is no explanation for the delay between 2020 till filing of this appeal in 2024. SEBI has strongly opposed the application for condonation of delay.

8. It is settled that unless the application for condonation of delay is allowed, the appeal shall remain irregular and cannot be considered. The specific stand taken by the appellant that Appeal No. 18 of 2020 was not filed by him is contrary to records and factually incorrect. Therefore, in our view, the application for condonation of delay lacks bonafides and we find no ground to condone the delay.

9. In the result, the application for condonation of delay is rejected. Consequently, the appeal also stands rejected. All pending interlocutory application(s) stand disposed of.

10. No costs.

Justice P. S. Dinesh Kumar
Presiding Officer

Ms. Meera Swarup
Technical Member

Dr. Dheeraj Bhatnagar
Technical Member

15.04.2025 MRS PRAMILA Digitally signed by MRS PRAMILA Date: 2025.04.25 17:32:56 +05'30'
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