IN THE SECURITIES APPELLATE TRIBUNAL
AT MUMBAI

Dated this the 12th day of March, 2025

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

Appeal No. 126 of 2025
[Along with Misc. Application No. 291 of 2025 And
Misc. Application No. 292 of 2025 And
Misc. Application No. 293 of 2025 And
Misc. Application No. 294 of 2025]

BETWEEN:

Mohammad Azhar Khan
Flat No. 2B-601,
Asmita Anita Complex,
Naya Nagar, Behind Asmita Club,
Mira Road – East, Thane – 401 107. ….. Appellant

(By Mr. Vikas Bengani, Advocate 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. Suraj Chaudhary with Ms. Khushbu Chhajed, Mr. Nishit Dhruva, Mr. Vishal Jathar and Ms. Rasika Ghate, Advocates i/b. MDP Legal for the Respondent)

THIS APPEAL IS FILED UNDER SECTION 23L OF SECURITIES CONTRACTS (REGULATION) ACT, 1956 TO QUASH AND SET ASIDE ORDER DATED AUGUST 5, 2020 PASSED BY THE ADHUDICATING OFFICER, SEBI.

THIS APPEAL COMING ON FOR HEARING THIS DAY, THE TRIBUNAL MADE THE FOLLOWING:

O R D E R

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

There is a delay of 1620 days in filing this appeal. It is not disputed that the notice was not served on the appellant. Hence, for the reasons stated in the application, the delay is condoned.

2. At the outset, Shri Suraj Chaudhary, learned Advocate for the SEBI submitted that the issue involved in this appeal has been decided in Appeals No. 473 of 2020[1] and 683 of 2021[2].

3. After arguing the matter for some time, Shri Vikas Bengani, learned Advocate for the appellant restricted his prayer only for reduction in the quantum of penalty imposed on the appellant.

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[1] Dr. V K Sukumaran & Anr. vs SEBI decided on 24.08.2021
[2] Piyush Kothari vs SEBI decided on 18.11.2021

4. The distinguishing factors between appeal filed by Piyush Kothari and present appellant as submitted by learned Advocate for the appellant is that 3,00,00,000 shares of the VKS Project Limited were transferred in favour of Mr. Piyush Kothari whereas in the case of appellant only 1.5 crore shares were transferred. The penalty imposed is Rs. 10 lakh against both.

5. Learned Advocate for the respondent SEBI opposed the prayer for reduction in penalty contending that the violation has been proved. We note from the record that 1.5 crore shares were transferred in case of appellant whereas in the case of Piyush Kothari, it was 3 crores shares. In paragraph 12 of the order in the case of Dr. V K Sukumaran, this Tribunal has held that AO's order cannot be faulted. In view of the fact that the number of shares dealt is one-half as that of Piyush Kothari and there is no previous record of appellant indulging in any earlier violation, in our view, the request for reduction in penalty merits consideration. In the case of Piyush Kothari SEBI has imposed a penalty of Rs. 10 lakhs and the appeal filed by him has been dismissed. In appellant's case also SEBI has imposed a penalty of Rs. 10 lakhs. Keeping in view the fact that appellant has transacted in 1.5 crore shares only,

which is one-half of the quantity transacted by Piyush Kothari, in our view, the quantum of penalty may be reduced to Rs. 5 lakh.

6. In the result, this appeal is allowed in part.

7. The findings recorded in the impugned order are confirmed.

8. The penalty is modified to Rs. 5 lakh, which shall be deposited in four weeks from today. No costs.

9. Pending interlocutory application(s), if any, stand disposed of.

Justice P.S. Dinesh Kumar
Presiding Officer

Ms. Meera Swarup
Technical Member

Dr. Dheeraj Bhatnagar
Technical Member

12.03.2025
msb

MADHUKAR BHALBAR

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