

IN THE SECURITIES APPELLATE TRIBUNAL
AT MUMBAI

Dated this the 29th day of January, 2025

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

Appeal No. 453 of 2024
[Along with Misc. Application No. 686 of 2024 And
Misc. Application No. 687 of 2024]

BETWEEN:

Goutam Patidar
H. No. 16, Old Rajmohalla,
Indore – 452 007.

..... Appellant

(By Mr. Kunal Katariya, Advocate with Mr. Prashant Trivedi,
Advocate i/b Ms. Khushboo Jain, 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. Vyom Shah with Ms. Khushbu Chhajed, Mr. Nishit
Dhruva, Mr. Vishal Jathar and Ms. Rasika Ghate, Advocates
i/b MDP Legal, Advocates for Respondent)

THIS APPEAL IS FILED UNDER SECTION 15T OF
THE SECURITIES AND EXCHANGE BOARD OF INDIA
ACT, 1992 TO QUASH AND SET ASIDE ORDER DATED
DECEMBER 1, 2022 PASSED BY ADJUDICATING
OFFICER, SEBI.

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

ORDER

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

This appeal is directed against the order dated December 1, 2022 passed by the AO¹, SEBI² imposing a penalty of Rs. 4 lakh under Section 15HB and 15A(b) of the SEBI Act, 1992.

2. We have heard Shri Kunal Katariya, learned Advocate for the appellant and Shri Vyom Shah, learned Advocate for the respondent.

3. At the outset, Shri Katariya submitted that in the case of *Mr. Sanjay Patidar & Ors. vs SEBI, Appeal No. 221 of 2023 decided on September 12, 2023*, this Tribunal has set aside the impugned order qua Notices No. 2 to 7.

4. He submitted that appellant was working as Manager (Finance), quit his job and joined a company in Gujarat, in March 2023. Though he had deposited the penalty amount, he was not aware about the challenge laid by Notices No. 2 to 7

¹ Adjudicating Officer

² Securities and Exchange Board of India

and has come belatedly with this appeal with an application for condonation of 460 days.

5. Shri Vyom Shah, learned Advocate for the respondent-SEBI strongly opposed the application for condonation of delay. He submitted that appellant has deposited the penalty amount in January 2023. The impugned order is dated December 1, 2022. The ground urged seeking condonation of delay does not merit consideration as the appellant was in the finance department of the company and a designated employee. Therefore, he is not entitled for any relief on both delay as well as on merits.

6. In reply, Shri Katariya submitted that appellant's case is similar to the one of Mukesh Patidar who is Noticee No. 3. The charges against both are exactly same. Adverting to paragraph 4.10.5 of the show cause notice, he submitted that Mukesh Patidar is also a designated employee. The facts being absolutely identical, appellant's case may be considered. He further submitted that appeal filed by Noticees No. 2 to 7 has been allowed by this Tribunal by following the decision in *Sudhir Bapusaheb Devkar vs. SEBI, Appeal No.*

654 of 2022 and other connected appeals decided on 10.10.2022 and the said order has attained finality.

7. We have carefully considered the rival contentions and perused the records.

8. Undisputed facts of the case are, the impugned order has been set aside qua Noticees No. 2 to 7 by this Tribunal vide order dated September 12, 2023. The contents in paragraph 4.10.5 of the show cause notice dated September 12, 2022 clearly demonstrate that Mukesh Patidar (Noticee No. 3) is also a designated employee. Shri Vyom Shah sought to distinguish this aspect stating that appellant was in the finance department whereas Shri Mukesh Patidar was in some other department. We may record it is not in dispute that both are 'designated employees'.

9. The contents in paragraph 21 of the impugned order shows that the charges leveled against the appellant and the Mukesh Patidar are verbatim the same. Shri Mukesh Patidar was imposed a penalty of Rs. 9 lakh under Section 15HB and 15 A(b) of the SEBI Act and exactly the same penal

provisions have been invoked in appellant's case and a penalty of Rs. 4 lakh has been imposed.

10. The facts recorded hereinabove clearly demonstrate that the case of the appellant is exactly similar to that of Mukesh Patidar and the only difference is that this appellant has approached this Tribunal with a delay of 460 days. Paragraph 8 of the application for condonation reads thus:-

“8. The appellant thereafter had to join a company in the state of Gujrat in march 2023, which even added to his fear of job loss, if anyone will find out about the Impugned Order against the applicant in his new company.”

11. We may also record that appellant has deposited the penalty amount immediately. In our view, to reject the application for condonation of delay in this case would result in travesty of justice as person situated with exactly the same violations has given relief by this Tribunal in ***Mr. Sanjay Patidar & Ors. vs SEBI, Appeal No. 221 of 2023 decided on September 12, 2203 and other connected appeals.***

12. It is settled that a meritorious case cannot be defeated on the ground of delay. Therefore, we deem it appropriate to condone the delay. Hence the following:

ORDER

- (i) Delay condoned.
- (ii) The impugned order is set aside.
- (iii) Appeal is allowed.

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

29.01.2025
msb