

IN THE SECURITIES APPELLATE TRIBUNAL
AT MUMBAI

Dated this the 3rd day of October, 2024

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

**Misc. Application No. 1005 of 2024
And
Appeal No. 562 of 2024**

BETWEEN:

Sangeeta Rathi
B Wing, Flat 306, Mayfair Apts,
Near Shastri Nagar,
Off New Link Road,
Andheri (W), Mumbai – 400 053. Appellant

(By Mr. Sharad Bansal, Advocate with Mr. Sumit Agrawal,
Mr. Kavish Garach and Ms. Aditi Sahu Advocates i/b
Regstreet Law Advisors for the Appellant)

AND:

1. Securities and Exchange Board of India
SEBI Bhavan, Plot No. C-4A, G-Block,
Bandra-Kurla Complex, Bandra (East),
Mumbai – 400 051.
2. Brijmohan Rathi
3A/103 Green Acres,
Lokhandwala Complex,
Andheri (W), Mumbai – 400 053.
3. IDBI Bank Ltd.,
Oshiwara Branch,
No. 2-7, Samartha Vaibhav CHS Ltd.,
Off New Link Road, Lokhandwala
Complex, Andheri (West),
Mumbai, Maharashtra – 400 053. ...Respondents

(By Mr. Sumit Rai, Advocate with Mr. Akash Jain and Mr. Gaurav Edekar, Advocates i/b Mansukhlal Hiralal & Co. for Respondent No. 1)

THIS APPEAL IS FILED UNDER SECTION 15T READ WITH SECTION 28A OF THE SEBI ACT, 1992 TO SET ASIDE THE ORDER DATED 15.11.2024 (EXHIBIT-A) PASSED BY THE ASSISTANT MANAGER, 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 communication dated January 15, 2024 passed by the Assistant Manager, SEBI conveying that appellant's request to release the locker which is held jointly by Ms. Sangeeta Rathi and her husband Brijmohan Rathi (Defaulter) cannot be considered.

2. We have heard Shri Sharad Bansal, learned Advocate for the Appellant and Shri Sumit Rai, learned Advocate for the Respondent; and considered this appeal on both delay and merits.

3. The brief facts of the case are, AO¹, SEBI² has passed order dated September 30, 2015 imposing penalty on appellant's husband Brijmohan Rathi. Pursuant thereto an attachment order dated November 18, 2020 was passed by the Recovery Officer, SEBI attaching the bank accounts and the bank locker. Appellant's case is, a bank locker was opened with the IDBI Bank on April 24, 2020 and jointly held by her and her husband. She learnt about the attachment when she went to the Bank to operate the same on September 3, 2021. She submitted a representation³ to the SEBI through her Advocate. After some exchange of correspondence, the Assistant Manager, SEBI has conveyed to the Appellant that her request to release a locker cannot be considered.

4. Shri. Sharad Bansal, learned Advocate for the Appellant submitted that as per the order passed by the Family Court Mumbai, the locker belongs to the appellant.

5. Shri Sumit Rai, learned Advocate for the Respondent SEBI submitted that attachment was made by Recovery Officer, SEBI by following due procedure. Appellant has obtained the order from the Family Court after the date of

¹ Adjudicating Officer

² Securities and Exchange Board of India

³ Dated 11.10.2023 (Exhibit J)

attachment and it is as per the consent terms of parties. Hence, there is no error in the impugned communication issued by SEBI.

6. Shri Bansal raised yet another ground that the Recovery Officer is the Dy. General Manager. As per General Order of the delegation, the Assistant Manager is not competent to issue the impugned communication.

7. We may record that recovery proceedings under SEBI Act are conducted by following the procedure under the Income-tax Act, 1961. If a claim is lodged, the Recovery Officer is required to decide the same under Rule 11 of the Second Schedule of the Income-Tax Act. It was submitted that appellant has not made a claim under Rule 11 of the Income Tax Act and liberty was sought to submit an appropriate claim/application with the competent officer, SEBI.

8. In view of the above, this appeal is dismissed reserving liberty to the appellant to make a fresh application/claim before SEBI and if such an application is filed SEBI, shall pass appropriate orders in accordance with law expeditiously.

9. All contentions of parties are kept open.

10. Misc. application No.1005 of 2024 also stands disposed
of.

11. No costs.

Justice P.S. Dinesh Kumar
Presiding Officer

Ms. Meera Swarup
Technical Member

Dr. Dheeraj Bhatnagar
Technical Member

03.10.2024
msb