Sebi Vs. Krishi Securities

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SooperKanoon Citation : sooperkanoon.com/57730

Court : SEBI Securities and Exchange Board of India or Securities Appellate Tribunal SAT

Decided On : Jun-30-2004

Judge : T Nagarajan

Appellant : Sebi

Respondent : Krishi Securities

Judgement :
1. M/s Krishi Securities (hereinafter referred to as "the said broker") was a member of Hyderabad Stock Exchange (hereinafter referred to as "HSE") and a stock broker registered with the Securities and Exchange Board of India (hereinafter referred to as "SEBI") under certificate of registration No. INB 060731917.

2. HSE, vide its letter dated 24.11.03, informed SEBI that the said broker was declared defaulter and was not readmitted to the Stock Exchange.

3. In view of the above, SEBI, vide order dated 10.03.04 appointed an Enquiry Officer under the Regulation 16(1) of SEBI (Procedure for holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as "Enquiry Regulations") to hold an enquiry under Chapter III of the Enquiry Regulations.

4. The Enquiry Officer, acting in accordance with regulation 16 (2) of the Enquiry Regulations issued show cause notice to the said broker on 18.03.04 advising it to

show cause why necessary order under Enquiry Regulations should not be passed against it. The said broker failed to reply to the said show cause notice.

5. Thereafter, on 03.05.04, the Enquiry Officer submitted his report to SEBI. In his report the Enquiry Officer observed that HSE had declared the said broker as defaulter and that the said broker was not readmitted to the Stock Exchange. Therefore, the Enquiry Officer recommended cancellation of the certificate of registration granted to the said broker.

6. I note that adequate opportunity had been given to the said broker in terms of Regulation 16 of the Enquiry Regulations and that it has chosen not to avail such opportunity. Therefore, I am satisfied that the requirements of natural justice have been fulfilled and I proceed further in the matter.

7. I have considered the facts of the matter, report of the Enquiry Officer and other material on record. The following issue arises for consideration: 3.1 Whether, the said broker has violated the conditions of registration.

3.1.1 I note that Rule 4 of the SEBI (Stock brokers and sub brokers) Rules, 1992 (hereinafter referred to as "the broker regulations") states that : 4. The Board may grant a certificate to a stock broker subject to the following conditions, namely :- 1. I note that HSE vide its letter dated 24.11.03, informed SEBI that the said broker was declared defaulter on 03.10.97 and was not readmitted to the Stock Exchange.

2. I note that no reply or communication was received from the said broker.

3. In view of the above, I agree with the findings of the Enquiry Officer and find that the said broker ceased to comply with one of the conditions subject to which registration has been granted to him viz. being a member of a recognized stock exchange.

25. A stock broker or sub-broker who contravenes any of the provisions of the Act, rules or regulations framed thereunder shall be liable for any one or more of the following actions- (ii) Penalties as specified under Securities and Exchange Board of India (Procedure for Holding Enquiry by enquiry Officer and Imposing Penalty)

Regulations, 2002 including suspension or cancellation of certificate of registration as a stock broker or a sub-broker.

27. A stock broker or a sub-broker shall be liable for any action as specified in the Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 including suspension or cancellation of his certificate of registration as a stock broker or a sub-broker, as the case may, if he- (ii) has been declared defaulter by a stock exchange and not readmitted as a member within a period of six months." I therefore find that the said broker having ceased to be the member of a recognized stock exchange and thereby failed to comply with one of the continuous requirements of registration, his certificate of registration is liable to be cancelled.

3.3 I further note that Regulation 13(6) of the Enquiry Regulations provides that the Board or member shall impose major penalties where the intermediary is guilty of violation of conditions of registration.

I also note that Regulation 13(1) (b) provides for major penalties, which include cancellation of certificate of registration. In this regard, I note that in terms of Regulation 15 read with Regulation 16 of the Enquiry Regulations where a stock broker ceases to be a member of a recognized stock exchange or has been declared defaulter in relation to the transactions at such exchange, summary procedure may be followed, without holding an enquiry.

4. Therefore, in exercise of powers under Section 19 of the SEBI Act read with Regulation 16(5) of the Enquiry Regulations, I hereby cancel the certificate of registration bearing No. INB 060731917 granted to M/s Krishi Securities. This order shall come into effect immediately.