



Proceedings under Section 12A of SEBI Act must be initiated within a reasonable time: SAT

Proceedings under Section 12A of SEBI Act must be initiated within a reasonable time: SAT

The Securities Appellate Tribunal (SAT) in Mumbai, while quashing the order passed by the assessing officer, decided that the proceedings under section 12A of the SEBI Act must be initiated within a reasonable time.

During the period May 1, 2008, to September 30, 2009, the securities exchange board of India has investigated to monitor the irregular trading activities under Sterling International Enterprises Ltd. A show-cause notice dated February 12 2020, was issued to the appellant to show why action shouldn't be taken against them under section 15A for violating section 12A read with regulations 3 and 4 of the Prohibition of Fraudulent and Unfair Trade Practices.

The show-cause notice states that 29 entities were related to each other and trading scrips amongst themselves and were creating a misleading impression which is violative of regulations 3 and 4 of the PFTUP Regulations.

Yatin Pandya, the appellant, said that the excessive delay in the issuance of show cause notice puts the appellant in an unfavourable position as he won't be able to gather information about the exact reasons for such circumstances to occur. Therefore, he is being put in a tough spot where he won't be able to defend himself against the allegations made against him. The appellant has further submitted that he had applied for the verification of documents which was denied, which goes against the principle of natural justice and moreover that no connection can be established by the authorities solely on the basis of the person who introduced him in the KYC application.

The Tribunal, while hearing the matter, observed that the investigation was conducted during the period 2008-2009. After this, the respondent took about 11 years to issue a show-cause notice. This shows an inordinate delay. The Tribunal further said that the impugned order does not offer any reason for such delay.

The Tribunal presided by Sri Justice Tarun Agarwala, Presiding Officer, and Sri Justice M. T. Joshi, Judicial Member allowed the appeal with a cost of Rs.25,000 and held that "We are of the view that there was an inordinate delay in the issuance of the show-cause notice. On account of this delay, serious prejudice was caused to the appellant as he was unable to collate the circumstances in executing the trades. We are further of the opinion that old and stale disputes should not be raised. Thus, on this short ground, the impugned order is liable to be quashed". Further held by the Tribunal that, "merely by supplying the documents is not sufficient compliance and in the event, the appellant applies for inspection of the documents, such right cannot be denied by the AO only on the ground that documents have been supplied. Denial of the inspection, in our view, is a violation of principles of natural justice as embodied in Article 14 of the Constitution of India. "



Ganesh Nair
Legal Researcher
R&D Enterslice