

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision : 06.01.2022

Appeal No. 755 of 2021

Arun Deora
C-43, Inderpuri,
New Delhi – 110012.

..... Appellant

Versus

1. BSE Ltd.
Floor 25, P. J. Towers,
Dalal Street, Mumbai - 400 001.

2. Integrated Capital Services Ltd.
606, New Delhi House,
27, Barakhamba Road,
New Delhi 110001.

... Respondents

Mr. Vivek Sibal, Senior Advocate with Mr. Arnav Vidyarthi,
Advocate for the Appellant.

Mr. Tomu Francis, Advocate with Ms. Zarnaab Aswad, Advocate i/b
Khaitan & Co for the Respondent Nos. 1.

None for the Respondent Nos. 2.

CORAM : Justice Tarun Agarwala, Presiding Officer
Justice M. T. Joshi, Judicial Member

Per : Justice Tarun Agarwala, Presiding Officer (Oral)

1. The present appeal has been filed against the order dated November 2, 2021 passed by the Bombay Stock Exchange Ltd. (hereinafter referred to as 'BSE') whereby the application for reclassification of the appellant from promoter and promoter group to public category was rejected.

2. The facts leading to the filing of the present appeal is, that the appellant is a promoter / promoter group in Integrated Capital Services Ltd. (hereinafter referred to as 'ICSL / the company') having a shareholding of 1.12% in the company.

3. In June 2020, the appellant and other promoters of the company, all part of Deora family agreed orally that the persons desirous of not remaining as promoters of the company will have no business or other relationship or involvement with the affairs of the company and that the shares held by each such person would remain as independent investment without any subsisting arrangement with other members of the company and that the company would take steps to reclassify such promoters as non-promoters in the public category.

4. This arrangement was agreed between the members of the Deora family and the appellant agreed that he will not exercise any control over the affairs of the company either directly or indirectly

and will not have any special rights with respect to the company through formal or informal arrangement including any shareholder agreement and will not be represented on the board of directors and will not act as a key managerial personnel in the company.

5. After the aforesaid arrangement was reached, a request letter dated June 21, 2020 was sent by the appellant to the company that he may be reclassified from promoter and promoter group category to public category under Regulation 31(A) of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter referred to as 'LODR Regulations').

6. The company on receipt of the said letter intimated BSE on June 22, 2020 and requested that the appellant alongwith similar other requests received from other persons may be reclassified to public category.

7. In the meanwhile, the board of directors of the company passed a resolution on July 31, 2020 accepting the requests of the appellant and other persons for reclassification from promoter group category to public category subject to the approval of the shareholders of the company. Subsequently, the Extra Ordinary General Meeting of the shareholders of the company was held on

December 17, 2020 and the resolution of the board of directors for reclassification the appellant from promoter category to public category was approved.

8. Based on the aforesaid approval, the company filed its application on January 5, 2021 seeking reclassification of the shareholding of the appellant to public category. The request made by the company was rejected by the impugned order dated July 13, 2021 on the ground that the appellant was not in compliance with the requirements mentioned under Regulation 31(A)(3)(b)(ii), (iv) and (v) of the LODR Regulations. The appellant being aggrieved has filed the present appeal.

9. Having heard the learned counsel for the parties, we find that the impugned order does not disclose the reasons as to why the appellant cannot be reclassified in the public category. Merely by mentioning that the appellant does not meet the criteria specified in Regulation 31(A)(3)(b)(ii), (iv) and (v) of the LODR Regulations is insufficient especially when the appellant has categorically stated that he meets the above requirements. For facility, Regulation 31(A)(3)(b)(ii), (iv) and (v) of the LODR Regulations are extracted hereunder :-

“31(A)(3)(b). the promoter(s) seeking re-classification and persons related to the promoter(s) seeking re-classification shall not :

- (i)*
- (ii) exercise control over the affairs of the listed entity directly or indirectly;*
- (ii)*
- (iv) be represented on the board of directors (including not having a nominee director) of the listed entity;*
- (v) act as a key managerial person in the listed entity;”*

10. We find that the appellant has filed an application before the respondent categorically stating that he will not exercise control over the affairs of the company either directly or indirectly and that he would not have any special rights with respect to the company through formal or informal arrangement or through any shareholders agreement and that he would not be represented the board of directors either by himself or through a nominee director nor he would act as a key managerial person in the company.

11. In the light of the aforesaid, we are satisfied that the respondent is required to pass a reasoned and speaking order after considering the points raised by the appellant. We, therefore, set aside the impugned order at the admission stage itself without calling

for a reply and remit the matter to BSE to pass a reasoned and speaking order after considering the points raised by the appellant. It would be open to the appellant to file such further affidavit, if required, within two weeks from today. The authority will consider the matter and pass appropriate order within two months from today and if required, it may give an opportunity of hearing. The appeal is allowed. In the circumstances of the case, parties shall bear their own costs.

12. The present matter was heard through video conference due to Covid-19 pandemic. At this stage it is not possible to sign a copy of this order nor a certified copy of this order could be issued by the Registry. In these circumstances, this order will be digitally signed by the Private Secretary on behalf of the bench and all concerned parties are directed to act on the digitally signed copy of this order. Parties will act on production of a digitally signed copy sent by fax and/or email.

Justice Tarun Agarwala
Presiding Officer

Justice M. T. Joshi
Judicial Member

06.01.2022
PTM