IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5450 OF 2023

C. R. Jain & Co. }
(A Sole Proprietorship concern of }
Mrs. Chand Rani Jain) }
142-B, Katra Mashru, Dariba Kalan, }
Chandni Chowk, Delhi – 110006. } **… Petitioner**

V/s.

1. Union of India }
Through Ministry of Finance, }
3rd Floor, Jeevan Deep Building, }
Sansad Marg, New Delhi – 110001. }

2. The Securities & Exchange Board of India }
C4-A, 'G' Block Bandra-Kurla Complex, }
Mumbai – 400051. }

3. Securities Appellate Tribunal }
Through its Registry, }
Earnest House, Nepa Marg, }
Nariman Point, Mumbai, Maharashtra 400021. } **... Respondents**

Mr. Neerav Merchant i/b Thakurdas and Madgavkar for Petitioner.
Mr. Ashutosh Misra for Respondent No. 1 – UOI.
Ms. Gulnar Mistry a/w Mr. Nishit Dhruva, Ms. Khushbu Chhajed, Mr. Pulkit Awasthi i/b MDP Legal for Respondent No. 2.

CORAM : R. I. CHAGLA AND
FARHAN P. DUBASH, JJ.

RESERVED ON : 29th JULY 2026
PRONOUNCED ON : 6th AUGUST 2026

ORDER (Per Farhan P. Dubash, J):

1. The present Writ Petition under Article 227 of the Constitution of India seeks a direction to Respondent No. 3 / the Securities Appellate Tribunal **("the Tribunal")** to restore Appeal No. 298 of 2019 preferred by the Petitioner against Respondent No. 2 / the Securities and Exchange Board of India **("SEBI")**.

2. The Petitioner's grievance is that Appeal No. 298 of 2019, though distinct from five other connected appeals, came to be disposed of by a common order dated 27th September 2021 **("the impugned order")** on an erroneous premise that the disputes stood settled. According to the Petitioner, while settlement proposals had been exchanged in relation to the other appeals, no settlement had ever been arrived at in respect of its appeal.

BRIEF FACTS

3. The facts, to the extent necessary for deciding the present Petition, are briefly stated thus:

(i) The Petitioner is an erstwhile member of M/s Delhi Stock Exchange Association Ltd. **("DSE")** and was registered with SEBI as a stock broker under the Securities and Exchange Board of India Act, 1992 **("the Act")**.

(ii) Pursuant to the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992, SEBI became entitled

to levy registration fees upon stock brokers on the basis of their turnover. By Circular dated 28th March 2002, SEBI directed stock brokers to furnish turnover particulars, duly certified by their auditors, to DSE, which was required to verify and forward the same to SEBI.

(iii) On the basis of the turnover particulars so received, SEBI prepared fee liability statements and called upon stock brokers to pay the registration fees together with interest. The Petitioner claims to have paid the registration fees for the financial years 1991-92 to 1995-96.

(iv) According to the Petitioner, SEBI, relying upon erroneous turnover figures, raised a demand of Rs.19,09,154/- (inclusive of interest) in the year 2004. The Petitioner objected to the said demand, but no decision was taken thereon for several years.

(v) In the year 2016, SEBI recovered a sum of Rs.38,63,926/- from DSE towards the Petitioner's alleged outstanding registration fee liability together with accrued interest. Consequent thereto, DSE appropriated the Petitioner's fixed deposits aggregating Rs.38,64,927/-.

(vi) Aggrieved thereby, the Petitioner preferred Appeal No.298 of 2019 before the Tribunal seeking refund of Rs.38,63,926/- together with interest and costs.

(vii) Five other members of DSE had also preferred Appeal Nos. 317 of 2018, 387 of 2018, 433 of 2018, 487 of 2018 and 299 of 2019 against SEBI seeking substantially similar reliefs. All six appeals were heard together.

(viii) During the pendency of the appeals, SEBI, by email dated 14th

January 2021, offered to refund the registration fees recovered from the appellants in the other five appeals. No such proposal was extended to the Petitioner.

(ix) By email dated 8th May 2021, SEBI informed the Petitioner that there was no proposal for settlement in Appeal No. 298 of 2019 and that his appeal would proceed on merits.

(x) By the impugned order dated 27th September 2021, the Tribunal disposed of all six appeals by directing SEBI to determine the quantum refundable, if any, to each of the appellants and to DSE.

(xi) Aggrieved thereby, the Petitioner filed Miscellaneous Application No. 1201 of 2021 seeking recall of the impugned order and restoration of Appeal No. 298 of 2019. By order dated 27th October 2021, the Tribunal dismissed the application observing that such relief could not be granted in a modification application.

(xii) Review Application No.31 of 2021 thereafter preferred by the Petitioner also came to be dismissed by order dated 20th December 2021.

(xiii) Pursuant to the directions contained in the impugned order, SEBI reconsidered the Petitioner's case and addressed a communication dated 27th January 2022 to the Petitioner.

(xiv) In the said communication, SEBI referred to its earlier order dated 10th August 2009 suspending the Petitioner's certificate of registration, the order of remand passed by the Tribunal, and the subsequent order dated 23rd June 2011 whereby SEBI held that the Petitioner's registration fees had been correctly computed with

reference to the applicable date of registration and directed that the suspension would continue until the outstanding fees were paid.

(xv) SEBI further recorded that the Petitioner had neither discharged the outstanding fee liability nor challenged the order dated 23rd June 2011 and had, therefore, accepted the same.

(xvi) SEBI accordingly concluded that the registration fees had been correctly computed and recovered and that neither the Petitioner nor DSE was entitled to any refund.

(xvii) The Petitioner thereafter filed Miscellaneous Application No. 181 of 2022, which was dismissed on 4th March 2022, followed by Review Application No. 9 of 2022, which also came to be dismissed on 29th July 2022.

(xviii) Aggrieved thereby, the Petitioner has invoked the supervisory jurisdiction of this Court under Article 227 of the Constitution.

SUBMISSIONS OF THE PETITIONER

4. Mr. Neerav Merchant, learned counsel appearing on behalf of the Petitioner, submits that the Tribunal committed a manifest error in disposing of Appeal No.298 of 2019 along with the other appeals on the erroneous premise that the disputes had been settled. According to him, the impugned order was passed mechanically and in breach of the principles of natural justice.

5. Mr. Merchant submits that even SEBI had, during the proceedings before the Tribunal, acknowledged that no settlement had been arrived at in respect of

Appeal No. 298 of 2019. Despite this, he contends that the Tribunal proceeded to erroneously dispose of the Petitioner's appeal along with the remaining appeals.

6. He further submits that grave prejudice has been caused to the Petitioner since DSE continues to retain fixed deposits aggregating Rs.38,63,926/- towards the amount recovered by SEBI.

7. Mr. Merchant further submits that the Petitioner exhausted every remedy available before the Tribunal by filing miscellaneous as well as review applications. According to him, since Appeal No. 298 of 2019 came to be disposed of under a mistaken premise through no fault of the Petitioner, the balance of convenience warrants restoration of the appeal for adjudication on merits.

SUBMISSIONS OF RESPONDENT NO. 2 - SEBI

8. *Per contra*, Ms. Gulnar Mistry, learned counsel appearing for SEBI, raises a preliminary objection to the maintainability of the present Writ Petition. She submits that no substantive relief has been claimed against SEBI and that the challenge is essentially directed against the orders passed by the Tribunal.

9. Ms. Mistry submits that the present Writ Petition is an attempt to circumvent the statutory remedy of appeal provided under Section 15-Z of the Act. According to her, if the Petitioner was aggrieved by the orders passed by the Tribunal, the appropriate remedy was to invoke the appellate jurisdiction of the Supreme Court, which admittedly has not been done.

10. She further submits that SEBI has duly complied with the directions contained in the impugned order by reconsidering the Petitioner's case and issuing the communication dated 27th January 2022. Upon such reconsideration, SEBI concluded that the registration fees had been correctly computed and recovered and that no refund was payable to the Petitioner.

11. Ms. Mistry is at pains to point out that the Tribunal has finally adjudicated the matter and has become *functus officio*. The miscellaneous applications and review applications preferred by the Petitioner having also been dismissed, no further cause survives before the Tribunal.

ANALYSIS , REASONS AND FINDINGS

12. We have considered the pleadings, the impugned order, the contemporaneous correspondence exchanged between the parties and the rival submissions advanced on their behalf.

13. The principal question which arises for consideration is whether the present Writ Petition discloses any ground warranting interference in the exercise of this Court's supervisory jurisdiction under Article 227 of the Constitution of India, particularly when Section 15-Z of the Act provides a statutory remedy of appeal against an order of the Tribunal. However, before examining the rival submissions, it would be convenient to reproduce the provisions of Section 15-Z of the Act:

> ***15-Z Appeal to Supreme Court*** *- Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of*

> *communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order:*
>
> *Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.*

14. The preliminary objection raised by SEBI merits serious consideration. The reliefs sought in the present Writ Petition are directed entirely against the impugned order of the Tribunal and the subsequent orders passed on the Petitioner's miscellaneous and review applications. In substance, the Petitioner seeks restoration of Appeal No. 298 of 2019 and a rehearing thereof. Granting such relief would necessarily require this Court to reopen and reconsider orders passed by the Tribunal after hearing the parties.

15. The Petitioner's principal contention is that Appeal No. 298 of 2019 was disposed of on an erroneous assumption that the dispute stood settled, notwithstanding that no settlement had been arrived at in relation to the Petitioner's appeal. Reliance is placed upon SEBI's email dated 8th May 2021 stating that no settlement proposal existed in respect of Appeal No. 298 of 2019 and that the appeal would proceed on merits. Reliance is also placed upon SEBI's subsequent communication dated 27th January 2022, wherein it observed that the Petitioner's case arose out of a dispute regarding the date of registration and therefore stood on a different footing from the other appeals.

16. Whilst the aforesaid documents indicate that the Petitioner's appeal was distinguishable from the remaining appeals, they however, cannot be read divorced from the impugned order. The Tribunal expressly recorded SEBI's submission that the Petitioner's case stood on a different footing and also noticed the rival contentions regarding the amount, if any, refundable to the

appellants and to DSE. Having observed that the controversy had not been completely resolved, the Tribunal directed SEBI to determine the quantum refundable, if any, in respect of each appellant. Read as a whole, therefore, the impugned order cannot be characterised as having been passed mechanically or in violation of the principles of natural justice.

17. In our considered view, the challenge mounted by the Petitioner is directed essentially against the correctness of the conclusions reached by the Tribunal and not against the decision-making process itself. The impugned order records the rival submissions advanced on behalf of the parties, notices the respective stands regarding the Petitioner's entitlement and thereafter directs SEBI to determine the quantum of refund, if any, payable to each of the appellants. The record also indicates that the Petitioner was represented before the Tribunal and was afforded full opportunity of hearing. The fact that the Tribunal ultimately did not accept the Petitioner's case, or that the Petitioner considers the decision to be erroneous, cannot, by itself, constitute either a jurisdictional error or a violation of the principles of natural justice warranting interference under Article 227 of the Constitution. Such a grievance is in substance, one directed against the correctness of the decision on merits, for which the statute itself provides an appellate remedy.

18. It is also material to note that, after the impugned order came to be passed, the Petitioner repeatedly invoked the jurisdiction of the Tribunal itself by filing Miscellaneous Application No. 1201 of 2021, Review Application No. 31 of 2021, Miscellaneous Application No. 181 of 2022 and Review Application No. 9 of 2022. Each of those proceedings culminated in orders rejecting the relief sought by the Petitioner. Thus, the Tribunal had more than one occasion to consider the Petitioner's grievance that Appeal No. 298 of 2019 had been

disposed of under a misconception. Having failed before the Tribunal on each occasion, the Petitioner now seeks, in substance, to reopen the very same controversy in the exercise of this Court's supervisory jurisdiction under Article 227 of the Constitution of India.

19. Moreover, the record reveals that the impugned order has since been acted upon. Pursuant to the directions issued by the Tribunal, SEBI reconsidered the Petitioner's case and, by its communication dated 27th January 2022, recorded that the registration fees had been correctly computed and recovered and that no refund was payable to the Petitioner. Thus, the directions contained in the impugned order have already been implemented and have culminated in a fresh determination by SEBI.

20. Significantly, the aforesaid determination/communication dated 27th January 2022 has not been assailed in the present proceedings. Even assuming that the Petitioner were to succeed in its challenge to the impugned order, the consequential determination rendered by SEBI pursuant thereto would continue to operate unless separately set aside in accordance with law. The relief sought in the present Petition, namely restoration of Appeal No. 298 of 2019, therefore, would not by itself efface the subsequent determination or afford the Petitioner any effective relief. This is an additional circumstance which persuades us not to exercise our supervisory jurisdiction.

21. Apart from the above, Section 15-Z of the Act provides a specific statutory remedy by way of an appeal to the Supreme Court against any decision or order of the Tribunal involving a question of law. The challenge in the present Writ Petition is essentially directed against the correctness of the orders passed by the Tribunal and does not disclose any patent jurisdictional error, perversity

or failure of natural justice warranting interference under Article 227 of the Constitution of India. It is well settled that the supervisory jurisdiction of this Court is intended to keep subordinate Tribunals within the bounds of their authority and is not to be exercised as a substitute for a statutory appellate remedy.

22. Considering the aforesaid circumstances, namely, absence of any jurisdictional infirmity in the impugned order, availability of the statutory appellate remedy under Section 15-Z which the Petitioner has admittedly not invoked, rejection of the Petitioner's miscellaneous and review applications by the Tribunal and the fact that the impugned order has already been implemented and the consequential determination has not been challenged, we are not persuaded to exercise our supervisory jurisdiction under Article 227 of the Constitution of India.

23. The Writ Petition is accordingly dismissed. There shall be no order as to costs.

(FARHAN P. DUBASH, J.) **(R. I. CHAGLA J.)**

Shubham Gadhavepatil

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