

\$~34.

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) No.1141/2016 & CM No.5006/2016 (for stay).
M/S SURYA MARKETING LTD. Petitioner
Through: Mr. Manish Jain, Mr. Ranjan Kumar
and Ms. Sougata Ganguly, Advs.
Versus
BSE LIMITED & ANR Respondents
Through: Ms. Shiv Lakshmi, Mr. Arindam Dey,
Mr. Aditya Shankar and Mr. Udit
Grover, Advs. for R-1.
Mr. Ripu Daman Bhardwaj, CGSC
and Mr. T.P. Singh, Adv. for UOI.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

%

10.02.2016

1. The petition impugns the communication dated 8th February, 2016 of the respondent no.1 BSE Ltd. informing the petitioner that trading in its securities shall be suspended w.e.f. 11th February, 2016.
2. The counsel for the respondent no.1 BSE Ltd. appears on advance notice.
3. Though both counsels agree that the petition has to be disposed of in terms of the order dated 15th January, 2016 in W.P.(C) No.12332/2015 titled ***Mahadushi International Trade Limited Vs. BSE Limited*** and another connected petition, as well as the subsequent similar orders, but the counsel for the petitioner contends that since the trading in the securities of the petitioner has not been suspended till now, stay thereof be granted. It is contended that similar stay had been granted in ***Mahadushi International***

Trade Limited supra also which also had approached the Court prior to suspension coming into force.

4. The counsel for the respondent no.1 BSE Ltd. states that the communication dated 8th February, 2016 has been issued only upon the failure of the petitioner to supply the following documents:-

- (a) Original Auditors certificate.
- (b) Resolution passed by the Board of directors for 6 preferential issues.
- (c) Notice sent to shareholders for 6 preferential issues.
- (d) Resolution passed by the company for allotment of the preferential issue for all the issues.
- (e) List of allottees of all the preferential issues.
- (f) Bank statements to reflect receipt of funds (duly highlighted) raised through preferential allotment. Supporting documents relied upon by the auditor giving list of allottees for each of the preferential allotments and list of entities whereby the funds are utilized (duly highlighted in the bank statements) with regards to point No.4 & 5 as mentioned in the BSE notice dated 18/12/2015 with proper cross—reference viz. the certificate issued by the auditor.

5. However it is not in dispute that the name of the petitioner did not exist in the notice dated 21st December, 2015 of the respondent no.1 BSE Ltd. listing the companies against which action was intended to be taken. It thus appears that the petitioner has been made aware for the first time vide communication dated 8th February, 2016 only.

6. In this light of the matter the petition is disposed of with the following directions:-

- (i) The petitioner to on or before 16th February, 2016 furnish the aforesaid documents and any other document on which it seeks to rely, to the respondent no.1 BSE Ltd.
- (ii) The petitioner to appear before the concerned official of the respondent No.1 BSE Ltd. on 19th February, 2016 at 1100 hours for personal hearing.
- (iii) The respondent No.1 BSE Limited to, on or before 26th February, 2016, if satisfied, recall the communication dated 8th February, 2016 of suspension of trading of the shares of the petitioner and, if not satisfied, to pass a reasoned order and furnish a copy thereof to the petitioner.
- (iv) As far as the challenge in the petition to the notice dated 18th December, 2015 is concerned, directions in that regard have already been issued in the order dated 15th January, 2016 in W.P.(C) No.12332/2015 & W.P.(C) No. 226/2016 supra and thus need to reiterate the same does not arise. It is however clarified that the petitioner shall also be entitled to seek enforcement of the said directions.

7. Till the decision as aforesaid is taken by the respondent no.1 BSE Ltd., the trading in the securities of the petitioner be not suspended as notified in the impugned communication dated 8th February, 2016.

8. Needless to state, the petitioner if remains aggrieved shall have remedies in law.

No costs.

Dasti under signature of Court Master.

RAJIV SAHAI ENDLAW, J.

FEBRUARY 10, 2016

‘pp’..