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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 9118/2018

VIJAY KAHOL ..... Petitioner

Through: Mr Sachin Mittal, Advocate.

versus

NATIONAL STOCK EXCHANGE OF INDIA LTD. & ANR. ..... Respondents

Through: Mr Sumit Nagpal and Mr Sanjay Bhatt, Advocates for R-1 & 2.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

<u>O R D E R</u>

% **29.08.2018**

<u>CM No. 35191/2018</u>

1. Exemption is allowed, subject to all just exceptions.

2. The application stands disposed of.

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3. Issue notice. The learned counsel appearing for the respondents accepts notice.

4. The petitioner has filed the present petition impugning a letter dated 11.07.2018 whereby the petitioner's claim with the Defaulter Committee of National Stock Exchange of India Ltd. (NSE) has been kept in abeyance.

5. The petitioner claims to be an investor in shares of companies and mutual funds. He was dealing in shares through a broker – Amrapali Aadya

Trading & Investment Private Limited (hereafter 'the Trading Member'). The Trading Member was declared as a defaulter in terms of Byelaw 1(a) of Chapter XII of Bylaws (hereafter 'Byelaws') of the NSE and has since been expelled from the NSE under the relevant rules.

6. The petitioner claims that a sum of ₹90,50,682/- is due to him on account of the non-receipt of securities purchased through the Trading Member. In addition, the petitioner claims that he has not received a sum of ₹89,48,433/- which was lying to his credit with the Trading Member. In all, the petitioner claims a sum of ₹1,79,99,115/- from the Trading Member.

7. The petitioner had also filed an application (Arb.P. 707/2017) under Section 11 of the Arbitration and Conciliation Act, 1996 for seeking an appointment of an arbitrator to adjudicate the disputes that had arisen between the petitioner and the Trading Member. The said application was allowed by this Court and the NSE has been directed to appoint an Arbitrator in accordance of its Byelaws.

8. The NSE has filed an SLP against the said decision, which is pending before the Supreme Court.

9. It appears that by the impugned communication dated 11.07.2018, the petitioner's claim before the Defaulter Committee has been kept in abeyance on account of the matter pending before the Supreme Court. Plainly, the fact that petitioner has sought to refer to disputes with the Trading Member to arbitration would not preclude the Defaulter Committee from examining the petitioner's claim in accordance with its Byelaws.

10. In view of the above, the NSE (Defaulter Committee) is directed to examine the petitioner's claim in accordance with its Byelaws as is being

done in the cases of other investors. The action of the petitioner independently proceeding against the Trading Member does not preclude the Defaulter Committee to deal with the petitioner's claim. It is, however, clarified that the petitioner would not seek any remedies against the assets and funds of the Trading Member, which stand transferred and are under the control of the Defaulter Committee. The learned counsel appearing for the petitioner unequivocally confirms the same con behalf of the petitioner.

11. The impugned communication is set aside and petition is disposed of with the aforesaid observations.

12. Order *dasti*.

VIBHU BAKHRU, J

AUGUST 29, 2018
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