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

+ LPA 737/2019

SONIA SHARMA & ANR Appellants
Through: Mr. Raman Gandhi, Advocate

versus

SECURITIES EXCHANGE BOARD OF INDIA Respondent
Through: Mr. Neeraj Malhotra, Senior
Advocate with Mr. Ashish Aggarwal and Ms.
Cassandra Zosawgliani, Advocates for respondent
No.1/SEBI

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MS. JUSTICE ASHA MENON

ORDER
% **25.11.2019**

C.M.Appln.50695/2019 & C.M.Appln.50697/2019 (Exemption)

Allowed subject to all just exceptions.

LPA 737/2019 & C.M.Appln.50696/2019 (for condonation of delay of 82 days in filing the appeal)

1. The present appeal is directed against an order dated 26.07.019, passed by the learned Single Judge on a writ petition filed by the appellants praying *inter alia* for quashing an order dated 11.01.2013, passed by the Whole-Time Member of the respondent/SEBI and the order dated 23.11.2017, passed by the Adjudicating Officer.

2. The impugned order takes note of an earlier order of the learned Single Judge passed on 27.05.2019, whereby a limited notice was issued to the respondent/SEBI for relegating the appellants/petitioners to the remedy of appellate jurisdiction available under the Securities and Exchange Board of India Act, 1992. On 26.07.2019, appearance was entered on behalf of the respondent/SEBI and Mr. Neeraj Malhotra, learned Senior Advocate appearing for the respondent/SEBI had stated that though the period of limitation prescribed for preferring an appeal is 45 days, but the Appellate Authority is vested with the power to condone the delay on the appellant showing just and sufficient cause for the same. As a result, the petition filed by the appellants/petitioners was disposed of while relegating her to the appellate jurisdiction with a further direction that they shall file an appeal duly accompanied by an application for seeking condonation of delay, which shall then be considered by the appellate authority in accordance with law.

3. The record reveals that aggrieved by the aforesaid order, the appellants/petitioners had filed a review petition before the learned Single Judge for seeking review of the order dated 26.07.2019 [RP 325/2019] wherein, it was sought to be urged that the only issue involved in the writ petition was a pure question of law and for this reason, the appellants/petitioners should not be relegated to the Appellate Tribunal. The said request was however turned down and the order dated 26.07.2019, was reiterated. The appellants/petitioners have elected not to challenge the order dated 20.08.2019, whereby the learned Single Judge has dismissed the review application, and they have confined the present appeal only to the order dated 26.07.2019.

4. Learned counsel for the appellants/petitioners seeks to urge that merely because an alternative remedy is available to a party, cannot be a ground to compel it to approach the appellate forum and a writ petition can always lie to assail the action of the respondent/SEBI, which ought to have been entertained by the learned Single Judge. Though no such plea has been taken in the grounds of appeal, but learned counsel for the appellants/petitioners also states that the appellants are financially stressed and therefore, they should be given indulgence by directing the Appellate Authority of the respondent/SEBI to decide a case in Delhi.

5. Having regard to the fact that the appellate authority of respondent/SEBI is based in Mumbai, no such direction as prayed for orally, can be issued. Even otherwise, we do not find any error in the impugned order that deserves interference. The appellants have simply been relegated to the remedy available under the Statute. The present appeal is dismissed *in limine* alongwith the application.

HIMA KOHLI, J

ASHA MENON, J

NOVEMBER 25, 2019

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