(Through Video Conference)

02.11.2021
Sl. No.6
BP/KS

W.P.A. 17396 of 2021

SMC Global Securities Ltd.
Vs.
National Stock Exchange of India Ltd. & Anr.

Mr. Subhasis Sengupta
Ms. Preetu Chaudhury
….. For the Petitioner
Mr. Prasanta Kumar Dutt
Mr. Susanta Kumar Dutt
Mr. Syamantak Banerjee
…..For the Respondent No.1
Mr. Sayan De
Mr. Kaustav Shome
Mr. Sayan Kanjilal
…..For the Respondent No.2

The petitioner is the trading member of National Stock Exchange of India Limited, the respondent no.1 herein.

The respondent no.2 lodged a complaint with the Investor Grievances Redresseal Committee (for short "I.G.R.C.") of the respondent no. 1 alleging misappropriation of her investment.

The I.G.R.C. passed an award of sum of Rs.42,74,295/- on December 30, 2020. The petitioner invoked the arbitration. The Arbitral Tribunal reduced the amount of the award of the I.G.R.C. from Rs.42,74,295/- to Rs.16,12,228/-.

The petitioner aggrieved by the said award preferred an appeal before the Panel of Arbitrators of the respondent no.1. The said appeal has already been admitted.

The grievance of the petitioner is that the respondent no.1 in the meantime, is proposing to release the awarded amount in favour of the respondent no.2. The petitioner is praying for an order of injunction restraining the respondent no. 1 from releasing the said money.

Mr. Syamantak Banerjee, learned counsel appearing on behalf of the respondent no.1 submits that in terms of the Circular of the Securities and Exchange Board of India dated September 26, 2013, the petitioner is required to communicate his intention to prefer the said appeal within seven days from the receipt of the award. The petitioner since has not communicated its such intention within the said period, the respondent no.1 has no other option but to release the said amount. He, however, submits that the interest of the petitioner is well-protected under the Clause – 9 of the aforesaid Circular which stipulates that in case the investor loses at any stage of the proceeding and decides not to pursue further, then the investor shall refund the amount released from Investor Protection Fund (for short IPF) back to the said fund. In case the investor fails to make good the amount released out of IPF then investor (based on PAN of the investor) shall not be allowed to trade on any of the Stock Exchanges till such time the investor refunds the amount to IPF. Further, the securities lying in the demat account(s) of the investor shall be frozen till such time as the investor refunds the amount to the IPF.

Learned counsel appearing for the respondent no.2 submits that he has to give an undertaking in terms of the aforementioned clause before receiving the said awarded sum.

The interest of the petitioner is well protected under the scheme to resolve the dispute of present nature to get back the awarded sum deposited with the respondent no. 1 on being successful in the appeal. Therefore, the order of injunction as prayed for is not warranted. However, the appeal is required to disposed of as expeditiously as possible, preferably within a period of four weeks from the date of communication of this order.

The appellate forum is requested not to entertain the prayer of the parties for any unnecessary adjournments to ensure that disposal of the said appeal within the time limit fixed by this order.

W.P.A. 17396 of 2021 is disposed of with the above terms without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Biswajit Basu, J.)