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W.P.No.33536 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2023

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.33536 of 2015

M/s Agri Gold Farm Estates India Private Limited
Having its Registered Office at
Agri Gold Towers
6-3-680/A/B, Thakur Mansion Lane
Near Somajiguda Circle
Hyderabad, AP, India.

.. Petitioner

vs

1. The Securities and Exchange Board of India
(South Zone), Southern Regional Office
Overseas Tower
7th Floor, 756 Anna Salai
Chennai 600 002.

2. The Securities and Exchange Board of India
SEBI Bhavan
Plot No.C4-A 'G' Block
Bandra Kurla Complex
Bandra (East)
Mumbai 400 051.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorari, calling for records relating to the order dated 14.09.2015 of the second respondent herein in WTM/PS/51/IMD-CIS/SRO-HLO/SEPT/2015 and quash the same.



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For the Petitioner : Ms.S.Meena
for Mr.R.Clement Roy
For the Respondents : Mr.K.Balamurali
for M/s.Shivakumar and Suresh

ORDER

The writ in hand has been filed, questioning the validity of the order dated 14.09.2015 passed by the Security and Exchange Board of India, SEBI Bhavan, Mumbai.

2. The second respondent /SEBI, who adjudicated and passed orders, on merits and in accordance with law, under Section 11(1), 11B, 11(4) of the Security and Exchange Board of India Act, 1992 and Regulation 65 of the SEBI (Collective Investment Schemes) Regulations , 1999.

3. The appeal provision is contemplated under Section 15T of the SEBI Act. In a similar matter in ***W.P.No.31551 of 2014*** dated 29.09.2021, this Court has held as follows:



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“6. The relief sought for prima facie indicates that issues require an elaborate adjudication. Sale of shares, preventing a person, who purchase the shares, from taking over the company etc., and the dispute between the parties, which all are to be resolved by conducting an elaborate adjudication with reference to the documents and evidences to be made available by the respective parties. High Court cannot conduct a roving enquiry in such issues.

7. The power of review of the High Court under Article 226 of the Constitution of India is to scrutinize the process through which the competent authority has taken a decision, but not the decision itself. Thus, the scope of judicial review cannot be expanded for the purpose of conducting adjudication of disputed issues. It is for the parties to approach the competent forum.

8. Even the first respondent in their affidavit categorically states that the petitioner is having an alternate remedy under Section 15-T of the SEBI Act. The appellate authority is the final fact finding authority. Thus, the adjudication of facts by the appellate authority is of paramount importance and such adjudication would be of greater assistance for the High Court for the purpose of exercise of powers on judicial review. Contrarily High Court at the initial stage cannot go into the merits or de-merits of the issues between the parties and further based on the mere affidavit and xerox copies of the documents filed in the writ petition, findings cannot be arrived in respect of such disputed issues and in such circumstances, no doubt there is a possibility of errors, omissions or commissions. This exactly is the reason why the



Constitutional Courts are emphasizing that the alternate remedy is to be exhausted in all circumstances. Only on exceptional circumstances, if any great injustice is caused and any delay would result in denial of justice, then alone the High Court has to interfere and under normal circumstances, the parties must exhaust the alternative remedy contemplated under the provisions of the Statute.

9. The learned counsel for the petitioner reiterated that the SEBI has not conducted an investigation in a proper perspective. Therefore, the case needs to be remanded. When the SEBI appeared in the writ petition and filed a counter stating that they have adjudicated the issues, then order of remand is not required. The remedy would be an appeal and which would be appropriate. Thus, the petitioner is at liberty to approach the appellate authority under Section 15-T of the SEBI Act for the purpose of redressing their grievances.”

4. Thus, the petitioner is at liberty to approach the appellate authority in the manner known to law. In the event of filing any such appeal, the appellate authority may consider to condone the delay in filing the appeal, taking into consideration the period of pendency of the writ petition before the High Court.



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5. With this liberty, the writ petition stands disposed of. There will be no order as to costs. Consequently, M.P.No.1 of 2015 is also closed.

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Neutral Order: Yes/No

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To:

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S.M.SUBRAMANIAM,J.

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