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WPO/137/2024
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

FOLLOWEL ENGINEERING LIMITED AND ORS
VS
THE CALCUTTA STOCK EXCHANGE LIMITED AND ANR

BEFORE:
The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA
Date: 11th March, 2024.

*Appearance:*
*Mr. Sukrit Mukherjee, Adv.*
*Mr. Tanuj Kakrania, Adv.*
*Mr. Nabbendu Das, Adv.*
*. . .for the petitioner.*

*Mr. Rupak Ghosh, Adv.*
*Mr. Uttam Kumar Mondal, Adv.*
*Ms. Maitree Roy, Adv.*
*. . .for the respondent.*

The Court: In the present writ petition, two notices, respectively dated November 9, 2023 and December 26, 2023, have been challenged. By the first, annexed at page 35 of the writ petition, a final opportunity for compliance of the provisions of listing of equity shares of the petitioner company in the Calcutta Stock Exchange Limited was given to the petitioner company with warning that if the petitioners' reply did not reach the Calcutta Stock Exchange (CSE) Limited within 15 days from the date of receipt of the notice, there would be no other option but to compulsorily delist the petitioner company.

In the second, the CSE gave out to the petitioner that the petitioner was required to pay fine as per the SEBI Circular dated March 31, 2023 for non-compliance of MPS (Minimum Public Shareholdings) in terms of the said Circular.

Learned counsel for the petitioner submits that both the notices are vague. Insofar as the notice dated November 9, 2023, although a threat of delisting the petitioner company was issued, it was not specified as to what were the various provisions which were allegedly violated by the petitioner, nor were the listing requirements/filing requirements specifically mentioned. Hence, the remedy of giving a reply to the show cause notice, it is argued, would be illusory.

With regard to the second notice, the line of argument of the petitioner is similar, inasmuch as the particulars of the alleged violation by the petitioner are not disclosed.

Learned counsel appearing for the Calcutta Stock Exchange refutes the submissions of the petitioner and contends that the impugned notices are the culmination of a long saga going on between the parties. Learned counsel for the CSE places reliance in particular on a notice dated March 7, 2011 annexed at page 28 of the writ petition where it was clearly disclosed by the CSE that the petitioner had not submitted necessary documents as per the provisions of the listing agreement.

It is also argued that even in the impugned notice dated November 9, 2023, the provisions of the listing agreement and violation thereof was specifically referred to. Since the petitioner itself, through its agents, was a signatory to the listing agreement, it is argued that the petitioner cannot feign ignorance on the contents and provisions of the listing agreement. That apart, it was also specified in the notice dated November 9, 2023 that one of the violations was the non-payment of annual listing fee.

Learned counsel for the CSE also relies on other communications, including the communication dated October 17, 2011 annexed at page 30 of the writ petition, as well as the communication dated March 21, 2016 annexed at page 34, to bolster his arguments that sufficient prior notice of the violations committed by the petitioner was available to the petitioner.

In so far as the notice dated December 26, 2023 is concerned, it is argued that the same is self-explanatory.

The arguments advanced on behalf of the CSE are substantial and cannot but be accepted. Insofar as the first impugned notice dated November 9, 2023 is concerned, the same clearly enumerates that non-payment of annual listing fee and the violations of various provisions of the listing agreement, to which the petitioner is a party, as the grounds for issuance of such notice. It is rightly argued by the CSE that the petitioner had ample prior knowledge, due to the continuing correspondence between the parties, of the exact nature of the violations. That apart, it is argued that the petitioner did not give any reply within the stipulated 15 days even asking for necessary particulars, which would have been done if the petitioner was really handicapped in any manner on such count.

Insofar as the notice dated December 26, 2023 goes, the same clearly enumerates that non-compliance of MPS as per the SEBI Circular dated March 31, 2023 is the reason for the CSE asking for fine from the petitioner. There cannot be any ambiguity in such enumeration of grounds in the said notice as such.

Thus, there is no ambiguity or vagueness whatsoever in any of the notices, either with regard to the consequences to be followed in case of non-compliance or with regard to the particulars of the offence allegedly committed by the petitioner. Hence, the present challenge to the said notices is not sustainable in law and on facts. Accordingly, WPO 137 of 2024 is dismissed on contest without any order as to costs.

(SABYASACHI BHATTACHARYYA, J.)

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