



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 5080 OF 2024

1. **Nalwa Sons Investments Limited**,
a company incorporated in India,
and having its registered office at
28 Najafgarh Road, Moti Nagar
Industrial Area, New Delhi, Delhi,
India – 110015 and Corporate
Office at Jindal Centre, 12,
Bhikaji Cama Place,
New Delhi – 110066.
2. **Mahender Kumar Goel**,
having his residence at 1653,
Sector 14, Hisar -125001,
Haryana.
3. **Rakesh Kumar Garg**,
having his residence at
B-071, DLF New Town Heights,
Sector-86, Gurgaon – 122004,
Haryana.
4. **Rajinder Parkash Jindal**,
having his residence at
House No.1451, Sector 13-P,
Behind Jawa Hospital,
Hisar-125001, Haryana.
5. **Bhartendu Harit**,
having his residence at
H.No.529, Sector 9-11,
Hisar – 125001, Haryana
(Old Address : 363, Housing
Board Colony, Sirsa Road,
Hisar, Haryana).

6. **Prithavi Raj Jindal,**
having his residence at 6,
Prithvi Raj Road,
New Delhi – 110011, Delhi.
7. **Arti Jindal,**
having her residence at 6,
Prithvi Raj Road,
New Delhi -110011, Delhi.
8. **Siddeshwari Tradex Private Limited,**
a company incorporated in India and
having its office at 28, Shivaji Marg,
Najafgarh Road, New Delhi – 110015.
9. **Sahyog Holdings Private Limited,**
a company incorporated in India and
having its office at JSW Centre,
Bandra Kurla Complex, Bandra East,
Mumbai – 400051, Maharashtra.
10. **Sajjan Jindal,**
having his residence at
Jindal Villa, 36 Nepean Sea Road,
Cumballa Hill, Mumbai – 40026.
11. **Virtuous Tradecorp Private Limited,**
a company incorporated in India and
having its office at JSL Complex, O.P
Jindal Marg, Hisar, Haryana – 125005.
12. **Ratan Jindal,**
having his residence at House 99,
Cairnhill Circle # 12-02
Hilltops, Singapore 229808 (Old
Address: Jindal Stainless Fze (Emaar),
Tower-E2, Flat-3202 E, Burj Dubai
Development Na-18721, United Arab
Emirates).

13. **OPJ Trading Private Limited,**
a company incorporated in India
and having its office at 15/T,
Pinakpani Co Op Housing Society
Ltd, Lav Kush Society, Near Isha
Vasyam Bunglows, B/H, Sonali
Appt, Sattelite, Azad Society,
Ahmedabad – 380015, Gujarat.
14. **Naveen Jindal,**
having his residence at House No.6,
Prithvi Raj Road, Nirman Bhawan,
New Delhi – 110011, Delhi.
15. **Shallu Jindal,**
having her residence at 6,
Prithvi Raj Road,
New Delhi – 110011, Delhi. ...Petitioners

VERSUS

Securities and Exchange Board of India,
having its office at SEBI Bhavan, Plot
No.C4-A, G Block, Bandra Kurla Complex,
Bandra (E), Mumbai – 400 051,
Maharashtra. ...Respondent

**Mr. Janak Dwarkadas, Senior Advocate, a/w Mr. Rohan
Rajadhyaksha, Mr. Indranil Deshmukh, Mr. Darshan
Furia, Ms. Priyanka Desai, Mr. Arnav Misra, Mr. Kushal
Tekriwal i/b. Cyril Amarchand Mangaldas for the
Petitioners**

**Mr. Mustafa Doctor, Senior Advocate, a/w Ms. Hubab Sayeed,
Mr. Nishin Shrikhande, Mr. Harish Ballani i/b. Vidhii
Partners for the Respondent.**

CORAM : M.S.Sonak &
Jitendra Jain, JJ.

RESERVED ON : 04 December 2024

PRONOUNCED ON : 09 December 2024

JUDGMENT (Per MS Sonak J):-

1. Heard learned Counsel for the parties.
2. Rule. The Rule is made returnable immediately at the request of and with the consent of the learned Counsel for the parties.
3. The Petitioners challenge the show cause notice dated 20 August 2024 issued by the Securities and Exchange Board of India (“SEBI”) calling upon them to show cause why suitable directions should not be issued and/or penalty, as deemed fit, should not be imposed on them under Sections 11(1), 11(4), 11(4A), 11B(1), 11B(2) read with Section 15-HA of the Securities and Exchange Board of India Act, 1992 (“SEBI Act”) read with Rule 5 of Securities and Exchange Board of India (Procedure for holding Inquiry and Imposing Penalties) Rules, 1995. One of the noticees (Petitioner No. 5) was also called upon to show cause as to why a suitable penalty, as deemed fit, under Section 23A(a) read with Section 24 of Securities Contracts (Regulation) Act, 1956 read with Rule 5 of Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 be not imposed upon him.

PETITIONERS’ CONTENTIONS

4. The Petitioners challenge the impugned show cause notice mainly upon the following three grounds: -

- (i) Delay and laches in the issuance of impugned show cause notice;
- (ii) That SEBI cannot review or revisit its earlier decisions, and such review or revisiting amounts to double jeopardy or attracts the bar of *res judicata*;
- (iii) That the impugned show cause notice is vitiated by non-application of mind for failure to consider relevant material and non-furnish of relevant documents.

5. Mr Dwarkadas, the learned Senior counsel for the Petitioners, elaborated that the allegations in the impugned show-cause notice pertained to the 2014 reorganisation of the group, which forms the subject matter of the notice. He submitted that all disclosures concerning this were made in the petitioner company's annual reports/financial statements for FY 2013-14 and numerous other documents, filings, and disclosures to SEBI and stock exchanges. The reorganisation itself was effected in or around March 2014.

6. Mr Dwarkadas submitted that issuing a show cause notice in August 2024, i.e., after almost 10 years from such reorganisation, attracts the doctrine of laches. A show cause notice of this nature should be nipped in the bud and not allowed to proceed. He submitted that even though no period of limitation may have been prescribed for issuing a show cause notice, such show cause notices must be issued within a reasonable period if there is any real cause to issue the same. On this ground, He submitted that, in this case, there was no real cause, and in any event, the impugned show cause notice was inordinately delayed. He submitted that the impugned

show cause notice must be regarded as one without jurisdiction, quashed, and set aside.

7. Mr Dwarkadas submitted that on 12 August 2014, a complaint was filed by Mr Anil Arya and Ms Vaishali Arya concerning the same issues now sought to be belatedly raked up in the impugned show cause notice. He submitted that such a complaint was examined and closed, presumably because the same was found to be meritless. He referred to Clause 12 of SEBI's circular dated 18 December 2014 to submit a complaint shall be treated as resolved/disposed/closed only when SEBI disposes/closes the complaint in SCORES (a web-based complaints redressal system).

8. Mr Dwarkadas submitted that this, having been done by SEBI, it was not once again open to SEBI to rake up belated and closed issues by purporting to review or revisit its earlier decision on the same subject matter. He submitted that this would vex a person twice for the same alleged wrongs, and such an attempt could also be barred by principles of *res judicata* or principles analogous thereto.

9. Mr Dwarkadas submitted that the impugned show cause notice is vitiated by non-application of mind because SEBI did not consider relevant material before issuing the impugned show cause notice. He submitted that the impugned show cause notice also contains no reasons or justification for its issue. He submitted that relevant material regarding the closure of the complaints made by the Aryas, the decision of SEBI and NSE not to take any precipitative action against the Petitioners, etc., were not considered by the SEBI before

issuing the impugned show cause notice. He submitted that such non-consideration of relevant material vitiates the impugned show cause notice, which, therefore, ought to be quashed and set aside.

10. Mr Dwarkadas submitted that the Petitioners had applied for SEBI's file notings and other records concerning the complaints made by Aryas and the conclusion recorded by SEBI regarding such complaints. He submitted that the Petitioners had also requested information on the material placed before the whole-time members of SEBI to decide whether there were sufficient grounds to reopen the matter, enquire or investigate the allegations made and initiate proceedings against the Petitioners. He submitted that such information/documents have not been furnished to the Petitioners by misinterpreting the Hon'ble Supreme Court's decision in **T. Takano Vs Securities and Exchange Board of India and another**¹ and by relying upon Securities Appellate Tribunal's ("SAT") order dated 22 May 2024 in the matter of **Madhyam Agrivet Industries Ltd Vs Securities and Exchange Board of India**².

11. Mr Dwarkadas submitted that the above information/documents are necessary for the Petitioners to respond to the impugned show cause notice effectively. He submitted that such documents are needed to enable the Petitioners to defend themselves effectively. He submitted that denying such information/documents amounts to breach of principles of natural justice and fair play.

¹ (2022) 8 SCC 162

² 2024 SCC OnLine SAT 296

12. Mr Dwarkadas submitted that the SAT's order dated 22 May 2024 in **Madhyam Agrivet Industries** (supra) was appealed to the Hon'ble Supreme Court. By way of interim order, the Hon'ble Supreme Court has restrained the SEBI from insisting that **Madhyam Agrivet Industries** (supra) file its response to the show-cause notice issued to them.

13. Mr Dwarkadas also relied upon the decision of the Coordinate Bench in **Milind Patel Vs Union Bank of India and others**³ to submit that fairness requires the furnishing of not only the documents as the adjudicating may propose to rely upon but also documents which would assist the noticee's defence. He submitted that the Coordinate Bench's decision was made after considering the Hon'ble Supreme Court's decision in **T. Takano** (supra).

14. Mr Dwarkadas submitted that the impugned show cause notice should be set aside for failure on the part of SEBI to provide the above information/documents, or in the alternate, the SEBI should be directed to provide the above information/documents, and the Petitioners must be granted some reasonable time to respond to the show cause notice after the receipts of such information/documents. In this regard, Mr Dwarkadas referred to the proceedings on the inspection of documents held on 4 October 2024.

SEBI'S RESPONSE

15. At the outset, Mr Doctor, the learned Senior Counsel for the SEBI, submitted that this Petition, which seeks to challenge a show-cause notice, should not be entertained

³ 2024 SCC OnLine Bom 745

because the Petitioners only wish to stall or delay the adjudication proceedings. He submitted that the impugned show notice was issued on 20 August 2024; the Petitioners sought an inspection of documents, most of which were furnished. The petitioners attended the hearings and belatedly filed this Petition on 8 November 2024. He submitted that the Petitioners, having acquiesced, could not now challenge the impugned show cause notice.

16. Mr Doctor submitted that the petitioners have also submitted a settlement proposal under the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018, possibly to take advantage of the provisions of Regulation 8, which requires the final orders in show cause notices be kept in abeyance until the settlement application is disposed of. He submitted that frivolous objections are now being raised only to delay or stall the impugned show cause notice adjudication.

17. Mr Doctor submitted that there was no delay or laches involved in the issue of the impugned show-cause notice. In any event, he submitted that this is a ground that the Petitioners could always raise in reply to the show-cause notice, and it could be dealt with according to the law. He submitted that this was not a case of any review, and the arguments based on double jeopardy or *res judicata* are entirely misconceived.

18. After receiving the complaint, Mr Doctor submitted that the SEBI caused its Finance Investigation Department to investigate the matter. Based on the investigation report, a copy of which was duly furnished to the Petitioners, a decision

was taken to issue the impugned show-cause notice. The SEBI considered all relevant material, and the argument about non-application of mind is misconceived.

19. Mr Doctor submitted that the alleged denial of information/documents in the record of proceedings dated 4 October 2024 cannot be a ground for questioning the impugned show cause notice. He pointed out that, very significantly, there was no challenge to the denial of such documents/information, and the ground in the Petition on this issue is blissfully vague. He submitted that most of the information was furnished to the petitioners. He submitted that the petitioners were only interested in delaying the matter or creating an artificial foundation to allege the failure of natural justice.

20. Mr Doctor submitted that a complaint dated 12 August 2014 was received from Mr Anil Arya and Ms Vaishali Arya. A Copy of such complaint was duly furnished to the concerned Petitioners. The Petitioners responded to this complaint by letter dated 7 March 2015. A copy of this letter was forwarded to Mr Anil Arya, expressing the hope that the explanation furnished clarifies that the issue raised by Mr Arya and the complaint was treated as closed in the exchange records. He referred to the communication dated 10 March 2015 addressed to Mr Anil Arya (Exhibit 'G' at page 202 of the paper book). He submitted that the arguments of review, revisit, double jeopardy and *res judicata*, in the circumstances, were entirely frivolous. The Petitioners were only interested in roving enquiries to delay or stall the impugned show cause notice adjudication.

21. Mr Doctor, without prejudice, and based on instructions, however stated that the information regards Arya's complaint dated 12 August 2014, which includes SEBI's file notings, complete records, and the conclusion recorded by SEBI, could be furnished to the Petitioners within two weeks. This was in the context of column 4.1 of serial no. 2 of the proceedings of inspection of documents dated 4 October 2024. However, Mr Doctor submitted that seeking information referred to in Clause 4(ii) was nothing but embarking upon a fishing expedition or a roving enquiry, and there was no question yielding to the same.

22. Mr Doctor submitted that no case was made out to interfere with the impugned show cause notice, mainly since the Petitioners would be granted the full opportunity to respond to and defend themselves in the proceedings pursuant to the impugned show cause notice. He submitted that even if any adverse order were to be made, the Petitioners would have an alternate and efficacious remedy of appealing such adverse order before the Securities Appellate Tribunal ("SAT"). He, therefore, submitted that this Petition be dismissed with cost.

EVALUATION OF THE RIVAL CONTENTIONS

23. The rival contentions now fall for our determination.

WAIVER/ACQUIESCENCE

24. The Petitioners have pleaded that the first Petitioner, earlier known as Jindal Steels Limited ("JSL"), was incorporated in 1983 and renamed Nalwa Sons Investments Limited in April 2005. In March 2014, the O.P Jindal group

decided to reorganise or segregate its companies and businesses, which was effectively achieved in 2014. Full disclosures were made to SEBI, the Registrar of Companies, and other statutory authorities.

25. On 12 August 2014, Mr Anil Arya and Ms Vaishali Arya, the shareholders of the 1st Petitioner, complained to the SEBI, among other things, about the 2014 reorganisation. SEBI forwarded this complaint to the National Stock Exchange (NSE).

26. The NSE furnished the first Petitioner with a copy of the complaint dated 12 August 2014 and invited responses/comments. The complaint was, in fact, registered on the SCORES platform. The first Petitioner submitted a detailed response on 7 March 2015. After considering the reply/response, the NSE and SEBI resolved to close the complaint. This was communicated by the NSE to Anil Arya.

27. On 19 August 2022, the SEBI received yet another complaint from yet another shareholder of the 1st Petitioner. On 15 May 2023, the SEBI appointed an Investigating Authority (IA) to investigate the complaint and submit a report. The IA submitted the report and the proposed action matrix on 18 March 2024. On 20 August 2024, SEBI issued the impugned show-cause notice, which is detailed and marked as Exhibit 'A' (pages 81 to 120 of the paper book).

28. The Petitioners' first reaction to the impugned show cause notice was not to protest its issuance on the grounds now raised or urged in this Petition. Instead, through their solicitor's response dated 5 September 2024, the Petitioners

sought copies/inspection of certain documents to enable them to reply to the impugned show cause notice. The Petitioners, through their solicitors, submitted that the 21-day time limit to file a reply to the impugned show cause notice may begin after the furnishing/inspection of documents.

29. The Petitioners were requested to attend the SEBI's office on 4 October 2024 for inspection. On this date, the Petitioners' representatives attended the inspection proceedings, and it is alleged that all documents were not furnished. In particular, the documents/ material referred to in clauses 4.1 and 4.2 of the proceeding sheet were not furnished to the Petitioners.

30. This Petition was instituted after almost a month, i.e., on 8 November 2024. Mr Doctor submitted that the Petitioners have also filed a settlement proposal under the Settlement Regulations, but there is no disclosure about the same in this Petition.

31. At this stage, we do not propose considering Mr Doctor's contention about waiver or acquiescence resulting from the Petitioners' response to the show cause notice and participation in the proceedings for inspection of documents. This is more so because we are satisfied that the Petitioners have not made out any case for quashing the impugned show cause notice or for not responding to the impugned show cause notice and participating in the adjudication of the same.

PRINCIPLES FOR INTERFERENCE WITH SHOW-CASUSE NOTICES

32. In **Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai and others**⁴, the Hon'ble Supreme Court has held that the power of the High Court under Article 226 of the Constitution to issue prerogative writs is plenary and not limited by any other provisions of the Constitution. However, the High Court, having regard to the facts of the case, has discretion to entertain or not to entertain a writ petition. Besides, High Courts have imposed upon themselves certain restrictions, one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction.

33. The Court has explained that the rule/practice of exhaustion of the alternate remedies would not operate as a bar in at least three contingencies, namely, where the writ petition has been filed for enforcement of the fundamental rights or where there has been a violation of principles of natural justice or where the order or proceedings are wholly without jurisdiction or where the vires of an Act is challenged. The Court held that there is a plethora of case law on this point. Still, to cut down on this circle of forensic whirlpool, the Court chose to rely upon some old decisions of the evolutionary era of the Constitutional law since such decisions still hold the field. These decisions include **Rashid Ahmed Vs Municipal Board, Kairana**⁵, **K.S. Rashid & Son Vs. Income Tax**

⁴ (1998) 8 SCC 1

⁵ AIR 1950 SC 163 : 1950 SCR 566

Investigation Commissione⁶, State of U.P Vs Mohd Nooh⁷, A.V. Venkateswaran, Collector of Customs Vs. Ramchand Sobhraj Wadhwani⁸ and Culcutta Discount Co, Ltd V ITO, Companies Distt.⁹.

34. The Court observed that much water has since flown under the bridge. Still, there has no corrosive effect on these decisions, which, though old, continue to hold the field with the result that law as to the jurisdiction of the High Court in entertaining the writ petition under Article 226 of the Constitution, despite alternate statutory remedies, is not affected.

35. Recently, this Court, in the case of **Oberoï Constructions Ltd Vs Union of India¹⁰** surveyed the precedents of the subject and also noted the rising trend of instituting Petitions by-passing alternate remedies provided under the statute. This Court also referred to the Hon'ble Supreme Court's decision in **Malladi Drugs and Pharma Limited Vs Union of India & another¹¹** in which it was held that the High Court was justified in dismissing the writ petition against the mere show cause notice.

36. This Court also referred to the recent ruling in **The State of Maharashtra & Others Vs. Greatship (India) Limited¹²**, wherein it was held that Article 226 was not meant to short-

⁶ AIR 1954 SC 207 : (1954) 25 ITR 167

⁷ AIR 1958 SC 86 : 1958 SCR 595

⁸ AIR 1961 SC 1506 : (1962) 1 SCR 753

⁹ AIR 1961 SC 372 : (1961) 41 ITR 191

¹⁰ Writ Petition (L) No. 33260 of 2023 decided on 11 November 2024

¹¹ 2020 12 SCC 808

¹² 2022 LiveLaw SC 784

circuit or circumvent statutory procedures. It was only when statutory remedies were entitled ill-suited to meet the demands of extraordinary situations, for instance, where the very vires of the statute was in question or where the private or public wrongs were so inextricably mixed up, and the prevention of public injury and the vindication of public justice require that recourse may be had to Article 226 of the Constitution. But even then, the Court must have good and sufficient reason to bypass the alternative remedy provided by statute. The Court held that surely, matters involving the revenue where statutory remedies are available are not such matters.

37. This Court also referred to its earlier precedent in **United Bank of India Vs. Satyawati Tondon and Others**¹³ in which it was observed that judicial notice to be taken of the fact that a vast majority of Petitions under Article 226 of the Constitution were filed only for obtaining interim orders and thereafter prolonging the proceedings.

38. The grounds urged on behalf of the Petitioners do not meet the parameters suggested in **Whirlpool Corporation** (supra). Apart from such parameters, no good ground exists to interfere with the impugned show-cause notice. The principles and the ratio of the above-referred decisions apply, and based on the same, this petition is not required to be entertained.

¹³ (2010) 8 SCC 110

DELAY AND LACHES

39. The argument about delay or laches would involve an investigation into factual matters and considerations of prejudice. Laches is not mere physical running of time. Laches consists of the creation of parallel rights in the party, which it would be inequitable to disturb, given the delay involved in the proposed action. Considerations of prejudice are also relevant in such matters; therefore, by merely alleging delay or laches or merely construing delay or laches as mere physical running of time, no case is made out to quash the impugned show cause notice. The Petitioners can as well respond to the show cause notice and raise this plea, which will have to be considered in accordance with law by the SEBI. However, based upon such a plea, no case is made out to quash the impugned show cause notice or restrain the SEBI from proceeding any further with its show cause notice.

40. The rule of laches, particularly in the context of the litigant approaching the Court of law, is not a rule of law but a rule of practice based on sound and proper exercise of discretion. In **M/s Dehri Rohtas Light Railway Company Limited Vs District Board, Bhojpur and Others**¹⁴, the Hon'ble Supreme Court has explained that each case depends upon its own facts. It will all depend on what the breach of the fundamental right and the remedy claimed are and how the delay arose. The principle on which the relief to the party on the grounds of laches or delay is denied is that the rights which have accrued to others by reason of the delay in filing the Petition should not be disturbed unless there is a

¹⁴ (1992) 2 SCC 598

reasonable explanation for the delay. The real test to determine the delay in such cases is that the Petitioner should come to the writ Court before a parallel right is created and that the lapse of time is not attributable to any laches or negligence. The test is not a physical running of time. Where the circumstances justifying the conduct exist, the manifest illegality cannot be sustained on the sole ground of laches.

41. The argument about the complaint against the Petitioners being hit by delay and laches would have to be examined in the above light. Such examination or evaluation would involve delving into factual aspects, determining prejudice, creating parallel rights, etc. Therefore, in this case, the impugned show cause notice cannot be set aside by alleging delay or laches. In any event, this plea can always be raised in response to the impugned show cause notice, and there is no reason to assume that the SEBI would not consider the same.

REVIEW/ RES JUDICATA

42. The argument about review, revisit, double jeopardy and *res judicata*, again involves investigation into factual aspects. Besides, it is doubtful whether the principles of double jeopardy or even the *res judicata* can be seriously invoked in such matters. In any event, the 1st Petitioner, who was furnished with a copy of the complaint dated 12 August 2014, has not bothered to enclose the complaint with the Petition or even to transcribe the allegations in the said complaint in the Petition. This was necessary to compare whether the contents and the scope of the complaint and the complaint based on which the present show cause notice is issued were the same

or substantially the same. The Hon'ble Supreme Court has held the pleas of *res judicata* involve examination and comparison of the pleadings and issues in the two matters. Therefore, such a plea cannot ordinarily be decided at the threshold in an application under Order 7 Rule 11 of the CPC.

43. In any event, the impugned show-cause notice was not issued based only on the complaint dated 19 August 2022. After receiving such a complaint, the SEBI appointed an Investigating Authority. This Investigating Authority investigated and submitted a report. Considering this report and other relevant material, the impugned show-cause notice has been issued. A copy of this report has admittedly been furnished to the Petitioners.

44. Therefore, by simply alleging that this is a case of review, revisit, double jeopardy or *res judicata*, no case is made out to interfere with the impugned show cause notice. Undoubtedly, it would be open to the Petitioners to raise all such defences. If such defences are raised, we are sure they will be considered following the law based upon the material the Petitioners produce to support such contentions. The issue of whether principles of *res judicata* or double jeopardy apply to such proceedings can also be considered if raised. However, this case does not call for quashing the impugned show cause notice based on such grounds.

NON-APPLICATION OF MIND

45. The argument that relevant material was not considered is also misconceived. At this stage, it is sufficient that the SEBI, based on the complaint received, ordered an

investigation and, based on the investigation report, formed a prima facie opinion for issuing the show-cause notice. Based on the material produced on record by the Petitioners, we cannot say that the impugned show-cause notice was issued without any application of mind, based on no material whatsoever, or by ignoring any relevant material.

46. The scope of judicial review of a show cause notice is also relatively minimal. Therefore, while it would be open to the petitioner to raise all permissible defences, we do not think that this is a case where the impugned show cause notice should be quashed at the threshold on the alleged ground that the SEBI failed to apply its mind or failed to consider the relevant material before issuing the impugned show cause notice. In any event, no such case is made out.

47. The Petitioners repeatedly harp on the circumstance that SEBI thoroughly examined and closed Aryas's 2014 complaint. Mr Dwarkadas relied upon Clause 12 of SEBI's circular dated 18 December 2014, which provides that a complaint shall be treated as resolved/disposed of/closed only when the SEBI disposes of/closes the complaint in SCORES. Hence, the mere filing of an ATR by a listed company or SEBI-registered intermediary with respect to a complaint does not mean that the complaint is not pending against them.

48. From the material placed before us, it is difficult to say that Arya's complaint was thoroughly examined and closed. There is no clarity on whether Arya's complaint contained substantially the same allegations as in the 2019 complaint. There is no material about thorough investigation as claimed by the Petitioners. Therefore, at this stage, it is too premature

to quash the impugned show notice based upon such pleas or the Petitioners' understanding of Clause 12 of SEBI's circular dated 18 December 2014.

49. Again, the petitioners are free to raise all permissible pleas in response to the impugned show-cause notice, and there is no good reason to assume the SEBI cannot or will not consider such pleas. In this petition, we are only to consider whether the Petitioners have made out a case to secure the quashing of the impugned show-cause notice or nip the proceedings in the bud. Upon considering the material placed and the contentions advanced, no such extraordinary case is made out.

NON-FURNISH OF DOCUMENTS

50. Mr Doctor is justified in contending that there is no clear ground in the Petition about the non-furnish of information/documents. He is also justified in contending that no show cause notice can be quashed based upon such a ground. This Petition was instituted on 8 November 2024. Still, there is no challenge to the denial of documents/information during the proceedings or inspection held on 4 October 2024.

51. In **T Takano** (supra) the Hon'ble Supreme Court has held that the quasi-judicial authority has a duty to disclose the material that has been relied upon at the adjudication stage. Further, an ipse dixit of the authority that it has not relied on certain material would not exempt it from its liability to disclose such material if it is *relevant* to and has a *nexus* to the action taken by the authority. If, in all reasonable

probability, such material would have influenced the decision reached by the authority, then the principles of natural justice require its disclosure.

52. Similarly, in **Milind Patel** (Supra), this Court has held that not only the information that is referred to and relied on the show cause notice be supplied but also the information that may undermine the allegations contained in the show cause notice (which may therefore not be referred to or relied upon) must also be supplied - only to ensure that everything relevant to arrive at the truth is available to both the parties. The Court held that the objective of the proceeding initiated by issuing a show cause notice is not to somehow find the noticee guilty of willful default on the same terms as alleged. Instead, the objective is to arrive at the truth as to whether the proposed action is required to be taken.

53. We have no reason to believe that the SEBI would act unfairly or breach the law enshrined in the Court's decisions. If there is any actual prejudice, such grievance can always be made, even in a challenge to the SEBI's decision, should the same adversely affect the Petitioners. However, based on the advanced arguments, no case has been made to quash the show cause notice.

54. In this case, the material relied upon the show cause notice has been furnished to the Petitioners. We thought that the Petitioners could be furnished the information referred to in paragraph 4(i) of the proceedings for inspection of documents held on 4 October 2024. This was in the context of Arya's complaint dated 12 August 2014. Mr Doctor, on instruction but without prejudice, agreed to provide that

information to the Petitioners within 2 weeks of uploading this order. The statement is accepted, and the SEBI will have to abide by the same. Upon receipt of this material, the Petitioners must not further delay in filing a response to the impugned show cause notice if they wish to file a response. Response must be filed within 4 weeks of the receipt of the information/documents which the SEBI has now agreed to furnish to the Petitioner.

55. Regarding the information/documents in paragraph 4(ii) of the proceedings for inspection of documents dated 4 October 2024, at least prima facie, we think that the Petitioners are only trying to create a base so that, in future, they can allege failure of natural justice. This is only a prima facie opinion; therefore, it is open to the Petitioners to complain about the non-furnish of this documents/material, demonstrate prejudice, if any, and urge failure of natural justice. However, exercising our extraordinary jurisdiction, we do not think that we should or could assist the Petitioners in unnecessarily prolonging the adjudication of the impugned show cause notice by interfering at every stage and over every matter. The extraordinary and discretionary jurisdiction cannot be invoked for such purposes.

56. The impugned show-cause notice was issued on 20 August 2024. To date, the petitioners have not filed a proper reply. Mr. Doctor pointed out that the Petitioners have also submitted settlement proposals, so no final orders can be made on the impugned show-cause notice until the settlement applications/proposals are disposed of. This Petition was filed in November 2024, and a stay was sought on further proceedings under the impugned show-cause notice.

57. All this suggests that this Court's extraordinary jurisdiction is being invoked to stall or delay the proceedings to the extent possible. At this stage, just as there may be no presumption of wrongdoings by the Petitioners, so also we cannot presume that the SEBI would not give the Petitioners a fair hearing or fair opportunity. However, fairness in such matters is not a one-way street but two-way traffic. Even the Petitioners must cooperate with the expeditious disposal of the show cause notice so that if they are clean, they need not suffer on account of such prolonged adjudication. The earlier the air is cleared, the better it is for all concerned, including the system that the SEBI must regulate.

CONCLUSION

58. For all the above reasons, we decline to interfere with the impugned show-cause notice and dismiss this Petition. This is subject to our recording SEBI's statement about furnishing information in terms of Clause 4 (i) of the proceedings for inspection dated 4 October 2024 and the grant of some additional time to the Petitioners to respond to the impugned show-cause notice.

59. The Rule is disposed of in the above terms without any cost order.

60. All concerned to act on an authenticated copy of this order.

(Jitendra Jain, J)

(M. S. Sonak, J)