

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION (ST.) NO.866 OF 2021

Swojas Energy Foods Ltd. and ors. ... Petitioners
V/s.

Securities and Exchange Board of India
and ors. ... Respondents

Mr.Yeshwanth Shenoy alongwith Mr.Mangesh Mandal i/by
Mr.B.K.Rai, Advocates for the Petitioners.

Ms.Nidhi Singh alongwith Ms.Kinjal Bhatt i/by M/s Vidhi Partners,
Advocates for Respondent No.1.

Mr.Sham Walve, Advocate for Respondent No.2.

Mr.J.B.Mishra alongwith Mr.L.P.Sawant, Advocates for Respondent
No.3.

Mr.Pesi Modi, Senior Advocate alongwith Mr.Anubhav Ghosh and
Mr.Ravishekhar Pandey i/by M/s The Law Point, Advocates for
Respondent No.5.

Ms.Shilpa Nair i/by M/s Veritas Legal, Advocate for Respondent
No.6.

Mr.Pulkit Sukhramani i/by M/s J. Sagar Associates, Advocate for
Respondent No.7.

**CORAM : UJJAL BHUYAN &
MILIND N. JADHAV, JJ.
DATE : FEBRUARY 17, 2021.**

P.C.:-

Heard Mr.Shenoy, learned counsel for the petitioners;
Ms.Singh, learned counsel for respondent No.1, Mr.Walve, learned
standing counsel, revenue for respondent No.2; Mr.J.B.Mishra,
learned counsel for respondent No.3; and Mr.Modi, learned senior
counsel alongwith Mr.Anubhav Ghosh, learned counsel for
respondent No.5.

2. Though a number of prayers have been made by the
petitioners, the principal grievance of the petitioner was

highlighted in our order dated 27th January, 2021, when we had issued notice. Relevant portion of the order dated 27th January, 2021 reads as under:-

"2. Petitioners are aggrieved by freezing of their demat accounts by respondent No.5 on the ground of "statutory order". Learned counsel for the petitioners submits that firstly respondent No.5 is not a statutory authority. Therefore, it has got no power for freezing of demat accounts. Secondly, there is no such order by any statutory authority for freezing of the demat accounts of the petitioners. Impugned action of respondent No.5 is therefore wholly without jurisdiction besides being unjust and unfair causing substantial loss to the petitioners."

3. Today when the matter is called upon, Mr.Modi, learned counsel for respondent No.5 has raised a preliminary objection contending that against the order dated 6th January, 2020 passed by the Securities Appellate Tribunal, Mumbai in the appeal of the petitioners against freezing of its demat accounts, petitioners had filed statutory appeal before the Supreme Court being Civil Appeal No.2191 of 2020 which was however dismissed by the Supreme Court on 15th October, 2020. In such circumstances, it is not open to the petitioners to re-agitate the same set of grievances in the present writ petition.

4. We may mention that demat accounts of the petitioners have been frozen for non-payment of annual listing fee which has been quantified at Rs.14,16,000/- for the period from 2015-16 to 2019-20. Against the freezing of demat accounts, petitioners preferred appeal before the Securities Appellate Tribunal. By its order dated 6th January, 2020 Securities Appellate Tribunal directed the petitioners to deposit an amount of Rs.14,16,000/- before respondent No.5 under protest upon which the demat accounts would be unfrozen. Further, liberty was granted to the

petitioners to file an appropriate application for refund of goods and services tax (GST).

5. Appeal filed by the petitioners against the decision of the Securities Appellate Tribunal has been rejected by the Supreme Court.

6. While hearing the matter Ms.Singh, learned counsel for respondent No.1 has placed before us a copy of letter dated 11th February, 2021 of the Securities and Exchange Board of India (SEBI) laying down the standard operating procedure regarding action to be taken for non-payment of annual listing fees which have led to freeing of the demat accounts of the petitioners. Referring to paragraph No.6 of the said letter she submits that the standard operating procedure came into immediate effect and has superseded the previous circulars dated 11th June, 2019 and 6th November, 2020 clarifying that no further action shall be initiated by the stock exchanges on the strength of the superseded circulars. Referring to paragraph No.9 of the said letter she submits that the stock exchanges including respondent No.5 have been directed to formulate a consistent annual listing fees invoicing policy and as per paragraph No.9.2 to inform the depositories to unfreeze the demat accounts which have been frozen for non-payment of annual listing fees with immediate effect.

6. In the light of the above development, we are of the view that the principal grievance of the petitioners has been redressed. We may also mention that one of the prayers made in the writ petition was for quashing of circular dated 11th June, 2019 which now stands superseded by the present letter dated 11th February, 2021.

7. At this stage, Mr. Shenoy submits that petitioners will deposit Rs.14,60,000/- into the demat accounts and thereafter submit a fresh representation to SEBI as to the other grievances.

8. That being the position, we direct respondent No.5 to unfreeze the demat accounts of the petitioners with immediate effect in terms of SEBI's letter dated 11th February, 2021.

9. Further we grant liberty to the petitioners to file a fresh representation highlighting their grievances before respondent No.1 and if such a representation is made, an appropriate authority of respondent No.1 shall consider and decide the same by way of a speaking order expeditiously and at any rate within a period of eight weeks from the date of receipt of the representation.

10. All contentions are kept open.

11. At this stage Mr. Modi, learned senior counsel makes a prayer for stay of the order. Having delivered the order, we are not inclined to stay the same.

12. Writ petition is disposed of.

(MILIND N. JADHAV, J.)

(UJJAL BHUYAN, J.)

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