

SECURITIES LAWS (SECOND AMENDMENT)ACT, 1999

32 of 1999

[16th December, 1999]

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An Act further to amend the Securities Contracts (Regulation) Act, 1956, the Securities and Exchange Board of India Act, 1992 and the Depositories Act, 1996. Be it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:--

CHAPTER 1

PRELIMINARY

1. Short Title :-

Section This Act may be called the Securities Laws (Second Amendment) Act, 1999.

CHAPTER 2

AMENDMENTS TO THE SECURITIES CONTRACTS (REGULATION) ACT, 1956

2. Amendment OF Section 2 :-

Section

In Section 2 of the Securities Contracts (Regulation) Act, 1956 (hereafter in this Chapter referred to as the principal Act), after Cl. (g), the following clause shall be inserted, namely:-- "(ga) "Securities Appellate Tribunal" means a Securities Appellate Tribunal established under sub-section (1) of Section 15-K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

3. Insertion of New Section 2-A :-

Section

After Section 2 of the principal Act, the following section shall be inserted, namely:-- "2-A. Interpretation of certain words and expressions.--Words and expressions used herein and not defined in this Act but defined in the Companies Act, 1956 (1 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of 1992) or the Depositories Act, 1996 (22 of 1996) shall have the same meanings respectively assigned to them in those Acts."

4. Amendment Of Section 22 :-

Section In Section 22 of the principal Act, the following proviso shall be inserted, namely:-- "Provided that no appeal shall be preferred against refusal, omission or failure, as the case may be, under this section on and after the commencement of the Securities Laws (Second Amendment) Act, 1999."

5. Insertion Of New Sections 22-A, 22-B, 22-C, 22-D, 22-E AND 22-F :-

Section

After Section 22 of the principal Act, the following sections shall be inserted, namely:-- "22-A. Right of appeal to Securities Appellate Tribunal against refusal of stock exchange to list securities of public companies.--(1) Where a recognised stock exchange, acting in pursuance of any power given to it by its bye-laws, refuses to list the securities of any company, the company shall be entitled to be furnished with reasons for such refusal, and may,-- (a) within fifteen days from the date on which the reasons for such refusal are furnished to it, or (b) where the stock exchange has omitted or failed to dispose of, within the time specified in sub-section (1-A) of Section 73 of the Companies Act, 1956 (1 of 1956) (hereafter in this section referred to as the "specified time"), the application for permission for the shares or debentures to be dealt with on the stock exchange, within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one

month, as the Securities Appellate Tribunal may, on sufficient cause being shown, allow, appeal to the Securities Appellate Tribunal having jurisdiction in the matter against such refusal, omission or failure, as the case may be, and thereupon the Securities Appellate Tribunal may, after giving the stock exchange, an opportunity of being heard,-- (i) vary or set aside the decision of the stock exchange; or (ii) where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission, and where the Securities Appellate Tribunal set aside the decision of the recognised, stock exchange or grants the permission, the stock exchange shall act in conformity with the order of the Securities Appellate Tribunal. (2) Every appeal under sub-section (1) shall be in such form and be accompanied by such fee as may be prescribed. (3) The Securities Appellate Tribunal shall send a copy of every order made by it to the Board and parties to the appeal. (4) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal. 22-B (1). Procedure and powers of Securities Appellate Tribunal.-- (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings. (2) The Securities Appellate Tribunal shall have, for the purpose of discharging their functions under this Act, the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:-- (a) summoning and enforcing the attendance of any person and examining him on oath; (b) requiring the discovery and production of documents; (c) receiving evidence on affidavits; (d) issuing commissions for the examination of witnesses or documents; (e) reviewing its decisions; (f) dismissing an application for default or deciding it ex-parte; (g) setting aside any order of dismissal of any application for default or any order passed by it ex-parte; and (h) any other matter which may be prescribed. (3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of Secs. 193 and 228, and for the purposes of Section 196 of the Indian Penal Code (45 of 1860) and the

Securities Appellate Tribunal shall be deemed to be a Civil Court for all the purpose of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974). 22-C. Right to legal representation.--The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioner or any of its officers to present his or its case before the Securities Appellate Tribunal. Explanation.--For the purposes of this Section,-- (a) "chartered accountant" means a chartered accountant as defined in Cl. (b) of sub-section (1) of Section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of Section 6 of that Act; (b) "company secretary" means a company secretary as defined in Cl. (c) of sub-section (1) of Section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of Section 6 of that Act; (c) "cost accountant" means a cost accountant as defined in Cl. (b) of sub-section (1) of Section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of Section 6 of the Act; (d) "legal practitioner" means an advocate, vakil or an attorney of any High Court, and includes a pleader in practice. 22-D. Limitation.--The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal. 22-E. Civil Court not to have jurisdiction.--No Civil Court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Securities Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act. 22-F. Appeal to High Court--Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days form the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order: Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days."

5. Amendment of Section 23 :-

Section

After Section 22 of the principal Act, the following sections shall be

inserted, namely:-- "22-A. Right of appeal to Securities Appellate Tribunal against refusal of stock exchange to list securities of public companies.--(1) Where a recognised stock exchange, acting in pursuance of any power given to it by its bye-laws, refuses to list the securities of any company, the company shall be entitled to be furnished with reasons for such refusal, and may,-- (a) within fifteen days from the date on which the reasons for such refusal are furnished to it, or (b) where the stock exchange has omitted or failed to dispose of, within the time specified in sub-section (1-A) of Section 73 of the Companies Act, 1956 (1 of 1956) (hereafter in this section referred to as the "specified time"), the application for permission for the shares or debentures to be dealt with on the stock exchange, within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Securities Appellate Tribunal may, on sufficient cause being shown, allow, appeal to the Securities Appellate Tribunal having jurisdiction in the matter against such refusal, omission or failure, as the case may be, and thereupon the Securities Appellate Tribunal may, after giving the stock exchange, an opportunity of being heard,-- (i) vary or set aside the decision of the stock exchange; or (ii) where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission, and where the Securities Appellate Tribunal set aside the decision of the recognised, stock exchange or grants the permission, the stock exchange shall act in conformity with the order of the Securities Appellate Tribunal. (2) Every appeal under sub-section (1) shall be in such form and be accompanied by such fee as may be prescribed. (3) The Securities Appellate Tribunal shall send a copy of every order made by it to the Board and parties to the appeal. (4) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal. 22-B (1). Procedure and powers of Securities Appellate Tribunal.-- (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings. (2) The Securities Appellate Tribunal shall have, for the purpose of discharging their functions

under this Act, the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:-- (a) summoning and enforcing the attendance of any person and examining him on oath; (b) requiring the discovery and production of documents; (c) receiving evidence on affidavits; (d) issuing commissions for the examination of witnesses or documents; (e) reviewing its decisions; (f) dismissing an application for default or deciding it ex-parte; (g) setting aside any order of dismissal of any application for default or any order passed by it ex-parte; and (h) any other matter which may be prescribed. (3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of Secs. 193 and 228, and for the purposes of Section 196 of the Indian Penal Code (45 of 1860) and the Securities Appellate Tribunal shall be deemed to be a Civil Court for all the purpose of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

22-C. Right to legal representation.--The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioner or any of its officers to present his or its case before the Securities Appellate Tribunal. Explanation.--For the purposes of this Section,-- (a) "chartered accountant" means a chartered accountant as defined in Cl. (b) of sub-section (1) of Section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of Section 6 of that Act; (b) "company secretary" means a company secretary as defined in Cl. (c) of sub-section (1) of Section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of Section 6 of that Act; (c) "cost accountant" means a cost accountant as defined in Cl. (b) of sub-section (1) of Section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of Section 6 of the Act; (d) "legal practitioner" means an advocate, vakil or an attorney of any High Court, and includes a pleader in practice.

22-D. Limitation.--The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.

22-E. Civil Court not to have jurisdiction.--No Civil Court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Securities Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any Court or other

authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act. 22-F. Appeal to High Court--Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order: Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days."

7. Amendment Of Section 30 :-

Section

In Section 30 of the principal Act, in subsection (2), for the Cl. (ha), the following clause shall be substituted, namely:-- "(ha) the form in which an appeal may be filed before the Securities Appellate Tribunal under Section 22-A and the fees payable in respect of such appeal;".