

## **DEPOSITORIES (APPEAL TO SECURITIES APPELLATE TRIBUNAL) RULES, 2000**

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## **DEPOSITORIES (APPEAL TO SECURITIES APPELLATE TRIBUNAL) RULES, 2000**

In exercise of the powers conferred by Sec. 24 read with Sec. 23-A, of the Depositories Act, 1996 (22 of 1996), the Central Government hereby makes the following rules, namely:-

### **1. Short title and commencement :-**

(1) These rules may be called the Depositories (Appeal to Securities Appellate Tribunal) Rules, 2000

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(2) They shall come into force on the date of their publication in the Official Gazette.

## **2. Definitions :-**

(1) In these rules, unless the context otherwise requires,-

(a) "Act" means the Depositories Act, 1996 (22 of 1996);

(b) "appeal" means an appeal preferred under Sec, 23-A of the Act;

(c) "Appellate Tribunal" means the Securities Appellate Tribunal established under Sec. 15-K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(d) "form" means the form appended to these rules;

**1** "(da) 'Member' means the Member of the Securities Appellate Tribunal appointed under Sec. 15-L of the Securities Exchange Board of India Act, 1992 (15 of 1992).".

(e) "party" means a person who prefers an appeal before the Appellate Tribunal and includes respondent;

(f) "Presiding Officer" means the Presiding Officer of the Securities Appellate Tribunal appointed under Sec. 15-L of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(g) "rules" means the rules made under the Act;

(h) "Registrar" means the Registrar of the Appellate Tribunal;

(i) "registry" means the registry of the Appellate Tribunal;

(2) words and expressions used and not defined in these rules but defined in the Depositories Act, 1996 shall have the meanings respectively assigned to them in that Act.

1. In Rule 2, in sub-rule (1), after clause (d), the clause (da) shall be Inserted, by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2005

## **3. Limitation for filing an appeal :-**

An appeal may be preferred by the aggrieved person within a period of forty five days from the date on which a copy of the

order, made by the Board under the Act or the regulations made thereunder, is received by the person. Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

#### **4. Form and procedure of appeal :-**

(1) A memorandum of appeal shall be presented in the Form by any aggrieved person in the registry of the Appellate Tribunal within whose jurisdiction his case falls or shall be sent by registered post addressed to the Registrar.

(2) A memorandum of appeal sent by post shall be deemed to have been presented in the registry on the day it was received in the registry.

#### **5. Sittings of Appellate Tribunal :-**

(1) The Appellate Tribunal shall hold its sitting either at a place where its office is situated or at such other place falling within its jurisdiction, as it may deem fit by the Appellate Tribunal.

**ck20** "(2) In the temporary absence of the Presiding Officer, Government may authorise one of the two other Members to preside over the sitting of the Tribunal either at a place where its office is situated or at such other place falling within its jurisdiction as it may deem fit by the Appellate Tribunal."

CK20. In Rule 5 of the said rules, shall be numbered as sub-rule (1) thereof, and after sub-rule (1) as so numbered, the sub-rule (2) shall be inserted, by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2005

#### **6. Language of Appellate Tribunal :-**

(1) The proceedings of the Appellate Tribunal shall be conducted in English or Hindi.

(2) No appeal, application, representation, document or other matters contained in any language other than English or Hindi, shall be accepted by Appellate Tribunal, unless the same is accompanied by a true copy of translation thereof in English or Hindi.

#### **7. Appeal to be in writing :-**

(1) Every appeal, application, reply, representation or any

document filed before the Appellate Tribunal shall be typewritten, cyclostyled or printed neatly and legibly on one side of the good quality paper of foolscap size in double space and separate sheets shall be stitched together and every page shall be consecutively numbered and filed in the manner provided in sub-rule (2).

(2) The appeal under sub-rule (J.) shall be presented in **ck21** "five" sets in a paper book along with an empty file size envelope bearing full address of the respondent and in case the respondents are more than one, then sufficient number of extra paper books together with empty file size envelope bearing full addresses of each respondent shall be furnished by the appellant.

CK21. In Rule 7 of the said rules, in sub-rule (2), for the figure "3", the word "five" shall be substituted, by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2005

#### **8. Presentation and scrutiny of memorandum of appeal :-**

(1) The Registrar shall endorse on every appeal the date on which it is presented under Rule 4 or deemed to have been presented under that rule and shall sign endorsement.

(2) If, on scrutiny, the appeal is found to be in order, it shall be duly registered and given a serial number.

(3) If an appeal on scrutiny is found to be defective and the defect noticed is formal in nature, the Registrar may allow the appellant to rectify the same in his presence and if the said defect is not formal in nature, the Registrar may allow the appellant such time to rectify the defect as he may deem fit. If the appeal has been sent by post and found to be defective, the Registrar may communicate the defects to the appellant and allow the appellant such time to rectify the defect as he may deem fit.

(4) If the appellant fails to rectify the defect within the time allowed in sub-rule (3), the Registrar may by order and for reasons to be recorded in writing, decline to register such memorandum of appeal and communicate the order to the appellant within seven days thereof.

**ck22** (5) An appeal against the order of the Registrar under sub-rule (4) shall be made within 15 days of receiving of such order to the Presiding Officer or in his temporary absence, to the Member authorized under sub-rule (2) of Rule 5, whose decision thereon shall be final."

CK22. In Rule 8 of the sub-rule (5), shall be substituted, by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2005

### **9. Payment of Fees :-**

**ck23** "(1) Every memorandum of appeal shall be accompanied with a fee as provided in sub-rule (2) and such fee may be remitted in the form of crossed demand draft drawn on any nationalized bank in favour of "The Registrar, Securities Appellate Tribunal" payable at the station where the registry is located.

(2) The amount of fee payable in respect of appeal against adjudication orders made under the Act shall be as follows :

TABLE

| <b>Sr. No.</b> | <b>Amount of Penalty Imposed</b>                    | <b>Amount of fees payable</b>  |
|----------------|---|--|
| <b>(1)</b>     | <b>(2)</b>  | <b>(3)</b>   |
| i.             | Less than rupees ten thousand                       | Rs. 500  |
| ii.            | Rupees ten thousand or more but less than one lakh. | Rs. 1200   |
| iii.           | Rupees one lakh or more                             | Rs. 1200 plus Rs. 500 for every additional one lakh of penalty or fraction thereof subject to a maximum of Rs. 1,50,000. |

CK23. Rule 9 of the sub-rules (1) and (2), shall be substituted, by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2005

### **10. Contents of memorandum of appeal :-**

(1) Every memorandum of appeal filed under rule 4 shall set forth concisely under distinct heads, the grounds of such appeal without any argument or narrative, and such grounds shall be numbered consecutively and shall be in the manner provided in sub-rule (1) of Rule 7.

(2) It shall not be necessary to present separate memorandum of appeal to seek interim order or direction if in the memorandum of appeal, the same is prayed for.

### **11. Documents to accompany memorandum of appeal :-**

**ck24** (1) Every memorandum of appeal shall be in five copies and shall be accompanied with copies of the order, at least one of which

shall be a certified copy, against which the appeal is filed.".

(2) Where a party is represented by authorised representative, a copy of the authorisation to act as authorised representative and the written consent thereto by such authorised representative, shall be appended to the appeal.

CK24. In Rule 11 of the sub-rule (1), shall be substituted, by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2005

**12. Plural remedies :-**

A memorandum of appeal shall not seek relief or reliefs therein against more than one order unless the reliefs prayed for are consequential.

**13. Notice of appeal to the respondent :-**

A copy of the memorandum of appeal and paper book shall be served by the Registrar on the respondent as soon as they are registered in the registry, by hand delivery, or by Registered Post or Speed Post.

**14. Filing of reply to the appeal and other documents by the respondent :-**

(1) The respondent may file <sup>ck25</sup> "five" complete sets containing the reply to the appeal along with documents in a paper book form with the registry within one month of the service of the notice on him of the filing of the memorandum of appeal.

(2) Every reply, application or written representation filed before the Appellate Tribunal shall be verified in the manner provided for, in the Form.

(3) A copy of every application, reply, document or written material filed by the respondent before the Appellate Tribunal shall be forthwith served on the appellant, by the respondent.

(4) The Appellate Tribunal may, in its discretion, on application by the respondent allow the filing of reply referred to in sub-rule (1) after the expiry of the period referred to therein.

CK25. In Rule 14 of the said rules, in sub-rule (1), for the word "three", the word "five" shall be substituted, by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2005

**15. Date of hearing to be notified :-**

The Appellate Tribunal shall notify the parties the date of hearing

of the appeal in such manner as the Presiding Officer may by general or special order direct.

#### **16. Hearing of appeal :-**

(1) On the day fixed or on any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal. The Securities Appellate Tribunal shall, then, if necessary, hear the Board or its authorised representative against the appeal, and in such case the appellant shall be entitled to reply. During the course of the hearing of appeal the written arguments could be supplemented by time-bound oral arguments.

**ck26** "Provided that in case of temporary absence of the Presiding Officer or of the Member authorised by the Government under sub-rule (2) of Rule 5, the Presiding Officer can authorise the other Member present on that day to hear the Board or authorised representative against the appeal."

(2) In case the appellant does not appear in person or through an authorised representative when the appeal is called for hearing, the Securities Appellate Tribunal may dispose of the appeal on merits: Provided that where an appeal has been disposed of as provided above and the appellant appears afterwards and satisfies the Securities Appellate Tribunal that there was sufficient cause for his not appearance, when the appeal was called for hearing, the Securities Appellate Tribunal shall make an order setting aside the ex-parte order and restore the appeal.

CK26. In Rule 16 of the said rules, in sub-rule (1), the proviso shall be inserted, by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2005

#### **17. Dress regulations for the Presiding Officer, Members and for the representative of the parties :-**

**ck27** (1) The dress of the Presiding Officer shall be white or striped or black pant with black coat over white shirt and band or buttoned up black coat and band. The dress for the two other Members shall be white or striped or black pant with black coat over white shirt and black tie or buttoned up black coat. In the case of a female Presiding Officer or a Member, the dress shall be black coat over a white saree.

(2) Every authorized representative, other than a relative of regular employee of the party shall appear before the Appellate Tribunal in

his professional dress if any, and if there is no such dress a male, in a suit or buttoned-up coat over a pant or national dress that is a long buttoned up coat on dhoti and churidar pyjama, and a female, in a coat over a white or any other sober coloured saree or in any other sober dress.

(3) All other persons appearing before the Appellate Tribunal shall be properly dressed."

CK27. Rule 17 shall be substituted, by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2005

**18. Order to be signed and dated :-**

**ck30** (1) Every order of the Appellate Tribunal shall be signed and dated by the Presiding Officer and the two other Members. The Presiding Officer will have powers to pass such interim orders or injunctions, subject to reason to be recorded in writing, it considers necessary in the interest of justice.

(2) Orders shall be pronounced in the sitting of the Appellate Tribunal by the Presiding Officer or in case of the temporary absence of the Presiding Officer, by the Member authorized under sub-rule (2) of Rule 5."

CK30. Rule 17 shall be substituted, by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2005

**19. Publication of orders :-**

The orders of the Appellate Tribunal, as are deemed fit for publication in any authoritative report or the press may be released for such publication on such terms and conditions as the Presiding Officer may lay down.

**20. Communication of orders :-**

A certified copy of every order passed by the Appellate Tribunal shall be communicated to the Board, the Adjudicating Officer and to the parties, as the case may be.

**21. Orders and directions in certain cases :-**

The Appellate Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its order or to prevent abuse of its process or to secure the ends of justice,

**22. Fee for inspection of records and obtaining copies thereof :-**



(1) A fee of rupees twenty, for every hour or part thereof of inspection subject to a minimum of rupees one hundred shall be charged for inspecting the records of a pending appeal by a party thereto.

(2) A fee of rupees five for a folio or part thereof not involving typing and a fee of rupees ten for a folio or part thereof involving typing of statement and figures shall be charged for providing copies of the records of an appeal, to a party thereto.

### **23. Working hours of the Appellate Tribunal :-**

(1) The office of the Appellate Tribunal shall observe such public and other holidays as observed by the offices of the Central Government in the locality where the office of the Appellate Tribunal is situated.

(2) The Appellate Tribunal shall, subject to any other order made by the Presiding Officer, remain open on the working days from 10 AM to 6.00 PM. But no work, unless of an urgent nature, shall be admitted after 4,30 PM on any working day.

(3) The sitting hours of the Appellate Tribunal shall ordinarily be from 10.30 AM to 1.00 PM and 2.00 PM to 5.00 PM, subject to any order made by the Presiding Officer.

### **24. Holiday :-**

Where the last day for doing any act falls on a day on which the office of the Appellate Tribunal is closed and by reason thereof the act cannot be done on that day, it may be done on the next day on which that office opens.

### **25. Functions of the Registrar :-**

**ck28**(i) The Registrar shall discharge his functions under the general superintendence of the Presiding Officer or in the temporary absence of the Presiding Officer, the Member authorized under sub-rule (2) of Rule 5. He shall discharge such other functions as are assigned to him under these rules by the Presiding Officer or in the temporary absence of the Presiding Officer, by the Member authorized under sub-rule (2) of Rule 5, by a separate order in writing";

(2) He shall have the custody of the records of the Appellate Tribunal.

(3) The official seal of the Appellate Tribunal shall be kept in the custody of the Registrar.

**ck29** (4) Subject to any general or special direction by the Presiding Officer, or in the temporary absence of the Presiding Officer, the Member authorized under sub-rule (2) of Rule 5, the official seal of the Appellate Tribunal shall not be affixed to any order, summons or other process save under the authority in writing from the Registrar."

(5) The official seal of the Appellate Tribunal shall not be affixed to any certified copy issued by the Appellate Tribunal, save under the authority in writing of the Registrar.

CK28. In Rule 25 of the said sub-rule (1), shall be substituted, by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2005

CK29. In Rule 25 of the said sub-rule (4), shall be substituted, by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2005

## **26. Additional functions and duties of Registrar :-**

**ck31** In addition to the functions and duties assigned in the rules, the Registrar shall have the following functions and duties subject to any general or special order of the Presiding Officer or in his temporary absence, the Member authorized under sub-rule (2) of Rule 5, namely :

(i) to receive all appeals, replies and other documents;

(ii) to decide all questions arising out of the scrutiny of the appeal before they are registered;

(iii) to require any appeal presented to the Appellate Tribunal to be amended in accordance with the rule;

(iv) subject to the directions of the Presiding Officer, or in his temporary absence, the Member authorized under sub-rule (2) of Rule 5, to fix a date of hearing of the appeals or other proceedings and issue notices thereof;

(v) to direct any formal amendment of records; (vi) to order grant of copies of documents to parties to proceedings;

(vii) to grant leave to inspect the record of the Appellate Tribunal;

(viii) to dispose of all matters relating to the service of notices or

other processes, application for the issue of fresh notice or for extending the time for or ordering a particular method of service on a respondent including a substituted service by publication of the notice by way of advertisement in the newspapers; and

(ix) for requisition of records from the custody of any Court or other authority."

CK31. In Rule 26, shall be substituted, by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2005

**27. Seal and emblem :-**

The official seal and emblem of the Appellate Tribunal shall be such as the Central Government may specify.

**28. Repeal and Saving :-**

(1) The Depositories (Appeal to the Central Government) Rules, 1998 are hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the said rules, shall be deemed to have been done or taken under the corresponding provisions of these rules.