

BEFORE THE SECURITIES APPELLATE TRIBUNAL  
MUMBAI

**Appeal No. 33 of 2011**

**Date of Decision : 26.04.2011**

M/s Asian Films Production and Distribution Ltd.  
(earlier known as K C Bokadia Films Ltd.)  
D-164, G Tower,  
Outside Delhi Darwaja,  
Ahmedabad – 3800 04.

...Appellant

Versus

Securities and Exchange Board of India  
SEBI Bhavan, Plot No. C-4A, G-Block,  
Bandra-Kurla Complex, Bandra (East),  
Mumbai – 400 051.

...Respondent

None for the Appellant.

Dr. Poornima Advani, Advocate with Mr. Ajay Khaire and Mr. Anshuman Kaushik,  
Advocates for the Respondent.

CORAM : Justice N.K. Sodhi, Presiding Officer  
P.K. Malhotra, Member  
S.S.N. Moorthy, Member

Per : Justice N.K. Sodhi, Presiding Officer (Oral)

The appellant before us is Asian Films Production and Distribution Ltd. (formerly known as K.C. Bokadia Films Ltd.) which is a listed company whose shares are listed on the Bombay Stock Exchange (BSE) and the Ahmedabad Stock Exchange. At the instance of the Securities and Exchange Board of India (for short the Board), BSE carried out a snap investigation in the scrip of the appellant company. Investigations revealed that there were significant changes in the shareholding pattern of the company including those of its promoters and persons acting in concert with them. It also transpired that the company had not made the necessary disclosures of its shareholding pattern under the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997

(for short the takeover code) and Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 (for short the Insider Trading Regulations). The Board also carried out its investigations to examine the violation of the takeover code and the Insider Trading Regulations. During these investigations the Board observed that there were significant changes in the shareholding pattern as referred to in para 2 of the impugned order. Since the company had not made the necessary disclosures, adjudication proceedings under Chapter VI A of the Securities and Exchange Board of India Act, 1992 were initiated. A show cause notice dated June 25, 2008 was issued alleging violation of Regulations 7 and 8 of the takeover code and Regulation 13 of the Insider Trading Regulations. This notice was sent through registered post and the same was received by the appellant company. However, it did not file any reply. Another notice dated October 26, 2010 was issued affording an opportunity of personal hearing to the appellant to appear on October 26, 2010. This notice was served by affixing the same at the last known address of the appellant. This became necessary because earlier notices sent had come back undelivered. The appellant did not appear before the adjudicating officer who then considered the matter on the basis of the material collected during the course of the investigations and the enquiry. The adjudicating officer noticed in para 13 of the impugned order the changes that were made in the shareholding pattern of the appellant company which had not been disclosed under Regulations 7 and 8 of the takeover code and Regulation 13 of the Insider Trading Regulations. He concluded that these provisions had been violated by the appellant and by his order dated December 21, 2010 imposed a monetary penalty of ₹ 5 lakhs on the appellant. It is against this order that the present appeal has been filed.

2. Despite notice of hearing served on the appellant by this Tribunal on two occasions, it has not appeared. We have heard the learned counsel for the respondent Board who has taken us through the record and the impugned order. We have also perused the grounds of appeal filed before us and find that the appellant has in fact taken two grounds to challenge the impugned order. The first plea of the appellant is

that it had not been served at the time of personal hearing and, therefore, the impugned order stands vitiated. We are unable to accept this plea. The show cause notice dated June 25, 2008 that had been issued under Rule 4 of the adjudicating rules had been served on the appellant which fact is not disputed in the memorandum of appeal. This notice was served on the appellant at its following address:

“B-301, Morya Apartment,  
Juhu Versova Road,  
Mumbai – 400 053.”

The company not only changed its name but has also been changing its address from time to time. It appears that multiple proceedings were going on against the appellant and one of the addresses that was furnished to the respondent Board was “509, Devpath Tower, Off C.G. Road, Ahmedabad – 380 009.” The appellant admits in the memorandum of appeal that this was the correct address. The notice of hearing was sent on this address but it came back undelivered with a report “Always Closed”. During the course of the consent proceedings which had been initiated by the appellant which eventually failed, the appellant had furnished another address which is as under:

“402, Anand Housing Society,  
Juhu Versova Link Road,  
Andheri (W), Mumbai – 400 053.”

Another notice of hearing was sent on the aforesaid address and that too came back undelivered with a report “Persons Staying & Room Close.” The adjudicating officer then directed a fresh notice of hearing which was affixed at the aforesaid address and this is how the appellant was served for the hearing. It is interesting to note that in the memorandum of appeal the appellant has furnished a different address altogether. Be that as it may, we are satisfied that the appellant was playing hide and seek with the respondent Board in the matter of receiving notices for hearing. In this view of the matter, we cannot find any fault with the adjudicating officer in proceeding in the absence of the appellant. The impugned order has noticed in para 13 thereof the substantial changes in the shareholding pattern and the appellant being a listed company was required to make the necessary disclosures under the takeover code and

also under the Insider Trading Regulations. Not having done so, the adjudicating officer was right in holding that the aforesaid provisions of the Regulations had been violated. He has imposed a monetary penalty of ₹ 5 lakhs which, in the circumstances of the case, appears to be on the lower side which does not call for any interference at our level.

In the result, the appeal fails and the same stands dismissed with no order as to costs.

Sd/-  
Justice N.K. Sodhi  
Presiding Officer

Sd/-  
P.K. Malhotra  
Member

Sd/-  
S.S.N. Moorthy  
Member

26.4.2011

Prepared and compared by:  
msb