Regulation - 1, Securities Contracts (Regulation) (Appeal to Securities Appellate ...

SECURITIES CONTRACTS (REGULATION) (APPEALTO SECURITIES APPELLATE TRIBUNAL) RULES, 2000

In exercise of the powers conferred by section 30 read with section 22A of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) the Central Government hereby makes the following rules, namely :—

Short title and commencement

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

(2) They shall come into force on the date[1] of their publication in the Official Gazette.

Definitions

[2][**2.**] (1) In these rules, unless the context otherwise requires,—

(*a*) "Act" means the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

[3][(*b*) "appeal" means an appeal filed under section 21A or section 22A or section 23L of the SecuritiesContracts (Regulation) Act, 1956 or under sub-rule (5) of rule 19 or sub-rule (5) of rule 20 of the Securities Contracts (Regulation) Rules, 1957;]

(*c*) "Appellate Tribunal" means the SecuritiesAppellate Tribunal constituted under section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(*d*) "bye-laws" means bye-laws made by a stock exchange under the Act;

(*e*) "form" means the form appended to these rules;

[4][(*ea*) "Member" means the member of the SecuritiesAppellate Tribunal appointed under section 15L of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]

(*f*) "party" means a person who prefers an appealbefore the Appellate Tribunal and includes respondents;

(*g*) "Presiding Officer" means the Presiding Officer of the Securities Appellate Tribunal appointed under section 15L of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

[5][(*h*) "Registrar" means the Registrar of the AppellateTribunal and includes an officer of such AppellateTribunal who is authorised by the Presiding Officer to function as Registrar;]

(*i*) "registry" means the registry of the AppellateTribunal;

(*j*) "rules" means the rules made under the Act;

(*k*) "recognised stock exchange" means a stock exchange defined under clause (*f*) of section 2 of the Act;

(*l*) "stock exchange" means a stock exchange defined under clause (*j*) of section 2 of the Act.

(2) Words and expressions used and not defined in these rules but defined in the Securities Contracts (Regulation) Act, 1956 shall have the meanings respectively assigned to them in that Act.

Limitation for filing appeal

3. [6][(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 15 days from the date on which the reasons for such refusal are furnished to it, or

(*b*) where the stock exchange had omitted or failed to dispose of, within the time specified in sub-section (1A) of section 73 of the Companies Act, 1956 (hereinafter in this rule referred to as the "specified time"), the application for permission for the shares or debentures to be dealt with on the stock exchange, within 15 days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Appellate Tribunalmay, 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.

[6][(2) Every appeal shall be filed within a period of forty-five days from the date on which a copy of the order, against which the appeal is filed, of a recognised stock exchange withdrawing admission to dealings or suspending admission to dealings which continues for a period exceeding three months in any security/units or other instruments of a "collective instrument scheme", as defined under the Securities and Exchange Board of India Act, 1992 (15 of 1992), is received by the appellant :

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.]

Form and procedure of appeal

4. (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 date it was received in the registry.

Sittings of Appellate Tribunal

5. [7][(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.

[8][(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 AppellateTribunal.]

Language of Appellate Tribunal

6. (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.

Appeal to be in writing

7. (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 (1) shall be presented in [9][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.

Presentation and scrutiny of memorandum of appeal

8. (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.

[10][(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.]

Payment of Fees

9. [11][(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

Serial No.	*Amount of Penalty Imposed*	*Amount of fees payable*
(1)	*(2)*	*(3)*
(*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.]

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Contents of memorandum of appeal

10. (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 ground 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.

Documents to accompany memorandum of appeal

11. [12][(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 the authorised representative and the written consent thereto by such authorised representative, shall be appended to the appeal.

Plural remedies

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

Notice of appeal to the respondent

13. 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.

Filing of reply to the appeal and other documents by the respondents

14. (1) The respondent may file [13][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 AppellateTribunal 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.

Date of hearing to be notified

15. The Appellate Tribunal shall notify the parties of the date of hearing of the appeal in such manner as the Presiding Officer may by general or special order direct.

Hearing of appeal

16. (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 Tribunalshall, 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 :

[14][**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 the 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.

[**Dress regulations for the Presiding Officer, Members and for the representative of the parties**

17. (1) The dress for 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 or 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 or churidar pyjama, and a female, in a coat over white or any other sober coloured saree or in any other sober dress.

(3) All other persons appearing before the AppellateTribunal shall be properly dressed.]

Order to be signed and dated

18. (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 injunction, subject to reasons to be recorded in writing, which it considers necessary in the interest of justice.

(2) Orders shall be pronounced in the sitting of the AppellateTribunal 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.]

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Publication of orders

19. 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.

Communication of orders

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

Orders and directions in certain cases

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

Fee for inspection of records and obtaining copies thereof

22. (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.

Working hours of the Appellate Tribunal

23. (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 10.00 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.

Holiday

24. 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.

Functions of the Registrar

25. [17][(1) 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 AppellateTribunal.

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

[18][(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 AppellateTribunal, save under the authority in writing of the Registrar.

[3][**Additional functions and duties of Registrar**

26 . 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 AppellateTribunal 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 AppellateTribunal;

(*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.]

Seal and emblem

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

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