SECURITIES AND EXCHANGE BOARD OF INDIA (APPEAL TO CENTRAL GOVERNMENT) RULES, 1993

In exercise of the powers conferred by section 29, read with section 20, of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Central Government hereby makes the following rules, namely :—

1. Short title and commencement.

(1) These rules may be called the Securities and Exchange Board of India (Appeal to the Central Government) Rules, 1993.

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

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1. 2-4-1993.

2. Definitions.

In these rules, unless the context otherwise requires,—

(*a*) "Act" means the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(*b*) "Authorised representative" means*—

(*i*) in relation to an appellant, a person duly authorised by the appellant to present an appeal on his behalf to the Central Government;

(*ii*) in relation to the Board, person duly appointed by the Board by notification in the Official Gazette as authorised representative to appear, plead and act for such authority in any such appeal and any other person acting on behalf of the person so appointed;

(*c*) "Board" means the Securities and Exchange Board of India, established under section 3 of the Act;

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

(*e*) "regulations" means the regulations made by the Board under the Act;

(*f*) "rules" means the rules made under the Act.

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* *Vide* Notification No. LE/101/5/93, dated 18th August, 1993 and in pursuance of clause (*b*) of rule 2 of the Securities and Exchange Board of India (Appeal to the Central Government) Rules, 1992, the Board hereby appoints its Executive Directors and General Counsel, and any other officer of the Board authorised by such Directors or Counsel to act on their behalf, as the authorised representatives for the purposes of the said clause.

3. Form of Appeal.

Any person aggrieved by an Order of the Board made under the Act or the rules or regulations made thereunder, may prefer an appeal to the Central Government in the form.

4. Time within which appeal is to be preferred.

(1) An appeal shall be preferred by the aggrieved person within a period of thirty days from the date of communication to him of the order of the Board made under the Act or rules or regulations.

(2) When the appeal is preferred after the expiry of the period of thirty days specified in sub-rule (1), it shall be accompanied by an application supported by an affidavit setting forth the facts on which the appellant relies to satisfy the Central Government that he has sufficient cause for not preferring the appeal within the said period of thirty days :

Provided that if the Central Government is satisfied that the appellant had sufficient cause for not

preferring the appeal within the aforesaid period, it may, for reasons to be recorded in writing, admit the appeal after the expiry of the aforesaid period but before the expiry of 45 days from the date of communication to him of the order of the Board.

5. Payment of fees.

(1) Every appeal shall be accompanied by a fee of rupees [2][five thousand] only.

(2) The amount of fees shall be deposited in the nearest Government Treasury or the nearest branch of the State Bank of India.

(3) The amount of the fees shall be deposited under the head "0.65 - Other Admn. Services—Other Services—Other Receipts".

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2. Substituted for "five hundred" by the SEBI (Appeal to the Central Government) Amendment Rules, 1998, w.e.f. 4-9-1998.

6. Contents of appeal.

Every appeal filed under rule 3 shall be written in English or Hindi and shall set forth concisely under distinct heads, the grounds of appeal without any argument or narrative and such grounds shall be numbered consecutively.

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7. What to accompany.

Every appeal shall be filed in the Form in duplicate and shall be accompanied by two copies (at least one of which shall be a certified copy) of the order of the Board appealed against and other documents to support the grounds of objection mentioned in the appeal.

Explanation : For the purpose of this rule "certified copy" includes the copy which was originally supplied to the appellant as well as a photostat copy thereof duly authenticated by the appellant or his authorised representative as a true copy.

8. Filing of affidavits.

Where a fact which cannot be borne out by, or is contrary to, the record is alleged, it shall be stated clearly and concisely and supported by a duly sworn affidavit.

9. Rights of Appellant to appear before the Central Government.

(1) Every appellant may appear before the Central Government in person or through his authorised representative.

(2) An appellant may, by writing, authorise—

(*i*) an advocate, or
(*ii*) a Chartered Accountant, or
(*iii*) a Cost and Works Accountant, or
(*iv*) a Company Secretary, having prescribed qualifications under clause (*45*) of section 2 of the Companies Act, 1956 (1 of 1956),

to function as an authorised representative of such party

10. Authorising a representative to appear.

In an appeal by an appellant, where the Form is signed by his authorised representative the appellant shall append to the Form documents authorising the authorised representative to appear for him and the said document shall state what his relationship is with the appellant.

11. Authorisation to be filed.

An authorised representative appearing for the appellant at the hearing of an appeal shall, unless the document referred to in rule 10 has been appended, file such a document before the commencement of the hearing.

12. Procedure for filing appeal.

(1) An appeal shall be preferred by the appellant or his authorised representative to the Central Government in person or be sent by Registered Post addressed to the Secretary to the Government of India, Department of Economic Affairs, Ministry of Finance, New Delhi.

(2) An appeal sent by post under sub-rule (1) shall be deemed to have been preferred to the Central Government on the day on which it is received in the office of the Secretary to the Government of India, Department of Economic Affairs, Ministry of Finance, at Delhi.

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13. Furnishing of information and documents.

(1) The Central Government may, before considering the appeal, require the appellant or the Board or both to furnish such further information and documents as it considers necessary.

(2) Parties concerned shall furnish such information and documents within 330 days of such order.

14. Date and place of hearing of appeal to be communicated.

The Central Government shall communicate, before considering the appeal, to the appellant or the Board or both the date and place of the hearing of the appeal and may send a copy of the appeal to the Board either before or with such communication.

15. 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 Central Government 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.

(2) In case the appellant does not appear in person or through an authorised representative when the appeal is called for hearing, the Central Government 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 Central Government that there was sufficient cause for his non-appearance, when the appeal was called for hearing, the Central Government shall make an order setting aside the *ex parte* order and restore the appeal.

16. Orders by the Central Government.

The Central Government shall,—

(*a*) after considering the appeal preferred to it under rule 3;

(*b*) after considering further documentary evidence referred to in rule 13; and

(*c*) after giving hearing under rule 15;

pass such orders or give such directions as may be necessary or expedient to give effect to, or in relation to, its orders.

17. Order to be signed and dated.

The Order of the Central Government shall be in writing and shall be signed and dated.

18. Order to be communicated to the party.

The Central Government shall, after the order is signed, cause it to be communicated to the appellant and to the Board.

Fees payable for obtaining order passed under rule 16

[3][**19.** Any person, other than appellant or the Board, may obtain a copy of the order passed under rule 16 after depositing a sum of one hundred rupees under the head "065 - other Admn. Services - Other Services - Other Receipts."]

FORM

Securities and Exchange Board of India (Appeal to the Central Government) Rules, 1992

[*See* rule 3]

Form of Appeal

From

(Mention the name and address of the appellant here)

To

The Secretary to the Government of India,

Department of Economic Affairs,

Ministry of Finance, North Block,

New Delhi.

Sir,

The appellant named above, begs to prefer this appeal under section 20 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) against Order No.....dated.....passed by the Securities and Exchange Board of India under the said Act.....Rules.....* and Regulations.....** on the following facts and grounds.

FACTS

Mention briefly the facts of the case here. Enclose copy of the order passed by the Board and copies of letters written by the appellant to the Board and copies of other relevant documents, if any.

GROUNDS

Mention here the grounds on which the appeal is made.

PRAYER

In the light of what is stated above, the appellant prays that he/she/it may be granted the following relief.

RELIEF SOUGHT

(*specify the relief sought*)

The amount of Rs. five hundred as fees for this appeal has been deposited in.....*vide* receipt No.....dated.....

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Place : .....
Date : .....

.....
(Signature of the Appellant or his authorised representative)

List of documents attached :

.....
(Signature of the Appellant or his authorised representative)

*Indicate the relevant rule.
**Indicate the relevant regulation.

Notification : *No. GSR 362(E), dated 2-4-1993.*

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3. Inserted by the SEBI (Appeal to the Central Government) Amendment Rules, 1998, w.e.f. 4-9-1998.

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