

**IN THE SECURITIES APPELLATE TRIBUNAL
AT MUMBAI**

DATED THIS THE 6TH DAY OF MARCH, 2026

**CORAM: Justice P.S. Dinesh Kumar, Presiding Officer
Ms. Meera Swarup, Technical Member
Dr. Dheeraj Bhatnagar, Technical Member**

Appeal No.266 of 2025

[Along with Misc. Application No.622 of 2025]

Shivaay Investments
(Through its proprietor)
Jaydeepgiri Goswami
C-3, Vidyanagar Society,
Delvada Road, Una,
Gir, Somnath, Gujarat-362560.

...Appellant

(By Mr. Monil Punjabi, Advocate with Ms. Rinku Valanju and Mr. Tirthesh Jain, Advocates i/b. R V Legal for the Appellant.)

Securities and Exchange Board of India
SEBI Bhavan, BKC, Plot No.C4-A, 'G' Block,
Bandra Kurla Complex, Bandra (East),
Mumbai-400051.

...Respondent

(By Ms. Shreya Parekh, Advocate with Ms. Prapti Kedia and Mr. Ankit Ujjwal, Advocates i/b. Agama Law Associates for the Respondent.)

THIS APPEAL IS FILED UNDER SECTION 15T OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 TO SET ASIDE ORDER DATED OCTOBER 25, 2023 PASSED BY THE CGM, SEBI.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR ORDERS ON FEBRUARY 16, 2026 COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE TRIBUNAL MADE THE FOLLOWING:

ORDER

Per: Justice P. S. Dinesh Kumar, Presiding Officer

This appeal is directed against order dated October 25, 2023 passed by the CGM¹, SEBI² issuing various directions including refund of advisory fee.

2. We have heard Mr. Monil Punjabi, learned Advocate for the appellant and Ms. Shreya Parekh, learned Advocate for the respondent.

3. Brief facts of the case are, SEBI received a complaint from one Mr. Chirag Sadhu alleging that appellant (Shivaay Investment-Noticee No.1) was providing investment advisory services and offering guaranteed allotment under the Initial Public Offering (IPO); that he had paid a sum of ₹77,000 on December 16, 2020 in connection with the IPO of M/s. Bector Food Specialities Ltd, however, the appellant had failed to refund the money and also blocked his contact number.

¹ Chief General Manager

² Securities and Exchange Board of India

4. SEBI conducted an examination into the matter, which revealed that noticee Nos.2 to 4 were the owners/co-owners of Shivaay Investment. SEBI issued an SCN³ alleging *inter alia* that the noticees were engaged in the activities of providing investment advisory services without obtaining the requisite registration from SEBI and the amounts credited in appellant's bank account were received as fees towards services rendered as an investment advisor.

5. Appellant submitted his reply to the SCN stating *inter alia*:

- that he was working on the instructions of noticee Nos.2 to 4;
- that he was not operating any website nor did he have access to the website. He was 24 years old and could not have 10 plus years of experience on the website as stated in the notice;
- that noticee Nos.2 to 4 had cheated him and many others in the name of 'Shivaay Investment Broking Ltd.'. He had submitted a complaint to the police in that behalf.

6. In substance, appellant pleaded before the CGM that he was also a victim of fraud by noticee Nos.2 to 4 along with several persons who were cheated by them. In the memorandum of appeal, appellant has stated that Mr. Chirag Sadhu was paid his ₹77,000 and he has since withdrawn his complaint as per Exhibit 'L' dated May 9, 2023.

³ Show Cause Notice

7. Appellant has also made available several complaints registered against noticee Nos.2 to 4. In the first complaint dated September 25, 2021 submitted to the Police Inspector, Una Police Station (Annexure K1), it is stated that Kevin Bhai and his wife Rupaben had told him that they are in the business of investing investor's funds in the IPOs and off-market deals. They charge a commission of approximately 2% from the clients. If appellant introduced any clients to their Company, they would share a portion of the commission earned by them. Accordingly, a franchise agreement⁴ was entered into between Shivaay Investment Pvt. Ltd. and the appellant. All transactions were done through appellant's Axis Bank, Una Branch. Appellant facilitated investments from his friends and relatives. He was carrying out all instructions given by Kevin Bhai and Rupaben. As per the understanding, shares were to be sold by Kevin Bhai and his wife and the payment was to be paid within 45 days but no payment was made by them. When demanded, they assured to make the payment. They sent pictures of the five cheques through WhatsApp totalling to ₹2.75 Crores. Thus, the said couple had defrauded the appellant. The appellant in his complaint has requested the police to take action and to recover the money. The said complaint is filed on behalf of 35 complainants.

8. Noticee Nos.2 to 4 did not respond to the SCN. After adjudication, the CGM has passed the impugned order directing the noticees to refund the advisory fees on joint and several

⁴ Dated 21.06.2020

basis, among other directions contained in para 52 of the impugned order.

9. Feeling aggrieved, the appellant (noticee No.1) has filed this appeal with a delay of 509 days. SEBI has contested the appeal both on merits and on delay.

10. On the merits of the case, SEBI's stand is, examination of appellant's bank account with Axis Bank had revealed that there was a credit entry of ₹1.92 Crores for the period between September 2022 and February 2021. The appellant had admitted that he had collected ₹1.88 Crores from his clients through various modes. The website, www.shivaayinvestment.com belongs to the appellant wherein it is stated the appellant had projected to have over 10 years of experience, had 9102 satisfied client and 6 awards. The website also claim that the services were provided with real time accuracy and higher transparency. The deceptive and misleading website falls within the definition of 'fraud' under Regulation 2(1)(c) of the PFUTP Regulations, 2003. Thus, the appellant had acted as an investment adviser without obtaining registration and violated Section 12 (1) of SEBI Act, 1992 read with Regulation 3(1) of IA Regulations, 2013. With regard to the delay, it is contended that appellant had knowledge of the proceedings. He was pursuing the police complaints and the grounds urged seeking condonation of inordinate delay of more than 509 days are untenable and prayed for dismissal of this appeal.

11. We have carefully considered the rival submissions and perused the papers.

12. There are four noticees. The first noticee is Shivaay Investment, a proprietary concern having appellant as its proprietor. Kevin Bhai Bhat, Rupaben Bhat and Jayraj Bhai Vala are the three other noticees. Certain dates are relevant. Complaint by one Mr. Chirag Sadhu is dated June 5, 2021. It is recorded by the CGM that appellant in his emails dated August 9, 2021 and August 7, 2021 had contended that he was working as a mediator and Shivaay Investment was owned by noticee Nos.2 to 4. Appellant had also annexed the details of amounts received.

13. Thereafter, SCN was issued on June 30, 2022. Appellant submitted his reply to the SCN by email dated August 6, 2022. The CGM also records that appellant appeared before him for hearing on July 14, 2023 and appellant also submitted a final reply dated July 15, 2023. These facts show that appellant fully cooperated at the stage of examination, issuance of SCN and adjudication. Another relevant factor to be noted is noticees no.2 to 4 did neither respond to the SCN nor appeared during adjudication.

14. So far as the delay of 509 days in approaching this Tribunal is concerned, appellant has contended in his application for condonation that he was pursuing the criminal cases launched against noticee Nos.2 to 4. It is also stated that he was coordinating with the investors. His father and sister were both suffering from cancer and his sister succumbed to the

disease on September 11, 2024. He was also suffering from anxiety and panic attacks. He has produced medical reports of himself and his father; and death certificate of his sister.

15. The CGM has recorded in the impugned order that during the course of examination, SEBI had found noticee No.2 as the owner and noticee Nos.3 and 4 as co-owners of Shivaay Investment. He has also recorded that appellant had furnished the details of money received.

16. Exhibit 'F' is the "Owner-franchise partnership agreement⁵" between Shivaay Investment Pvt. Ltd. and the appellant. It reads as follows:

"OWNER - FRENCHISE PARTNERSHIP AGREEMENT

This agreement entered into on this 21 day of June, 2020 at Ahmedabad between M/s Shivaay Investment Pvt Ltd, an Indian Company incorporated and member of National Stock Exchange of India Ltd (NSE), Bombay Stock Exchange Ltd (BSE) and Off-Market Share Transferring, Unlisted Shares and Unlisted Initial Public Offering (IPO) Follow on Public Offer (FPO), Offer For Sale (OFS), etc having its registered office / address at B/120, Pulin Tenement Part - 1, Near Khodiyar Mata Mandir, Behind Shalin School, Naroda, Ahmedabad - 382325 (hereinafter referred to as Shivaay Investment Pvt Ltd which expression shall unless repugnant to the context or meaning thereof, be deemed to mean and include its successors, associates concern and assigns) of the One Part.

And

Jaydeepgiri S. Goswami an individual / Firm / Company having its office at-SF-8, Sahjanand Complex, Behind ST Bus Station, Gani Market, Una-362560 hereinafter called as Authorized Person (which expression shall unless repugnant to the context or meaning thereof, be deemed to mean and include its successors, associates concern and assigns and can be

⁵ Dated 21.06.2020

registered as either Sub Broker or Remisier) of the Second Part.

Whereas Shivaay Investment Pvt Ltd is engaged in the business of Off-Market Share Transferring, Unlisted Shares and Unlisted Initial Public Offering (IPO), Follow on Public Offer (FPO), Offer For Sale (OFS), etc segments of National Stock Exchange of India Ltd (NSE), Bombay Stock Exchange Ltd (BSE) and the Authorised Person has experience in providing stock/share broking services to clients, the Shivaay Investment Pvt Ltd is desirous of engaging Authorised Person for managing & soliciting its business of stock/share broking on terms & conditions herein after appearing.

In consideration of the mutual understanding as set forth in this agreement, the parties thereto have agreed to the following terms & conditions:

- 1. Owner and Franchise Partner shall hereinafter be singly referred to as Party and jointly as Parties.*
- 2. The Second Part as Authorised Person to deal & manage the business for from anywhere. The place mentioned in the above shall be treated as branch of Shivaay Investment Pvt Ltd for trading on NSE, BSE, Unlisted Shares, Off-Market Share Transferring, etc and Authorised Person shall use the name of Shivaay Investment Pvt Ltd from or in connection with any other location the prior approval is given by the Shivaay Investment Pvt Ltd.*
- 3. The Authorised Person is equally partner with the work which he will do under the company, so any further formalities, changes are decided mutually with Shivaay Investment Pvt Ltd.*
- 4. The Shivaay Investment Pvt Ltd have to provide all necessary research, materials and data needed to meet requirements of upcoming IPO, FPO, Unlisted Shares, etc.*
- 5. The payment is to be transferred by the prior discussed date and time with the operative bank accounts of both the parties. Shivaay Investment Pvt Ltd is bounded to give shares as per the deal with the Authorised Person and Authorised Person is also bounded for the fund transfer of the deal at discussed date and time.*

6. *Any person designated by the Authorised Person to operate the dealing shall treated as an authorized representative of the Second Part.*
7. *The detailed receipt of each transaction will be provided by Part One, after the successful fund transfer by Second Part.*
8. *Both Parties agrees not to disclose any investment or personal details of confidential nature of any clients to any other client or person.*
9. *The provisions of this agreement shall always be subject to SEBI, RBI & Stock Exchange(s) rules, byelaws & regulations that may be in force from time to time and any modification/ amendment thereof. "*

[Emphasis supplied]

17. Paragraph No.2 of the agreement noted above is relevant. Shivaay Investment has represented itself as engaged in the business of off-market share transfer etc., and desirous of engaging authorised persons for managing and soliciting its business. In Clause 5 of the agreement Shivaay Investment Pvt. Ltd. has bound itself to 'give' the shares.

18. The CGM has referred to the website and recorded his findings. We have perused the print version of the website. It contains three names Rupaben with DIN number 09173570, Kevin Bhai with DIN number 09173569 and Jay Raj Bhai Vala with DIN number 09173571, below their respective names. Appellant has also made available a copy of MCA⁶ record which shows the DIN numbers of the Directors, who were none other than noticee Nos.2 to 4. We may record that name of the appellant is not found in the website.

⁶ Ministry of Corporate Affairs

19. Appellant has also produced an email dated August 4, 2022 sent by the AGM⁷, SEBI stating that a SCN sent to him by post had returned undelivered. Appellant has replied to the said email within two days on August 6, 2022 noting his regret that the SCN has returned unserved. He has furnished a detailed reply. Similarly, other emails produced by the appellant exchanged between the SEBI Officers and the appellant show that the appellant has sincerely responded to the emails and also cooperated with the SEBI.

20. Appellant has pleaded⁸ in the appeal that he was coerced by noticee Nos.2 and 3 to open a bank account. He has also given the details of transactions and the balance sheet of Shivaay Investment. It is pleaded that ₹52.91 Lakhs were treated as loans and advances to noticee Nos.2 to 4 and the said amount has been siphoned off by them. The balance sheet at Annexure H corroborates the pleading.

21. Appellant has pleaded that 18 FIRs and Criminal complaints were filed by appellant and 30 to 40 investors against noticee Nos. 2 to 4 for offences of criminal breach of trust, fraud and cheating. He has furnished the copies of the complaints as K series appended to the memorandum of the appeal. Exhibit K1 is the complaint given on September 26, 2021. Exhibit K7 is the FIR No. 11186008231821 registered in Una Police Station under Sections 409, 420 and 120B of IPC. Both the complaint dated 26.09.2021 and FIR mentioned herein, which is registered after two years, mainly allege misappropriation of ₹2.92 Crores by

⁷ Assistant General Manager

⁸ Para 8.5 (Memorandum of appeal)

Kelvinbhai and Rupaben. Exhibit K-3 is a complaint against noticee Nos.2 to 4.

22. Thus, a careful analysis of the material on record shows that noticee Nos. 2 to 4 were Directors in Shivaay Investment Broking Ltd. The website contains the pictures of Rupaben, kevinbhai and Jayrajbhai along with their respective DIN numbers. Admittedly, appellant is a propriety concern. Incorporating their photographs and displaying their DIN numbers of a limited company without correctly display with company to which it belongs, is clearly an act of deception.

23. As recorded hereinabove, the appellant has come clean before the SEBI as also this Tribunal. The sole complainant before SEBI one Mr. Chirag Sadhu has withdrawn his complaint. Thus, no complaint is pending against the appellant. On the other hand all investors have joined him in lodging complaints against noticee Nos.2 to 4. There is no material on record to point finger at the appellant and to suggest that he has indulged in investment advisory activity. The facts narrated herein above lead us to infer that he has acted as an employee or at best a commission agent. Appellant is a young engineering graduate and the entire episode has taken place during Covid-19 period. Having regard to the merits of case and having considered the medical records of appellant's father and his sister who succumbed to cancer, we are of the opinion that the application for condonation of delay as also the appeal deserves to be allowed.

24. Hence, the following:

ORDER

1. Appeal is ***allowed***.
2. Order dated October 25, 2023 passed by the CGM, SEBI, is set aside *qua* the appellant.
3. Pending interlocutory application(s), if any, stand disposed of.
4. No costs.

Justice P.S. Dinesh Kumar
Presiding Officer

Ms. Meera Swarup
Technical Member

Dr. Dheeraj Bhatnagar
Technical Member

06.03.2026
RHN