

**BEFORE THE SECURITIES APPELLATE TRIBUNAL  
MUMBAI**

**Appeal No. 59 of 2008  
Along with  
Misc. Application No. 48 of 2008**

**Date of decision : 20.8.2008**

Keerthi Industries Ltd.

..... Appellant

Versus

Bombay Stock Exchange Limited

..... Respondent

Ms. Preeti Salaskar Advocate for the Appellant.

Dr. Mrs. Poornima Advani Advocate with Ms. Sejal Shah Advocate for the Respondent.

Coram : Justice N.K. Sodhi, Presiding Officer

Arun Bhargava, Member

Utpal Bhattacharya, Member

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

Having heard the learned counsel for the parties we are of the view that this appeal must fail because there is no cause of action for the appellant to feel aggrieved against any action of the Bombay Stock Exchange (BSE).

2. The appellant is a public limited company whose shares are listed on BSE. Trading in the scrip was suspended on 24.9.2005 which has now been revoked by the impugned communication dated March 5, 2008. BSE has revoked the order of suspension on certain conditions and one of the conditions imposed is that the appellant company should cancel the allotment of 20 lac shares issued by it in October 2002 to its promoters on a preferential basis. BSE found that at the time of the allotment, the appellant company had withheld some material information from its shareholders inasmuch as it did not disclose the particulars/details of those to whom the allotment was to be made. BSE found that clause 13.1A of the DIP Guidelines had not been complied with by the appellant company.

3. When this appeal came up for hearing before us on 1.5.2008 the learned counsel for the appellant informed us that the appellant company would convene another extraordinary general meeting of its shareholders and after furnishing the detailed particulars of the

allottees, it shall get its action of allotment ratified. We are informed by the learned counsel for the appellant that the subsequent EGM has ratified the action of the company in allotting 20 lac shares to its promoters. In the normal course, BSE would have permitted the shares to be listed subject to the compliance of other conditions enumerated in the impugned communication. What has now transpired is that with the allotment of 20 lac shares to the promoters, the public shareholding in the appellant company has fallen below 25 per cent. It is the requirement of clause 40A of the listing agreement executed between the appellant and BSE that the former shall at all times maintain the level of public shareholding atleast upto 25 per cent. In other words, it is the requirement of the listing agreement that a minimum of 25 per cent public shareholding has to be maintained in the appellant company to enable it to remain listed on a continued basis. Since the public shareholding has fallen below 25 per cent, it is not possible for BSE to permit listing of the preferentially allotted shares. The appellant will have to find ways and means to raise the public shareholding to atleast the level of 25 per cent before listing could be allowed. As and when that happens, it will be open to the appellant to approach the BSE with a fresh application to get those shares allotted. As of now the public shareholding is below the minimum level required and, therefore, there is no cause of action for the appellant.

In the result, the appeal fails and the same is dismissed leaving it open to the appellant to apply afresh as and when it is able to bring up its public shareholding up to the minimum prescribed level. No costs.

Sd/-  
Justice N.K. Sodhi  
Presiding Officer

Sd/-  
Arun Bhargava  
Member

Sd/-  
Utpal Bhattacharya  
Member

20.8.2008  
ddg/-