

SAT ORDERED NSE TO CONTINUE TRANSFERRING REVENUE FROM CO-LOCATION IN ESCROW

On 22nd May, 2019, the Securities Appellate Tribunal directed the National Stock Exchange of India Ltd (NSE) to transfer Rs. 625 crore to the Securities and Exchange Board of India (SEBI) within two weeks. The amount is to be transferred to an escrow account as directed by the SEBI as per its interim order dated September, 2016. While hearing the appeal filed by the exchange on 21.05.2019, the tribunal stated that the amount would be kept in an interest bearing account till the matter was disposed while giving the capital market supervisory six weeks' time to file its reply.

The National Stock Exchange of India (NSE) had challenged the colocation orders of the SEBI on the ground that they are “unsustainable, arbitrary, and disproportionate”. The main ground presented by NSE was that the SEBI orders in question had not made a case on the issue that any trading member had got any advantage because of preferential access. The NSE in its petition has argued that “The order suffers from material errors of facts and law. It has also failed to decide on a single beneficiary of the alleged unfair access and concluded that NSE TBT architecture (tick-by-tick information dissemination system) was not fair and equitable”

This petition was filed in lieu of the three orders passed by SEBI on 30.04.2019 directing NSE to deposit Rs 1,200 crore in an investor fund and barring it from accessing capital markets for six months. In its order, SEBI had noted that NSE had failed to provide equal and fair access to all members when they were using its algorithmic trading platform and co-location services.

The order passed by Securities Appellate Tribunal came as a partial relief for the NSE as they are not required to pay the entire Rs. 1200 crore (which constitutes the principal amount and the interest) rather they need to deposit just the principal amount of two orders amounting to Rs. 625 crore. Furthermore, NSE also has the option to withdraw the said amount from the escrow account.

SEBI has been asked to file its reply to NSE's petitions within six weeks and NSE can file rejoinders in three weeks after that. The matter will be heard next on 22 July, 2019 along with the other co-location pleas.

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