

LEGAL UPDATES

SAT: UPHOLDS THE ORDER OF SEBI IMPOSING PENALTY FOR CONTRAVENING THE VCF REGULATIONS AND FAILING TO ADHERE TO WIND UP SCHEME

SAT upheld the order of SEBI, rejecting the appeal against the SEBI order imposing a penalty as the company and the directors ('Appellants') failed to undertake the activities as per regulation 24(2) r/w 23(1)(2A) of SEBI (Venture Capital Funds) Regulations ('VCF Regulations'). The appellate tribunal observed that a 5-year scheme was launched by the company under the VCF regulations, however, the scheme was not wound up by the company and it defaulted in paying the investors within the defined time period as provided under VCF Regulations 23 and 24. Citing the related provisions the bench noted that the winding up of the scheme was required along with the distribution of the proceeds in 3 months from the intimation of intention to wind up. Dismissing the submissions of the Appellant that the word "shall" as provided under regulations 23 and 24 is a directory and not mandatory in nature thereby ruling that an essential prerequisite is sincere efforts of the company in winding up the scheme and dispensing the proceeds. Finally, the tribunal noted that the expiration date of the scheme was 14.11.2015 while the decision to wind up the scheme was taken on 07.03.2016 hence, as of date even though it has been more than 5 years however, the entire proceeds have still not been distributed to investors and the scheme has also not been wound up. The bench remarked that the ill intention of the appellants is clear as 5 years is a long time. Thereby, upholding the order of SEBI wherein a penalty was imposed.