Form No: HCJD/C.

JUDGEMENT SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

SECP Appeal No.04 of 2015.

Riaz Ahmed & Company
Vs.
The Appellate Bench No.1, S&ECP, Islamabad & another.

Petitioner's by:	***Mr. Mohammad Akram Shaheen, Advocate.***
Respondents by:	***Mr. Shahzad Ali Rana, Advocate***
Date of Decision:	***18.06.2015***

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Aamer Farooq, J.- This appeal under section 34 of Securities & Exchange Commission Act, 1997 is directed against order dated 16.01.2015 passed by respondent No.2.

2. The appellant was appointed as Official Liquidator of Corporate Business Management (Pvt.) Limited and in this behalf upon completion of all requisite formalities a final meeting of Members of the referred Company was held on 27.09.2008 wherein a unanimous resolution was passed and as a consequence thereof the liquidation proceedings were deemed to be completed with effect from 27.09.2008.The appellant thereafter filed requisite documents & forms with respondent

No.1. The appellant was served with show cause notice wherein it was alleged that the appellant has violated sections 15-A and 15-B of Securities & Exchange Ordinance, 1969. The appellant filed reply to the show cause notice but vide order dated 10.09.2009 a demand has been raised against Corporate Business Management (Pvt.) Limited through the appellant. The appellant filed appeal against referred order which was fixed for hearing on 01.01.2015, however, no notice of hearing was given to the appellant and was adjourned to 16.01.2015. On 16.01.2015 again no notice was sent to the appellant, therefore, case was dismissed for non-prosecution.

3. The learned counsel for the appellant, inter alia, submitted that the appellant has been condemned unheard as no notice of hearing was given to it, therefore, its appeal was dismissed for non-prosecution. The learned counsel further submitted an affidavit has also been appended to the effect that no notice was received by the appellant.

4. The learned counsel for respondents, inter alia, submitted that due intimation was given to the appellant.

5. It is an established principle that no one should be condemned unheard. Admittedly, the appeal filed by the appellant was dismissed for non-prosecution due to its non-appearance. It is trite law that cases should be decided on merits and not technicalities.

6. In view of above, the instant appeal is allowed. Consequently, the impugned order dated 16.01.2015 is set aside and case is remanded to respondent No.2 for decision on merits.

(AAMER FAROOQ)
JUDGE

Altaf Malik

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