

Securities Appellate Tribunal

Asha Shreekant Javalgekar vs Sebi on 16 August, 2017

BEFORE THE SECURITIES APPELLATE TRIBUNAL  
MUMBAI

Date of Decision : 16.8.2017

Appeal No.184 of 2017

Shreekant Javalgekar

Flat No.1002, Tower No.3, Orchard

Residency, Ghatkoper West,

Mumbai 400086.

..... Appellant

Versus

Securities & Exchange Board of India

SEBI Bhavan, Plot No. C-4A, G-Block,

Bandra-Kurla Complex, Bandra (East),

Mumbai - 400 051.

..... Respondent

Mr. Vinay Chauhan, Advocate with Mr. K.C. Jacob, Advocate i/b.

Corporate Law Chambers India for the Appellant.

Mr. Darius Khambata, Senior Advocate with Mr. Mihir Mody and Mr.

Nishant Upadhyay, Advocates i/b. K. Ashar & Co. for the Respondent.

With

Appeal No.185 of 2017

Shreekant Javalgekar

Flat No.1002, Tower No.3, Orchard

Residency, Ghatkoper West,

Mumbai 400086.

..... Appellant

Versus

Securities & Exchange Board of India

SEBI Bhavan, Plot No. C-4A, G-Block,

Bandra-Kurla Complex, Bandra (East),

Mumbai - 400 051.

..... Respondent

Mr. Vinay Chauhan, Advocate with Mr. K.C. Jacob, Advocate i/b.

Corporate Law Chambers India for the Appellant.

Mr. Darius Khambata, Senior Advocate with Mr. Mihir Mody and Mr.

Nishant Upadhyay, Advocates i/b. K. Ashar & Co. for the Respondent.

With  
Appeal No.186 of 2017

Asha Shreekant Javalgekar  
Flat No.1002, Tower No.3, Orchard  
Residency, Ghatkoper West,  
Mumbai 400086.

..... Appellant

Versus

Securities & Exchange Board of India  
SEBI Bhavan, Plot No. C-4A, G-Block,  
Bandra-Kurla Complex, Bandra (East),  
Mumbai - 400 051.

..... Respondent

Mr. Vinay Chauhan, Advocate with Mr. K.C. Jacob, Advocate i/b.  
Corporate Law Chambers India for the Appellant.  
Mr. Darius Khambata, Senior Advocate with Mr. Mihir Mody and Mr.  
Nishant Upadhyay, Advocates i/b. K. Ashar & Co. for the Respondent.

With  
Appeal No.187 of 2017

Asha Shreekant Javalgekar  
Flat No.1002, Tower No.3, Orchard  
Residency, Ghatkoper West,  
Mumbai 400086.

..... Appellant

Versus

Securities & Exchange Board of India  
SEBI Bhavan, Plot No. C-4A, G-Block,  
Bandra-Kurla Complex, Bandra (East),  
Mumbai - 400 051.

..... Respondent

Mr. Vinay Chauhan, Advocate with Mr. K.C. Jacob, Advocate i/b.  
Corporate Law Chambers India for the Appellant.  
Mr. Darius Khambata, Senior Advocate with Mr. Mihir Mody and Mr.  
Nishant Upadhyay, Advocates i/b. K. Ashar & Co. for the Respondent.

CORAM : Justice J.P. Devadhar, Presiding Officer

Per : Justice J.P. Devadhar (Oral)

1. The appellants are aggrieved by the ad-interim ex-parte order passed by the Whole Time Member ("WTM" for short) of the Securities and Exchange Board of India ("SEBI" for short) on August 2, 2017. By the said order it is, inter alia, held that the appellants were insider's under the SEBI (Prohibition of Insider Trading) Regulations, 1992 ("PIT Regulations" for short) and while in

possession of unpublished price sensitive information ("UPSI" for short), the appellants had sold the shares of Multi-Commodity Exchange of India Ltd. ("MCX" for short)/63 Moons Technologies Ltd. and collectively averted loss to the tune of Rs.79.50 lakhs and with a view to impound the loss averted, the WTM of SEBI has directed the appellants not to dispose of or alienate any of their assets/properties/ securities till the amount of loss averted is credited to an escrow account. By the said order, the WTM of SEBI has directed the banks not to debit any amount from bank accounts of the appellants except for the purpose of transfer of funds to the escrow account.

2. Although the prima facie view of the WTM of SEBI that the appellants were insider's and had traded in the securities while in possession of UPSI is seriously disputed by the appellants, without prejudice to their rights and contentions, the appellants seek permission to redeem the following mutual fund units held by them in ICICI Prudential Mutual Fund (Folio No.3967930/50) Scheme Code Name Current Value (INR) P1637 Regular Savings Fund - Growth 33,48,772.37 P1543 Savings Fund - Growth 25,69,202.78 59,17,975.15 and credit the redemption amount to the salary account of Mr. Shreekant Javalgekar with Axis Bank, MIDC, Andheri Branch bearing Account no.913010050654431 and thereafter out of the total amount that would be available in the aforesaid salary account, create a Fixed Deposit for an amount of Rs. 80 lakhs from the aforesaid bank account in the name of Shreekant Javalgekar and Asha Shreekant Javalgekar and mark a lien in favour of SEBI. As the appellants are willing to secure the amount of loss allegedly averted by them, we permit the appellants to redeem the aforesaid mutual fund units and thereafter create a Fixed Deposit for an amount of Rs.80 lakhs in the name of Shreekant Javalgekar and Asha Shreekant Javalgekar and create a lien of the said amount in favour of SEBI.

3. Subject to the appellants securing the loss allegedly averted by the appellant, the directions issued against the appellants in the ex-parte order would not survive. Consequently, the appeals do not survive.

4. In these circumstances, we dispose of the appeals by directing the appellants to make a representation, if any, within a period of two weeks from today and further direct SEBI to dispose of the said representation if any, made by the appellants as expeditiously as possible and in any event within a period of three months from the date of receiving the representation from the appellants.

5. All contentions of both parties are kept open.

6. All four appeals are disposed of in the aforesaid terms with no order as to costs.

Sd/-

Justice J. P. Devadhar Presiding Officer 16.8.2017 Prepared and compared by RHN