

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Appeal No. 61 of 2013

Date of decision: 23.04.2014

Shri Devang D. Master
16-A, Tower C, Viceroy Park,
Thakur Village, W E Highway,
Kandivali (E), Mumbai 400 101.

..... Appellant

Versus

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

..... Respondent

Mr. Rajesh Khandelwal, Advocate with Ms. Deepika Motagi, Advocate for the Appellant.

Mr. Shiraz Rustomjee, Senior Advocate with Mr. Mihir Mody, Advocate for the Respondent.

CORAM : Justice J. P. Devadhar, Presiding Officer
Jog Singh, Member
A. S. Lamba, Member

Per : Jog Singh (Oral)

The present appeal is directed against the impugned order dated January 31, 2013 passed by the respondent by which the appellant is held to be guilty of violating the provisions of Regulations 3(b), 3(c), 3(d), 4(1), 4(2)(d), 4(2)(e), 4(2)(k) and 4(2)(r) of PFUTP Regulations, Regulation 7(1A) read with 7(2) and Regulations 10 and 11 of the SAST Regulations and also Regulation 13(4) read with 13(5) of PIT Regulations and was levied a consolidated

penalty of ₹ 1 crore i.e. a penalty of ₹ 20 lac on the appellant under Section 15HA of the SEBI Act, 1992 for the alleged violation of Regulations 3(b), 3(c), 3 (d) and 4(1), 4(2)(d), 4(2)(e), 4(2)(k) and 4(2)(r) of PFUTP Regulations, a penalty of ₹ 75 lac under Section 15F(ii) of the SEBI Act, 1992 for the alleged violation of Regulation 10 and 11(1) of SAST Regulations and a penalty of ₹ 5 lac under Section 15A(b) of the SEBI Act, 1992 for the alleged failure to make disclosure under Regulation 7(1A) read with Regulation 7(2) of SAST Regulations and Regulation 13(4) read with Regulation 13(5) of PIT Regulations.

2. The allegations against the appellant were mainly that he made misleading corporate announcement in March 2005 regarding preferential / rights issue with a view to lure investors. According to SEBI, it led to creation of artificial volumes. The next allegation was that he had made off-market transfers to various entities and had also received shares in the off-market for which he did not make requisite disclosures as per Takeover and PIT Regulations.

3. The appellant, *interalia*, submitted before this Tribunal that the signature appearing on transfer deeds produced by the respondent were forged as he did not sign the same. In this background, during the proceedings before this Tribunal, the appellant was granted leave to obtain and submit a signature comparison report from a Forensic expert. Accordingly, the appellant furnished a signature comparison report dated June 18, 2013. The respondent also filed reply / comments in response to the said report. During the course of hearing, it was felt that in the facts and circumstances of the case, a comparison of the appellant's signature would be required to ascertain authenticity of his alleged signature on the transfer deed. This factual analysis

may also require additional evidence. It would be, therefore, appropriate to remand this matter to the learned adjudicating officer for fresh hearing and adjudication.

4. Therefore, in the facts and circumstances of the case, keeping all the contentions of the parties open and with their consent, the impugned order dated January 31, 2013 is hereby quashed and set aside and the matter is remanded to the respondent for fresh adjudication after affording reasonable opportunity to the appellant to represent his case. SEBI, if so advised, may issue fresh show cause notice to the appellant. Both the parties are at liberty to file additional documents, if so advised, before the learned adjudicating officer who is directed to dispose of this matter expeditiously and within a period of six months from today.

The appeal, accordingly, stands disposed of in above terms with no order as to costs.

Sd/-
Justice J. P. Devadhar
Presiding Officer

Sd/-
Jog Singh
Member

Sd/-
A. S. Lamba
Member

23.04.2014
Prepared & Compared by
PTM