

**BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI**

Date of Decision: 20.02.2015

Appeal No. 356 of 2014

Kirtibhai Chhaganbhai Patel
10- Ghanshyam Park Society,
Jodhpurgam Road,
Ahmedabad- 380 015
Gujarat

...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

WITH

Appeal No. 357 of 2014

Aditya Yogeshbhai Patel
15, Dev Kuter-II,
Bopal Amboli Road,
Near Amboli Bus Stand,
Ahmedabad- 380 058,
Gujarat

...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. Dakshesh Vyas, Advocate with Mr. Durgesh Kulkarni, Advocate i/b
Lex Firmus for the Appellant in Appeal Nos. 356 of 2014 & 357 of
2014.

Mr. Kumar Desai, Advocate with Mr. Manish Acharya, Advocate i/b
Vigil Juris for the Respondent in Appeal Nos. 356 of 2014 & 357 of
2014.

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

Per: Justice J.P. Devadhar (Oral)

1. Appellants in these two appeals are aggrieved by the common order passed by Adjudication Officer (“AO” for short) of Securities and Exchange Board of India (“SEBI” for short) on July 22, 2014, whereby the AO has imposed penalty of ₹ 5 lac on each of the appellants under Section 15A(b) of the Securities and Exchange Board of India Act, 1992 (“SEBI Act, 1992” for short). Since the appellants have challenged common order dated July 22, 2014, both these appeals are heard together and disposed of by this common decision.

2. Facts relevant to these two appeals are that on April 16, 2012 the appellants were appointed as Additional Directors of Kanel Oil and Exports Industries Ltd. (“KOEIL” for short). On that day appellant in Appeal No. 356 of 2014 held 3,50,000 shares and the appellant in Appeal No. 357 of 2014 held 1,75,010 shares of KOEIL. Under regulation 13(2) of SEBI (Prohibition of Insider Trading) Regulations, 1992 (“PIT Regulations, 1992” for short) it was obligatory on the part of the appellants to make disclosures to the company in respect of the aforesaid shareholding held by each of them. Although, it is claimed by the appellants they had made declaration within the stipulated time, counsel for the appellant fairly stated before us that there is no material to substantiate the said claim and as per the records, the disclosures were made on October 25, 2014.

3. Counsel for the appellants submitted that in view of the findings recorded in the impugned order to the effect that it is difficult to quantify any gain or unfair advantage accrued to the appellants and further holding that the defaults are not repetitive in nature, the AO of SEBI is not justified in imposing the penalty of ₹ 5 lac against each appellant.

4. We see no merit in the above contentions.

5. Admittedly, the delay in the present appeal in making disclosures under regulation 13(2) of PIT Regulations, 1992 is more than 6 months. For each days delay, penalty under Section 15A(b) of the SEBI Act, 1992 is imposable at the rate of ₹ 1 lac per day subject to a maximum of ₹ 1 crore. In the present case, although the penalty imposable is ₹ 1 crore against each appellant the AO after taking into consideration all mitigating factors has imposed penalty of ₹ 5 lac on each appellant which cannot be said to be unreasonable to excessive.

6. For the aforesaid reasons, we see no merit in the appeal and same is hereby dismissed with no order as to costs.

Sd/-
Justice J.P. Devadhar
Presiding Officer

Sd/-
A S Lamba
Member