

SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

CIVIL APPEAL NO.2 OF 2004

SECURITIES AND EXCHANGE BOARD OF INDIA

Appellant (s)

VERSUS

RAKESH ARARWAL

... Respondent(s)

(With appln.(s) for permission to file additional documents, I.A.
No.4/2007 for recording compromise between the parties and
office report)

Date: 23/01/2008 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ALTAMAS KABIR

HON'BLE MR. JUSTICE AFTAB ALAM

For Appellant(s) Mr. Bhargava V. Desai,Adv.
Mr. Rahul Gupta,Adv.
Ms. Reema Sharma,Adv.

For Respondent(s) Mr. Manu Nair,Adv.
for M/s. Suresh A. Shroff & Co.,Adv.

UPON hearing counsel the Court made the following ORDER

The civil appeal and I.A. No.4 are disposed of.

There will be no order as to costs.

[T.I. Rajput]
A.R.-cum-P.S.

[Phoolan Wati Arora]
Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2 OF 2004

Securities and Exchange Board of India ...Appellant(s)

Versus

Rakesh Agarwal ...Respondent(s)

ORDER

The appellant herein passed an order against the respondent imposing penalty and forfeiting the benefits arising out of various transactions on the ground of insider trading. In appeal before the Securities Appellate Tribunal, the said order was set aside on the ground that the material, as available, did not disclose such a violation, as indicated by the appellant. The appellant is in appeal before us against the said order of the Securities Appellate Tribunal.

When the matter is taken up for hearing, it is submitted that the appellant had introduced a Scheme in the nature of amnesty scheme to cover cases of this nature and other matters as well and, in pursuance thereof, an application was made by the respondent to the appellant and the same was, ultimately, considered by the High- Powered Advisory Committee appointed for the said purpose; the proposal made by the respondent was accepted and certain terms were set out for settlement of the dispute finally between the parties. It has been submitted by Mr. B.V. Desai, learned counsel appearing on behalf of the appellant, that the said facts have been set out in I.A. No.4 of 2007 wherein, in Paragraph (5), the terms of settlement, as approved by the said Committee, have been set out.

Both the learned counsel agree that an order may be passed in terms of the prayer made in the said application.

Accordingly, we dispose of the appeal as per the terms of settlement, as set out in Paragraph (5), and as indicated herein below:

"[a] the case may be settled on payment of Rs.48,00,000/-;

[b] out of the sum of Rs.48,00,000/-, an amount of Rs.34,00,000/- already paid by the Respondent towards Investor Protection Fund shall be forfeited;

[c] the sum of Rs.4,00,000/- paid by the Respondent towards the penalty imposed by the Adjudication Officer shall also be forfeited;

[d] a sum of Rs.4,00,000/- shall be paid by the Respondent as compounding charges;

[e] a further aggregate sum of Rs.6,00,000/- shall be paid by the Respondent to SEBI/Appellant as legal expenses (Rs.90,000/- for legal expenses of Criminal complaint and remaining Rs.5,10,000/- for legal expenses in civil matters)."

It is also pointed out by Mr. Desai that, in Paragraph (8) of the said application, it has been indicated that the respondent has, in fact, acted in terms of the settlement.

I.A. No.4 of 2007 is also disposed of.
There will be no order as to costs.

.....J. [ALTAMAS KABIR]

.....J. [AFTAB ALAM]

New Delhi,
January 23, 2008.