

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Appeal No. 122 of 2013

Date of Decision : 07.12.2015

Reliance Petroinvestments Limited
3rd Floor, Maker Chambers IV,
222, Nariman Point,
Mumbai – 400 021.

...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. Janak Dwarkadas, Senior Advocate with Mr. Rohan Rajadhyaksha, Mr. Rajendra Barot and Mr. Divij Kishore, Advocates i/b AZB & Partners for the Appellant.

Mr. Kevic Setalwad, Senior Advocate with Mr. Mihir Mody, Mr. Saurabh Bachhawat and Ms. Shruti Chiniwar, Advocates i/b K. Ashar & Co. for the Respondent.

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

Per : J.P. Devadhar (Oral)

1. The appellant is aggrieved by the impugned order passed by the Adjudicating Officer of Securities and Exchange Board of India ('SEBI' for short) dated May 2, 2013 whereby penalty of Rs. 11 Crore is imposed on the Appellant under Section 15G of the Securities and Exchange Board of India Act, 1992 ('SEBI Act' for short) for the violation of Regulation 3 of the SEBI (Prohibition of Insider Trading) Regulations, 1992 ('PIT Regulations' for short).

2. In the impugned order it is held that purchase of 21,32,953 shares of Indian Petrochemicals Corporation Limited ('IPCL') by the Appellant for

Rs. 55,50,86,211/- during the period from February 27, 2007 to March 2, 2007 was in violation of PIT Regulations on the ground that the Appellant being 'deemed to be connected person' with IPCL in terms of Regulations 2(h) of the PIT Regulations, the Appellant was an 'insider' in terms of Regulation 2(e) of the PIT Regulations and being an insider, the Appellant was reasonably expected to have access to Unpublished Price Sensitive Information ('UPSI' for short) on the basis of which the Appellant had purchased shares of IPCL and hence the Appellant is liable to penalty under the SEBI Act.

3. As held by this Tribunal in the case of *Rajiv B. Gandhi & Ors. vs Securities and Exchange Board of India* (Appeal No. 50 of 2007), decided on May 9, 2008, if an insider trades or deals in securities of a listed company, it would be presumed that he has traded on the basis of the unpublished price sensitive information in his possession unless he establishes to the contrary.

4. On perusal of para 9 and 10 of the impugned order it is seen that apart from denying that the Appellant was an insider, Appellant had placed on record various documents to rebut the presumption of being in possession of UPSI at the time of purchasing shares and the Appellant had also made submission to the effect that the price sensitive information itself came into existence after the shares were purchased by the Appellant. Neither the documents furnished have been considered nor the arguments advanced on behalf of the Appellant have been considered in the impugned order.

5. Since the impugned order is passed merely on the basis of presumption without considering the arguments advanced on behalf of the Appellant to rebut the presumption, the impugned order is quashed and set

aside and the matter is restored to the file of Adjudicating Officer of SEBI for passing fresh order on merits and in accordance with law.

6. Since the Appellant has already deposited the amount of penalty with SEBI, Adjudicating Officer of SEBI is directed to hear the Appellant and pass fresh order on merits in accordance with law within 3 months from today. All contentions are kept open. The amount of penalty deposited will be subject to the result of the fresh order that is to be passed by SEBI.

7. Appeal is disposed of in the above terms with no order as to costs.

Sd/-
Justice J.P. Devadhar
Presiding Officer

Sd/-
Jog Singh
Member

07.12.2015
Prepared and compared by:
msb