

BEFORE THE SECURITIES APPELLATE TRIBUNAL  
MUMBAI

DATE : 27.10.2016

**Appeal No. 467 of 2015**

1. PACL Ltd.  
22, 3<sup>rd</sup> Floor, Amber Tower,  
Sansar Chand Road, Jaipur – 302004.  
Rajsthan.
  2. Mr. Tarlochan Singh  
7<sup>th</sup> Floor, Gopal Das Bhavan,  
28, Barakhamba Road,  
New Delhi – 110001.
  3. Mr. Sukhdev Singh  
7<sup>th</sup> Floor, Gopal Das Bhavan,  
28, Barakhamba Road,  
New Delhi – 110001.
  4. Mr. Gurmeet Singh  
7<sup>th</sup> Floor, Gopal Das Bhavan,  
28, Barakhamba Road,  
New Delhi – 110001.
  5. Mr. Subrata Bhattacharya  
7<sup>th</sup> Floor, Gopal Das Bhavan,  
28, Barakhamba Road,  
New Delhi – 110001.
- ..... Appellants

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. 491 of 2015**

Gurmeet Singh  
22, 3<sup>rd</sup> Floor, Amber Tower,  
Sansar Chand Road, Jaipur – 302004.  
Rajsthan.

..... 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. 492 of 2015**

Subrata Bhattacharya  
22, 3<sup>rd</sup> Floor, Amber Tower,  
Sansar Chand Road, Jaipur – 302004.  
Rajsthan.

..... 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. Sameer Rohatgi, Advocate with Mr. Mitesh Naik, Advocate i/b Dhru & Co. for the Appellants in Appeal No. 467 of 2015.

Mr. Abhishek Amritanshu, Advocate with Mr. Amit Pawan, Advocate for the Appellant in Appeal Nos. 491 and 492 of 2015.

Mr. Shyam Mehta, Senior Advocate with Mr. Mihir Mody, Mr. Saurabh Bachhawat, Mr. Vivek Rana, Advocates i/b K. Ashar & Co. for the Respondent.

CORAM : Justice J. P. Devadhar, Presiding Officer  
Jog Singh, Member  
Dr. C. K. G. Nair, Member

Per : Justice J. P. Devadhar (Oral)

1. In all these three appeals appellants have challenged the order passed by the Adjudicating Officer (“A.O.” for short) of SEBI on September 22, 2015. By the said order penalties have been imposed on the appellants under Section 15HA.

2. Basic argument of the counsel for the appellants is that assuming that the appellants had committed fraudulent and unfair trade practices, then penalty under Section 15HA of SEBI Act that could be imposed on the appellants was ₹ 25 crore or three times the amount of profits made out of such practices, whichever is higher. It is submitted that in the

present case, without computing the profit, if any, the A.O. has imposed penalty on the appellants which is bad in law.

3. We see merit in the above argument. Even if the A.O. considers the appellants to be highly unscrupulous and that the appellants have indulged in fraudulent and unfair trade practices, it was obligatory on part of A.O. to determine the quantum of profits made in such practice and thereafter proceed to impose penalty under Section 15HA of SEBI Act.

4. In view of the above, counsel for SEBI fairly stated that SEBI is willing to reconsider the matter afresh.

5. Accordingly, the impugned orders are set aside and SEBI is directed to pass fresh order on merits and in accordance with law.

6. All the contentions of both parties are kept open.

7. All the appeals are disposed of in the above terms with no order as to costs.

Sd/-  
Justice J. P. Devadhar  
Presiding Officer

Sd/-  
Jog Singh  
Member

Sd/-  
Dr. C. K. G. Nair  
Member

27.10.2016  
Prepared & Compared by  
PTM