

**BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI**

Date of Decision: 10-08-2017

Appeal No.170 of 2017

Prakash Shah
504, Raheja Heaven,
Prananjali, N.S. Road No.10th,
JVPD, Juhu, Vile Parle (W),
Mumbai – 400 049. ... 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. Harish Salve, Senior Advocate a/w Mr. Sharan Jagtiani and Ms. Namita Shetty, Advocates i/b Cyril Amarchand Mangaldas for the Appellant.

Mr. Darius Khambata, Senior Advocate a/w Mr. Mihir Mody and Mr. Nishant Upadhyay, Advocates i/b K. Ashar & Co. for the Respondent.

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

Per : Justice J.P. Devadhar (Oral)

1. The appellant is aggrieved by the ad-interim ex-parte order passed by the Whole Time Member (“WTM” for short) of the Securities and Exchange Board of India (“SEBI” for short) on August 2, 2017. By the said order it is, inter alia, held that the appellant was an insider under the SEBI (Prohibition of Insider Trading) Regulations, 1992 (“PIT Regulations” for short) and while in possession of unpublished price sensitive information (“UPSI” for short), the appellant had sold the shares of Multi-Commodity Exchange of India Ltd.

("MCX" for short) and averted loss to the tune of Rs.77.89 lacs and with a view to impound the loss averted, the WTM of SEBI has directed the appellant not to dispose of or alienate any of his assets/properties/securities till the amount of loss averted is credited to an escrow account. By the said order, the WTM of SEBI has directed the banks not to debit any amount from bank accounts of the appellant except for the purpose of transfer of funds to the escrow account.

2. Although the prima facie view of the WTM of SEBI that the appellant was an insider and had traded in the securities while in possession of UPSI is seriously disputed by the appellant, basic grievance of the appellant is that the WTM of SEBI is not justified in freezing the various bank accounts of the appellant and the entities connected with the appellant without giving any opportunity of personal hearing to the appellant.

3. Counsel for SEBI, on instruction, states that SEBI would immediately de-freeze the following bank account:-

- Prakash B. Shah Saving Bank Account with Karnataka Bank Ltd., Kandivali West Branch bearing A/c No. 0932500101203901 having balance of Rs.4,44,000/-.

4. Statement made by the Counsel for SEBI is accepted.

5. Counsel for the appellant further states that objection to the ex-parte order would be filed by the appellant within a period of one week from today and the appellant would also furnish to SEBI list of his assets/securities as per the impugned order within a period of one week from today.

6. If appellant files objection to the ex-parte order, then SEBI shall pass an order after considering the objections, if any, as expeditiously as possible and

in any event within a period of three months from the date of receiving the objections from the appellant.

7. All contentions of both parties are kept open.

8. Appeal is disposed of in the aforesaid terms with no order as to costs.

Sd/-
Justice J.P. Devadhar
Presiding Officer

Sd/-
Jog Singh
Member

10-08-2017
prepared & compared by-dg