

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision: 2.7.2018

Appeal No.223 of 2018

Abhipra Capital Limited.
Abhipra Complex, A387, Dilkhush
Industrial Area, GT Karnal Road,
Azadpur, Delhi – 110033.

..... Appellant

Versus

1. National Stock Exchange of India Limited
Exchange Plaza, C-1, Block G,
Bandra Kurla Complex, Bandra (East),
Mumbai-400 051.

2. Bombay Stock Exchange Limited
Floor 25, P.J. Towers, Dalal Street,
Mumbai – 400 001.

3. Securities and Exchange Board of India
SEBI Bhavan, Plot No. C-4, A
G Block, Bandra Kurla Complex,
Mumbai – 400 051.

... Respondents

Mr. Kunal Katariya, Advocate with Mr. Kunal Kothary, Advocate i/b.
Zerick Dastur, Advocates and Solicitors for the Appellant.

Mr. Sachin Chandarana, Advocate with Mr. Rahul Jain, Advocate i/b.
Manilal Kher Ambalal & Co. for the Respondent No.1.

Mr. Pesi Modi, Senior Advocate with Mr. Tomu Francis, Advocate for the
Respondent no.2.

Mr. Mihir Mody, Advocate with Mr. Nishant Upadhyay, Advocate i/b. K.
Ashar & Co. for the Respondent no.3.

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

Per : Justice J. P. Devadhar (Oral)

1. Not on Board. Mentioned by counsel for the appellant and taken up for hearing by consent of the parties.
2. Appellant is aggrieved by the communications issued by BSE Ltd. (BSE) and National Stock Exchange (NSE) on 29.6.2018 and 25.6.2018 respectively. By the said communications it is held that since the appellant (broker) failed to transfer to the designated bank account, the sale proceeds of the clients who had substantially traded in the scrip of Funny Software Ltd. in which unsolicited bulk SMSs were observed to be circulated, additional surveillance margin would be imposed on the appellant from 2.7.2018.
3. Counsel for the appellant states that sale proceeds amounting to Rs.2.24 crore received on sale of Funny Software Ltd., utilized by its clients for acquiring shares of other companies (approximately valued at Rs.3.40 crore as on date) are lying with the appellant and that the appellant has frozen those shares. In these circumstances, counsel for the appellant submits that instead of directing the appellant to transfer the sale proceeds to the designated account/furnish F.D., appellant may be permitted to offer the frozen shares valued approximately at Rs.3.40 crores to the stock exchanges.
4. Counsel for SEBI on instructions state that if the appellant makes a representation to that limited extent, the stock exchanges may consider the same.
5. Since it was decided in the joint meeting held between SEBI and the two exchanges as also the broker that the sale proceeds be transferred by the broker to the designated account or furnish F.D., it would be just and proper that the representation is made by the appellant to SEBI.

6. Accordingly, we direct the appellant to make a representation during the course of the day to SEBI offering to deposit the frozen shares valued approximately at Rs.3.40 crores as and by way of security towards the sale proceeds in question.

7. Till SEBI takes a decision on the representation that may be filed by the appellant during the course of the day, and for a further period of 48 hours after the communication of the decision by SEBI to the appellant, additional surveillance measures shall not be imposed on the appellant.

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

Sd/-
Justice J.P. Devadhar
Presiding Officer

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

2.7.2018
Prepared and compared by
RHN