

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Order Reserved On: 23.03.2018
Date of Decision : 06.04.2018

Appeal No. 67 of 2018

1. Siya Bansal

2. Rajan Bansal

H. No. 1082, Satsang Road,
Ludhiana, Punjab.

...Appellants

Versus

1. Adjudicating Officer,
Securities and Exchange Board of India,
SEBI Bhavan, Plot No. C-4A, G-Block,
Bandra-Kurla Complex, Bandra (East),
Mumbai - 400 051

2. Sandhya Sahebrao Badekar
115/B Shalimar Miracle, Plot No. 26,
Opp. ICICI Bank, SV Road,
Goregaon (West),
Mumbai- 400 062

...Respondents

Mr. Manohar Parkash Bansal, Representative for Appellants.

Mr. Vishal Kanade, Advocate with Mr. Chirag Bhavsar, Advocate i/b
MDP & Partners for Respondent No. 1

Ms. Sandhya Sahebrao Badekar, Respondent No. 2 in Person.

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

Per: Justice J.P. Devadhar

1. Appellants are aggrieved by the order passed by the Adjudicating Officer ("AO" for short) of Securities and Exchange Board of India ("SEBI" for short) on 04.08.2017. By the said order the AO of SEBI has imposed penalty of ₹ 15 lac on each appellant under Section 15HA of the

Securities and Exchange Board of India Act, 1992 (“SEBI Act” for short) for violating the SEBI (Prohibition of Fraudulent and Unfair Trade Practice relating to Securities Market) Regulations, 2003 (“PFUTP Regulations” for short).

2. On perusal of the impugned order, it is seen that during the period from 27.12.2011 to 24.01.2012 the price in the scrip of KGN Enterprise Limited (‘Company’ for convenience) increased from ₹ 200 to ₹ 898 i.e. increase by 349%. Investigation carried out by SEBI revealed that Ms. Sandhya Sahebrao Badekar had contributed ₹ 250 by way of New High Price (NHP) in the scrip of the company in 11 trades with two counter parties, namely, the appellants who are connected to each other through common address. On further investigation it was noticed that Ms. Sandhya had contributed ₹ 210 in NHP by 6 trades with Appellant No. 2 and ₹ 40 in NHP by 5 trades with Appellant No. 1 which were repetitive in nature.

3. Investigation further revealed that on 27.12.2011 there was only 1 buy interest in the market for 100 shares of the company until 12:39:10 at the rate of ₹ 149 per share. The Appellant No. 2 entered the market at 12:39:12 with sell order at the rate of ₹ 200 for 1 share. The said order was accepted but with a warning as it was almost breaching the dummy price band set by the exchange as per the exchange policy to avoid any price manipulation on the first day of listing. Subsequently, within a matter of 4-5 seconds the appellants kept putting sell orders for 1 share each and one order for 10 shares at the rate of ₹ 250, ₹ 300, ₹ 350,

₹ 400, ₹ 450, ₹ 481.... ₹ 500 respectively. All these trades were accepted with a warning as they were almost breaching the dummy price band. Thus, the appellants together took the price of the KGN scrip from ₹ 149 to ₹ 500 within a span of 1 minute and 37 seconds. In view of the fact that the appellants had repeatedly contributed to the NHP, SEBI considered the trades to be manipulated trades in violation of PFUTP Regulations. Accordingly, proceedings were initiated and by the impugned order penalty of ₹ 15 lac is imposed on each appellant under Section 15HA of SEBI Act.

4. Authorised Representative of the appellants submitted that the appellants have been actively trading in the stock market through SEBI registered sub-broker for the past more than one decade and in all these years there has never been any misdoing on their part. He submitted that there was no illegal motive or any malafide intention to manipulate the market price of the scrip or defeat the market mechanism. He submitted that since the appellants have neither taken any unfair advantage from the trades in question nor the said trades were repetitive in nature, the penalty imposed against the appellants deserves to be quashed and set aside.

5. We see no merit in the above contentions.

6. Fact that the orders placed by the appellants resulted in NHP is not in dispute. Moreover, conduct of the appellants in placing orders creating NHP inspite of the warning issued by the stock exchange clearly shows that the orders placed by the appellants were not bonafide orders. From the order and the trade logs set out in para 20 & 21 of the impugned

order it is abundantly clear that the appellants repeatedly indulged in creating NHP inspite of the warning issued to them. In such as case, decision of the AO that the appellants repeatedly placed orders which were virtually breaching the dummy price band set by the exchange in gross violation of the PFUTP Regulations cannot be faulted.

7. Penalty imposable under the SEBI Act for violating PFUTP Regulations under Section 15HA of SEBI Act is up to ₹ 25 crore. However, the AO after considering all mitigating factors has imposed penalty of ₹ 15 lac on each appellant which cannot be said to be unreasonable or excessive.

8. In the result, we see no merit in the appeal and the same is hereby dismissed with no order as to costs.

Sd/-
Justice J.P. Devadhar
Presiding Officer

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