

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision: 03.05.2019

Appeal No. 92 of 2019

Shweta Dhiren Agrawal
13, Shardanagar Society,
Lane No. 1, Paldi,
Ahmedabad 380 007

...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. Nishant K. Upadhyay, Advocate for the Appellant.

Mr. Chirag Bhavsar, Advocate i/b MDP & Partners for the
Respondent.

WITH
Misc. Application No. 175 of 2019
And
Appeal No. 119 of 2019

Sanjay Jethalal Soni
36, Malay Bungalows,
Science City Road, Sola,
Ahmedabad - 380 001
Gujarat

...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. Nishant K. Upadhyay, Advocate for the Appellant.

Mr. Chirag Bhavsar, Advocate i/b MDP & Partners for the
Respondent.

WITH
Misc. Application No. 176 of 2019
And
Appeal No. 120 of 2019

Dhiren Dharamdas Agarwal
 13, Shardanagar Society,
 Lane No. 1, Paldi,
 Ahmedabad 380 007 ...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. Nishant K. Upadhyay, Advocate for the Appellant.

Mr. Chirag Bhavsar, Advocate i/b MDP & Partners for the Respondent.

AND
Misc. Application No. 177 of 2019
And
Appeal No. 121 of 2019

Krupa Sanjay Soni
 36, Malay Bungalows,
 Science City Road, Sola,
 Ahmedabad - 380 001
 Gujarat ...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. Nishant K. Upadhyay, Advocate for the Appellant.

Mr. Chirag Bhavsar, Advocate i/b MDP & Partners for the Respondent.

CORAM: Justice Tarun Agarwala, Presiding Officer
Dr. C.K.G. Nair, Member
Justice M. T. Joshi, Judicial Member

Per: Justice Tarun Agarwala (Oral)

**Misc. Application Nos. 175 of 2019, 176 of 2019 and
177 of 2019**

There is a delay of 92 days in filing the present appeals. Cause shown is sufficient. The delays in filing the appeals are condoned.

The delay condonation applications are allowed.

Appeal Nos. 92, 119, 120 and 121 of 2019

1. Even though separate orders have been passed the issues involved are the same and, therefore, all these appeals are being decided together. For facility, the facts stipulated in Appeal No. 92 of 2019 Shweta Dhiren Agrawal V/s Securities and Exchange Board of India is been taken into consideration.

2. A show cause notice was issued to the appellant alleging that the appellant and her husband Dhiren Dharamdas Agarwal were persons acting in concert and had together cumulatively acquired 11.36% of paid up equity capital of Parichay Investments Limited and thus triggered the provision of Regulation 7 of the Securities and Exchange Board of India

(Substantial Acquisition of Shares and Takeover) Regulations, 1997 (“SAST Regulations, 1997” for convenience) and Regulation 13 of Securities and Exchange Board of India (Prevention of Insider Trading) Regulations, 1992 (“PIT Regulations” for convenience). In spite of time being granted no objections was filed. The Adjudicating Officer (“AO” for convenience) of Securities and Exchange Board of India (“SEBI” for convenience) after considering the matter imposed a penalty of ₹ 3 lakhs under Section 15-I (2) of the SEBI Act, 1992 taking into consideration similar violation committed by the appellant in another scrip in the past.

3. In so far as the appeal of the husband Dhiren Dharamdas Agarwal is concerned, being Appeal No. 120 of 2019, on similar facts, the AO has imposed a penalty of ₹ 6 lakhs. Similarly, in Appeal Nos. 119 of 2019 and 121 of 2019 the AO has imposed a penalty of ₹ 6 lakhs on identical grounds.

4. The learned counsel for the appellant submitted that he is only pressing for reduction in the quantum of penalty.

5. Having heard the learned counsel for the parties, we find that the violation committed by the appellant Shweta Dhiren Agrawal is admitted since no reply was filed and, therefore, the

allegation remained un rebutted. The AO also found that similar violation was made by the appellant in relation to another scrip. Therefore, in our view, the imposition of penalty of ₹ 3 lakhs on the appellant Shweta Dhiren Agrawal in Appeal No. 92 of 2019 does not suffer from any error of law or on facts and the same is dismissed.

6. However, we find that in Appeal Nos. 119 of 2019, 120 of 2019 and 121 of 2019 identical charges were levied and on similar charges the appellants in these appeals has levied a penalty of ₹ 6 lakhs each. In our opinion, when the charges in all the appeals are identical a higher imposition is unjustified and becomes arbitrary. We consequently, partly allow the Appeal Nos. 119 of 2019, 120 of 2019 and 121 of 2019. The penalty of ₹ 6 lakhs is reduced to ₹ 3 lakhs. All the appellants are directed to deposit the penalty before the respondent within four weeks from today.

Sd/-
Justice Tarun Agarwala
Presiding Officer

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

Sd/-
Justice M. T. Joshi
Judicial Member