

BEFORE THE SECURITIES APPELLATE TRIBUNAL  
MUMBAI

**Date of Hearing : 07.03.2019**

**Date of Decision : 12.03.2019**

**Appeal No. 80 of 2019**

1. North End Foods Marketing Pvt. Ltd.  
615-618, DLF Towers, 6<sup>th</sup> Floor,  
15, Shivaji Marg, Moti Nagar,  
New Delhi – 110015.

2. Sandeep Sabharwal  
Office : 615-618, DLF Towers, 6<sup>th</sup> Floor,  
15, Shivaji Marg, Moti Nagar,  
New Delhi – 110015.

...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

Mr. Janak Dwarkadas, Senior Advocate with Mr. Somasekhar  
Sundaresan, Mr. Vikram Raghani, Mr. Pulkit Sukhramani, Ms. Stuti  
Shah, Advocates i/b J. Sagar Associates for Appellants.

Mr. J. P. Sen, Senior Advocate with Mr. Anubhav Ghosh, Ms. Vidhi  
Jhavar, Advocates i/b The Law Point for the Respondent.

**With**  
**Appeal No. 81 of 2019**

Mr. Abhishek Aggarwal  
A-158, Minto Road Complex,  
Minto Road,  
New Delhi – 110002.

...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. Gaurav Joshi, Senior Advocate with Mr. Saurabh Bachhawat,  
Mr. Nirmal Chopda, Advocates i/b Vraj Legal for the Appellant.  
Mr. J. P. Sen, Senior Advocate with Mr. Anubhav Ghosh, Ms. Vidhi  
Jhawar, Advocates i/b The Law Point for the Respondent.

**With  
Appeal No. 82 of 2019**

Ms. Neetu Gupta  
B-266, S-2, IInd Floor,  
Ramprastha Colony, Chander Nagar,  
Ghaziabad, U. P. - 201011.

...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. Gaurav Joshi, Senior Advocate with Mr. Saurabh Bachhawat,  
Mr. Nirmal Chopda, Advocates i/b Vraj Legal for the Appellant.  
Mr. J. P. Sen, Senior Advocate with Mr. Anubhav Ghosh, Ms. Vidhi  
Jhawar, Advocates i/b The Law Point for the Respondent.

**With  
Appeal No. 83 of 2019**

Mr. Yash Gupta  
Flat No. 37, Ajanta Aprtment,  
Plot No. 36, IP Extens Pataparganj,  
Delhi – 110 092.

...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. Gaurav Joshi, Senior Advocate with Mr. Saurabh Bachhawat,  
Mr. Nirmal Chopda, Advocates i/b Vraj Legal for the Appellant.

Mr. J. P. Sen, Senior Advocate with Mr. Anubhav Ghosh, Ms. Vidhi  
Jhavar, Advocates i/b The Law Point for the Respondent.

**With  
Appeal No. 84 of 2019**

1. R. K. Commodities Services Pvt. Ltd.  
A-7, Block B-1, Mohan Co-operative  
Industrial Estate, Mathura Road,  
Delhi - 110044.

2. Mr. Rajendra Gupta  
A-7, Block B-1, Mohan Co-operative  
Industrial Estate, Mathura Road,  
Delhi - 110044.

3. Mr. Navdeep Varshneya  
A-7, Block B-1, Mohan Co-operative  
Industrial Estate, Mathura Road,  
Delhi - 110044.

4. Mr. Sundeep Chadha  
A-7, Block B-1, Mohan Co-operative  
Industrial Estate, Mathura Road,  
Delhi - 110044.

...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

Mr. Mustafa Doctor, Senior Advocate with Mr. Prakash Shah, Mr. Chinmay Paradkar, Advocates i/b Prakash Shah & Associates for the Appellants.

Mr. J. P. Sen, Senior Advocate with Mr. Anubhav Ghosh, Ms. Vidhi Jhavar, Advocates i/b The Law Point for the Respondent.

**With  
Appeal No. 85 of 2019**

Rapid Credit & Holdings Pvt. Ltd.  
A-12, Mohan Co-operative Industrial  
Estate, Mathura Road,  
Delhi – 110044.

...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. Prakash Shah, Advocate with Mr. Chinmay Paradkar, Advocate i/b Prakash Shah & Associates for the Appellant.

Mr. J. P. Sen, Senior Advocate with Mr. Anubhav Ghosh, Ms. Vidhi Jhavar, Advocates i/b The Law Point for the Respondent.

**With  
Appeal No. 86 of 2019**

Neeru Gupta

Neel Kanth Marg,  
Near Lal Singh Advocate,  
Civil Lines, Moradabad,  
Uttar Pradesh – 244001.

...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. Prakash Shah, Advocate with Mr. Chinmay Paradkar, Advocate  
i/b Prakash Shah & Associates for the Appellant.

Mr. J. P. Sen, Senior Advocate with Mr. Anubhav Ghosh, Ms. Vidhi  
Jhavar, Advocates i/b The Law Point for the Respondent.

CORAM : Justice Tarun Agarwala, Presiding Officer  
Dr. C. K. G. Nair, Member

Per : Justice Tarun Agarwala, Presiding Officer

1. On the basis of urgency, this batch of appeals has been posted today for admission and for an interim order. These appeals arises against an ex-parte interim order dated February 28, 2019 passed by the Whole Time Member (hereinafter referred to as, 'WTM') of Securities and Exchange Board of India (hereinafter referred to as, 'SEBI') exercising the powers conferred under Section 11(1), 11(4) and 11B read with Section 19 of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as, 'SEBI Act') restraining

the appellants and other entities from buying, selling or dealing in the securities market either directly or indirectly or being associated with the securities market, in any manner, whatsoever, pending investigation. The operative portion of the ex-parte interim order is extracted hereunder:-

*“41. Therefore, in order to protect the interest of investors and the integrity of the securities market, I, in exercise of the powers conferred upon me section 11(1), 11(4) and 11B read with under Sections 19 of the SEBI Act, pending Investigation, by way of this ad-interim ex-parte order, restrain the following entities/ Noticees from buying, selling or dealing in the securities market, either directly or indirectly, or being associated with securities market, in any manner, whatsoever, till further directions:*

| <b>SL.</b> | <b>Name of the Entity / Noticee</b>                            | <b>PAN</b>         |
|------------|--|--------------------|
| 1.         | <i>North End Foods Marketing Pvt. Ltd. (“NEFM”)</i>            | <i>AABCN9927F</i>  |
| 2.         | <i>Sandeep Sabharwal</i>                                       | <i>AABPS4647J</i>  |
| 3.         | <i>Neetu Gupta</i>   | <i>AJOPG5806B</i>  |
| 4.         | <i>Yash Gupta</i>  | <i>BTKPG6004J</i>  |
| 5.         | <i>Abhishek Agarwal</i>  | <i>AIDPA1545K</i>  |
| 6.         | <i>Vikram Gupta</i>  | <i>AAOPGI467H</i>  |
| 7.         | <i>Abhishek Mishra</i>   | <i>APHPM6773J</i>  |
| 8.         | <i>Shamugpriya International Pvt. Ltd. (“Shamugpriya”)</i>     | <i>AAYCS6149K</i>  |
| 9.         | <i>Sita Ram (HUF) (“Sita Ram”)</i>                             | <i>ABCCHS8882F</i> |
| 10.        | <i>Reindus Tradeway Private Ltd. (“Reindus”)</i>               | <i>AAICR9376D</i>  |
| 11.        | <i>Alok Kumar Singh</i>  | <i>ACQPS1889K</i>  |
| 12.        | <i>Fancos Trademart Private Ltd. (“Fancos”)</i>                | <i>AACCF8546P</i>  |
| 13.        | <i>Invictus Stock Research Private Ltd. (“Invictus”)</i>       | <i>AACCI4638M</i>  |
| 14.        | <i>Virendra Kumar Jain</i>                                     | <i>ABPPJ9524Q</i>  |
| 15.        | <i>APMV Stocks &amp; Commodities Private Ltd. (“APMV”)</i>     | <i>AAIC19644F</i>  |
| 16.        | <i>Neeru Gupta</i>   | <i>ADTPG9314M</i>  |
| 17.        | <i>Shivrudra Infotech Solutions Private Ltd. (“Shivrudra”)</i> | <i>AAXCS5373G</i>  |
| 18.        | <i>A G Agri Mart Private Ltd. (“A G Agri”)</i>                 | <i>AAJCA9398M</i>  |
| 19.        | <i>Gaurav Gupta</i>  | <i>ARLPG4012E</i>  |
| 20.        | <i>Saurabh Kumar Vaish</i>                                     | <i>AEHPV0866L</i>  |
| 21.        | <i>Vimukh Enterprises (“Vimukh”)</i>                           | <i>AANFV4919L</i>  |

|     |  |                   |
|-----|--|-------------------|
| 22. | <i>Rapid Credit &amp; Holdings Pvt. Ltd. (“Rapid”)</i> | <i>AAACR0021K</i> |
| 23. | <i>R. K. Commodities Services Pvt. Ltd. (“RCS”)</i>    | <i>AADCR3305H</i> |
| 24. | <i>Rajendra Kumar Gupta</i>                            | <i>ADTPG0459K</i> |
| 25. | <i>Navdeep Varshneya</i>                               | <i>ADFPV9839A</i> |
| 26. | <i>Sundeep Chadha</i>                                  | <i>AAHPC9809N</i> |

*42. It is further clarified that the existing holding of securities of the Noticees, including the units of mutual funds, shall remain frozen during the period of restraint.*

*43. The Order shall come into force with the immediate effect. The open positions, if any, of the above entities in derivatives shall be permitted to be squared off within a day of this order. Further, RCS, being a commodity broker, is permitted to square off its existing client open positions in commodity derivatives within a period of 15 days from this order.”*

2. The fact leading to the issuance of the ex-parte interim order in a nutshell is, that SEBI received an e-mail from Multi Commodity Exchange of India Ltd. (hereinafter referred to as ‘MCX’) intimating that three entities, namely, Mr. Abhishek Aggarwal, Ms. Neetu Gupta and Mr. Yash Gupta (hereinafter referred to as ‘Group A entities’) were holding more than 75% of the total exchange deliverable stock of Mentha Oil. MCX further informed that Group A entities were clubbed in accordance with MCX’s circular dated August 23, 2017 with regard to monitoring of position limits as it was found to be receiving funds from the appellant, i.e. North End Foods Marketing Pvt. Ltd. & Anr. (hereinafter referred to as NEFM). On perusal of the details submitted by MCX, it was observed that Group A entities acquired Mentha Oil through transactions in Mentha Oil futures contracts on the exchange platform as well as by

way of “off-market” transfers. Further Group A entities acquired off-market transfers from Group B entities. These allegations were examined in detail and it was, *prima-facie*, found that Group A and Group B entities had taken large deliveries of Mentha Oil between December 2017 to August 2018 amounting to 1339.2 MT, and that Group B entities made off-market transfers of 490.74 MT of Mentha Oil to Group A entities during March 2018 to September 2018, which was in violation of position limits as prescribed by SEBI vide its circular dated September 27, 2016 and July 25, 2017. Further examination revealed that Group A and Group B entities received the funds from one common entity, namely, ‘NEFM’. Investigation revealed that NEFM was found to have either directly transferred funds to Group A and Group B entities or through the accounts of proxy entities. Further examination revealed that majority of the Group B entities traded in Mentha Oil through a common commodity trading member, namely, R. K. Commodities Services Pvt. Ltd. (hereinafter referred to as, ‘RCS’). The investigation revealed that the funds transferred by NEFM to Group A and Group B entities were for the purpose of taking positions in Mentha Oil futures contracts and for taking subsequent delivery of 177.12 MT of Mentha Oil worth Rs. 28.04 crore on the MCX platform. *Prima-facie*, the investigation revealed that NEFM was the beneficial owner of the Mentha Oil stock and Group A and Group B entities were



acting as front entities of NEFM to hold the stock in their names and were thus, proxy entities assisting in the entire process.

3. On the basis of the aforesaid investigation, a *prima-facie* conclusion was drawn that the appellants had violated the position limits on several trading days in violation of SEBI's circulars dated September 27, 2016 and July 25, 2017. Presumption was drawn that NEFM indirectly traded and took delivery of significant amount of Mentha Oil from the exchange platform by way of transfer of funds to Group A and Group B entities and thereby accumulated / cornered substantial percentage of specified stocks of Mentha Oil from the exchange platform. A *prima-facie* conclusion was drawn that such cornering of dominant / large / substantial percentage or specified stocks of Mentha Oil was fraudulent within the meaning of the term 'fraud' as defined under Regulation 2(1)(c) of Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 2003 (hereinafter referred to as, 'PFUTP Regulations') and was also in violation of Section 12A of the SEBI Act read with Regulations 3 and 4 of the PFUTP Regulations. A presumption was drawn that this accumulated / cornered stocks of Mentha Oil was predominantly done with the purpose of manipulating the Mentha Oil market on the exchange platform and on the physical stocks of Mentha Oil through

Group A and Group B entities. A *prima-facie* opinion was formed that concentration of large stocks with a single entity was detrimental to the price discovery and that a single entity was in a position to dictate the Mentha Oil Future Contracts on exchange platform during the lean season. On this bonafide apprehension that a single entity could dominate or dictate the price of Mentha Oil on future contracts on the exchange platform led the WTM to adopt urgent measures by passing an ex-parte interim order with a view to prevent the appellants from indulging in such activities or taking positions in Mentha Oil or for that matter in other commodities in violation of prescribed positions limits.

4. The appellant, NEFM, has filed Appeal No. 80 of 2019 contending that it is actively involved in the business of procurement of commodities and warehousing of commodities for which it receives orders from its clients and, in turn, placed orders for such commodities with its agents. These agents procure such commodities and delivered those commodities to the appellant who, in turn, delivered such commodities to its clients. It was contended that the appellant is not engaged in funding of loans to entities of Group A or Group B entities. It was further contended that all the trading on the exchange resulted in physical delivery of the commodities. It was denied that the appellant did not trade in other

commodities on the exchange platform. Apart from Mentha Oil, the appellant had also placed orders on other commodities such as Castor oil, Guar seeds, Paddy, etc.

5. The appellant, Ms. Neetu Gupta, in Appeal No. 82 of 2019 (Group A entities) contends that she is the proprietor of M/s. JMD Traders and is in the business of trading and dealing in the commodities market and has adequate infrastructure/arrangement for dealing in the commodities. The appellant contended that she received an e-mail from MCX indicating that the appellant's open positions was clubbed with certain entities. The appellant replied intimating the exchange that the purported clubbing was erroneous.

6. Mr. Abhishek Aggarwal, appellant in Appeal No. 81 of 2019, also clubbed in Group A entities, contends that he is a trader in the commodities market. Apart from trading in Mentha Oil, the said appellant is also trading in other commodities like, Chana, R M Seed, Paddy, Maize, Mentha Oil, etc.

7. Mr. Yash Gupta, appellant in Appeal No. 83 of 2019, another entity in Group A contends that he is a general trader in the commodities market and has adequate infrastructure for dealing in the physical commodities and dematerialized commodities for settlement of trades. The appellant, apart from trading in Mentha

Oil, is also trading in Castor seed, Chana, Mustard Seed, Soya Bean etc. both on the exchange as well as in the physical market.

8. Rapid Credit & Holdings Pvt. Ltd., appellant in Appeal No. 85 of 2019 who has been categorized as a proxy entity in Group B contends that they are a non-banking finance company duly registered with the Reserve Bank of India and is not linked with any entities with regard to execution of trades especially Mentha Oil contracts. This appellant has contended that they are in the business of providing finance / loans and are not in the business of commodities trading on the exchange platform.

9. The Appellant, Neeru Gupta in Appeal No. 86 of 2019 has been categorized in Group B entity and contends that she has not done any trading since 2018 and had resigned as a director in the companies indicated in Group B prior to the relevant period. She categorically submitted that she has no dealings in Mentha Oil and, therefore, the ex-parte ad-interim order is patently erroneous.

10. R. K. Commodities, appellant in Appeal No. 84 of 2019 is a broker and is a trading member and contends that it has wrongly been connected with the entities in Group B. It was contended that the Code of Conduct for stockbrokers has not been violated and that MCX had issued an order dated November 30, 2018 restraining the

appellant from trading in Mentha Oil and, therefore, there was no further occasion for the WTM to pass the impugned ex-parte interim order restraining it from dealing in all commodities on the exchange platform.

11. In the light of the aforesaid, we have heard at length Shri Janak Dwarkadas, learned senior counsel, Shri Gaurav Joshi, learned senior counsel, Shri Mustafa Doctor, learned senior counsel alongwith Shri Somasekhar Sundaresan, and Shri Prakash Shah, the learned counsel for the appellants and Shri J. P. Sen, the learned senior counsel for the respondent. The basic contention raised is, that the period of execution of the trades was 2017-2018. The delivery of the futures contracts had already been executed and if the appellants were dictating the prices of the future trades, some evidence to that effect could have been indicated in the impugned order, but no such evidence has come to light in the investigation. It was further urged that the finding that the appellants have dominated the market was based on surmises and conjectures in as much as the respondent has not taken into consideration the total volume of trades in the market as compared to the delivery of Mentha Oil taken by the appellants. It was contended that if the total volume of trades is taken into consideration, the delivery even if it is clubbed together as a single entity was minuscule and was less than 2% of the total volume of

trade. Such minuscule level cannot be a dominative factor to manipulate the price of Mentha Oil in the open market. It was further contended that had an opportunity been given, the appellants would have explained that there was no nexus between the appellants and that there was no working in unison either to corner the market or to manipulate the price of Mentha Oil. It was further contended that an ex-parte interim order has restrained the appellants not only from trading in Mentha Oil but in all commodities on the exchange platform, in the absence of any alleged violation of trading in any other commodities other than Mentha Oil. It was also contended that the appellants are trading in other perishable commodities and the blanket freezing of their demat accounts will put the appellants to irreparable loss which cannot be compensated in terms of money. It was contended that the appellants have to meet the deadlines to give deliveries pursuant to the contract and if the commodities are not delivered the said commodity which has a short shelf life would perish. It was also contended that merely on a presumption that buying large quantities of Mentha Oil was for the purpose of manipulating the price is not based on any evidence, but is based on surmises and conjectures. It was contended that appellant was doing a legitimate business for several years and had earned a goodwill and by the impugned ex-parte interim order, it has virtually put a death knell on their business and has undoubtedly stopped their business

which is otherwise guaranteed under the Constitution. It was contended that freezing of the mutual funds had no relation with the trading activities and, therefore, the ex-parte order was wholly arbitrary and, in any case, was harsh and punitive and not remedial in nature, which is envisaged under Section 11 of the SEBI Act.

12. On the other hand, the learned senior counsel for the respondent contended that the allegations of dominating the market and cornering the stocks with a view to manipulate the price will only come out after the enquiry. It was further contended that, admittedly, the securities market in trading of these commodities are small as compared to the trading in the open physical market, and, therefore, the restraint order was only confined to the trading on the exchange platform and, therefore, it was open for the appellants to continue dealing with the commodities in the open market. It was submitted that considering the gravity of the violations and the fraudulent intention under the PFUTP Regulations, SEBI with a view to act diligently has taken immediate preventive measures to prevent manipulation in the future price of Mentha Oil on the exchange platform. It was urged that urgent measures were required against the appellants from indulging in such activities by taking position not only in Mentha Oil contracts but in other commodities as well, as it was done with an intention to dominate futures trading. The learned

senior counsel contended that by adopting a balancing act, the impugned order was passed which was reasonable and was done with a view to protect the interest of the investors and integrity of securities market. The learned senior counsel, thus, contended that the interim order required no modification and, in any case, was open for the appellants to approach the WTM for modification of the order.

13. Having heard the learned senior counsel at length, we find that it is no more *res integra* that SEBI has power to pass ex-parte interim orders, pending investigation, which power flows from Section 11 and 11B of the SEBI Act. A plain reading of Section 11 and 11B shows that SEBI has to protect the interests of the investors in securities and to regulate the securities market by such measures as it thinks fit and such measures may be for any or all of the matters provided in sub-section 2 of Section 11 of the Act. SEBI has power to pass interim orders and such interim orders can also be passed ex-parte. Interim orders are passed in order to prevent further possible mischief of tampering with the securities market. If during a preliminary enquiry, it is found *prima-facie*, that the person is indulging in manipulation of the securities market, it would be obligatory for SEBI to pass an interim order or for that matter an ex-



parte interim order in order to safeguard the interests of the investors and to maintain the integrity of the market. Normally, while passing an interim order, the principles of natural justice has to be adhered to, namely, that an opportunity of hearing is required to be given. Procedural fairness embodying natural justice is to be applied whenever action is taken affecting the rights of the parties. At times, an opportunity of hearing may not be pre-decisional and may necessarily have to be post-decisional especially where the act to be prevented is imminent or where action to be taken brooks no delay. Thus, pre-decisional hearing is not always necessary when ex-parte ad-interim orders are made pending investigation or enquiry unless provided by the statute. In such cases, rules of natural justice would be satisfied, if the affected party is given a post-decisional hearing.

14. However, it does not mean that in every case, an ex-parte interim order should be passed on the pretext that it was imminent to pass such interim order in order to protect the interest of the investor or the securities market. An interim order, however, temporary it may be, restraining an entity/person from pursuing his profession/trade may have substantial and serious consequences which cannot be compensated in terms of money.

15. Thus, ex-parte interim order may be made when there is an urgency. As held in **Liberty Oil Mills & Ors. vs. Union of India &**

**Ors. [AIR (1984) SC 1271] decided on May 1, 1984**, the urgency must be infused by a host of circumstances, viz. large scale misuse and attempts to monopolise or corner the market. In the said decision, the Supreme Court further held that the regulatory agency must move quickly in order to curb further mischief and to take action immediately in order to instill and restore confidence in the capital market.

16. In the light of the above, we find that on the basis of the enquiry, the rationale for taking urgent preventive actions is based on the fact that appellant, NEFM had accumulated/cornered stocks of Mentha Oil through entities in Group A and Group B by misusing the exchange platform. Such large accumulation of Mentha Oil was with the intention of acquiring a dominant position in the market in order to manipulate the future price of Mentha Oil during the lean season on the strength of the physical stock of Mentha Oil it held on the exchange platform.

17. In our opinion, the impugned order is harsh and unwarranted. We are of the opinion that there was no real urgency at this late stage in passing an ex-parte restraint order which virtually amounts to passing a final order. The period of trades is 2017-2018. At the time when the impugned order was passed the future contracts had been executed. The lean season was over. There is nothing on record to

indicate that the sales made by the appellants was on a higher side indicating manipulation in the price nor there is any *prima-facie*, finding that by accumulating large stocks of Mentha Oil, the appellant had dominated the market without making any comparison with the total volume of trades in the physical market. In our opinion, the basis of urgency was purely on account of presumption and was not based on any piece of evidence. There should be some shred of evidence to come to a *prima-facie* conclusion that the appellants are indulging in unfair trade practices in cornering the market with a manipulative intent to manipulate the price. Passing a restraint order which virtually puts a stoppage on the appellants right to trade based on a needle of suspicion, in our opinion, is harsh and unwarranted.

18. In the absence of in depth analysis based on evidence, we are of the opinion that in the facts and circumstances of the present case, it was not such an urgent case where the WTM should have exercised its powers. In our opinion, the respondent is empowered to pass an ex-parte interim order only in extreme urgent cases and that such power should be exercised sparingly. In the instant case, we do not find that any extreme urgent situation existed which warranted the respondent to pass an ex-parte interim order. We are, thus, of the opinion that the impugned order is not sustainable in the eyes of law

as it has been passed in gross violation of the principles of natural justice as embodied in Article 14 of the Constitution of India. Accordingly, the appellants are entitled to the reliefs claimed.

19. At this stage, we can stay the operation of the impugned order. We, however, find that no useful purpose would be served in keeping the appeals pending and directing the respondent to file a reply. Thus, we are deciding the appeals itself, without calling for a reply at the admission stage itself.

20. Accordingly, the impugned order cannot be sustained and is quashed in so far as it relates to the appellants. The appellants will file their objections before the WTM on or before March 25, 2019. The respondent will provide the appellants an opportunity of hearing and thereafter if the respondent finds that an interim order is required to be passed in order to protect the securities market, it will pass such orders in accordance with law. We further make it clear that any finding or observation made by us is only tentative and will not influence the authority while deciding the matter.

21. The appeals are allowed. In the circumstances of the case, there shall be no order as to costs.

Sd/-  
Justice Tarun Agarwala  
Presiding Officer

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

12.03.2019  
Prepared & Compared by  
PTM