

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision: 01.09.2022

Misc. Application No. 762 of 2022
And
Appeal No. 479 of 2022

Adamina Traders Private Limited
B2-04/Mascots, 7th & 8th Floor,
Times Square, Plot No. C, Bearing CTS No.
349 & 349-1, Western Express Highway,
Next to Sai Service,
Andheri (E),
Mumbai- 400 069

...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

Mrs. Rinku Valanju, Advocate with Mr. Sumit Yadav and
Ms. Simran Singh, Advocates i/b R V Legal for the Appellant.

Mr. Abhishek Khare, Advocate Mr. Dhruwin Timbadia,
Advocate i/b Khare Legal Chambers for the Respondent.

CORAM: Justice Tarun Agarwala, Presiding Officer
Justice M. T. Joshi, Judicial Member
Ms. Meera Swarup, Technical Member

Per: Justice Tarun Agarwala, Presiding Officer (Oral)

Misc. Application No. 762 of 2022

For the reasons stated in the application, the delay in the filing of the appeal is condoned. The application is allowed.

Appeal No. 479 of 2022

1. The present appeal has been filed against the order of the Adjudicating Officer (“AO” for convenience) of the Securities and Exchange Board of India (“SEBI” for convenience) dated May 10, 2022 imposing a penalty Rs. 10,00,000/- (Rupees Ten Lakhs Only) for violation of Regulations 3 and 4 of the SEBI (prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (“PFUTP Regulations” for convenience).

2. The facts leading to the filing of the present appeal is, that the show cause notice alleged manipulation in the price of the scrip of Secunderabad Healthcare Ltd. being violative of Regulations 3 and 4 of the PFUTP Regulations. After considering the replies and the material evidence on record the AO found that the appellant was repeatedly placing buy orders of miniscule quantity above Last Traded Price (“LTP”) though large sell orders were pending on the system and that 176 trades on 57 days executed by the appellant contributed to positive

LTP of Rs. 50.23 which worked out to Rs. 26.34% of the total market positive LTP.

3. We have heard Mrs. Rinku Valanju, the learned counsel for the appellant and Mr. Abhishek Khare, the learned counsel for the respondent.

4. Against the same cause of action the Whole Time Member (“WTM” for convenience) had issued a show cause notice which culminated into an order dated January 08, 2020 whereby the appellant was debarred from accessing the securities market for a period of three years for manipulating the price of the scrip of the company being violative of Regulations 3 and 4 of the PFUTP Regulations. Against this order of the WTM an Appeal No. 331 of 2020 was filed which was dismissed by judgement dated 15.12.2021.

5. This Tribunal while dismissing the appeal held:-

“9. Thus, in the instant case, the pattern of trading, namely, placing buy orders in small quantities which led to increase in the price of the scrip was clearly fraudulent and manipulation of the price of the scrip which was violative of Regulations 3 and 4 of the PFUTP Regulations. Thus, the finding given by the WTM does not suffer from any error of law. The decision of this Tribunal in the case of M/s Nishith M. Shah is, thus, not applicable in the

facts and circumstances of the present case and is clearly distinguishable.”

6. In view of the aforesaid, the learned counsel for the appellant contended that the only question which arises for consideration in the present appeal is, with regard to the quantum of penalty. It was contended that the appellant had only carried out miniscule trades of one share per day and consequently the imposition of penalty of Rs. 10 lakhs is harsh and excessive and does not commensurate with the alleged violation.

7. We have given due consideration on this aspect of the matter and we find that in the order of this Tribunal dated 15.12.2021, this Tribunal held:-

“8. It was contended that out of 6519 trades only 554 trades were found to the positive LTP and, therefore, these figures indicates that there was no intention on the part of the appellant to manipulate the price since the remaining trades were either negative LTP or zero LTP. Further, there was a huge difference between the buy time and the sell time and consequently the LTP in 176 trades was very negligible which cannot lead to a conclusion that the appellant indulged in manipulation of price. We are unable to accept this argument as we find from the trading pattern of the appellant that on most occasions the appellant was placing buy orders of miniscule quantity ranging from 1 to 10 shares above LTP though

large orders were pending in the system. The WTM has categorically found that out of 176 trades, in a large numbers trades, only one share was purchased. These miniscule trades of one share per day led to increase price of the scrip by Rs. 50.23 which amounted to Rs. 26.34% of the total market positive LTP.”

8. In view of the aforesaid, we find that the pattern of trading, namely, placing buy orders in small quantities had led to an increase in the price of the scrip which was fraudulent and was also manipulation of the price of scrip which is clearly violative of Regulations 3 and 4 of the PFUTP Regulations. Considering the fact that 176 trades were executed on 57 days by the appellant had contributed to positive LTP of Rs. 50.23 which works out to Rs. 26.34% of the total market positive LTP, this Tribunal is of the opinion, that the imposition of penalty is neither excessive nor harsh.

9. For the reasons stated aforesaid, the impugned order does not suffer from any error of law and the appeal is dismissed with no order as to costs.

10. This order will be digitally signed by the Private Secretary on behalf of the bench and all concerned parties are directed to act on the digitally signed copy of this order. Certified copy of

this order is also available from the Registry on payment of usual charges.

Justice Tarun Agarwala
Presiding Officer

Justice M. T. Joshi
Judicial Member

Ms. Meera Swarup
Technical Member

01.09.2022
PK