

BEFORE THE SECURITIES APPELLATE TRIBUNAL  
MUMBAI

**Date of Hearing : 29.06.2021**

**Date of Decision : 05.08.2021**

**Misc. Application No. 365 of 2021  
And  
Appeal No. 256 of 2018**

1. IGL Finance Ltd.

Registered Office :  
A1, Industrial Area, Bazpur Road,  
Kashipur, Udham Singh Nagar,  
Uttarakhand – 244713.

Head Office :  
2B, Sector- 126, Noida  
Gautam Budh Nagar,  
Uttar Pradesh 201304.

Surya Mahal, 2<sup>nd</sup> Floor,  
5, Burjorji Bharucha Marg, Fort,  
Mumbai – 400023.

2. Ms. Smita Bhartia

Residing at S-5, Panchsheel Park,  
1<sup>st</sup> Floor, Opposite Panchsheel Club,  
New Delhi – 110 017.

...Appellants

Versus

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

2. Mr. Joseph Massey  
702, C Wing, Trans Residency,  
MIDC Seepz, Off Mahakali Caves Road,  
Andheri (E), Mumbai – 400 093.
  3. Mr. Shreekant Javalgekar  
Flat No. 1002, 10<sup>th</sup> Flr., Tower III,  
The Orchard Residency, LBS Marg,  
Behind R City Mall, Ghatkopar (West),  
Mumbai – 400 086.
  4. Mrs. Asha Shreekant Javalgekar  
(Deceased)  
Flat No. 1002, 10<sup>th</sup> Flr., Tower III,  
The Orchard Residency, LBS Marg,  
Behind R City Mall, Ghatkopar (West),  
Mumbai – 400 086.
  5. Mr. Paras Ajmera  
501, 5<sup>th</sup> Floor, Sanskruti  
North South Road No. 9,  
Hatkesh CHSL, JVPD Scheme,  
Vile Parle West, Mumbai – 400 056.
  6. Mr Anjani Sinha  
1405, Panchvati-A, 14<sup>th</sup> Floor,  
Mumbai – 400 072.
  7. Mr. Tejal Shah  
304, 3<sup>rd</sup> Floor, 10<sup>th</sup> Road,  
JVPD Scheme, Vile Parle (W),  
Mumbai – 400 049.
  8. Mr. Mehmood Vaid  
A 2/7: 2 Sneh CHS Ltd.,  
Plot No. 16, Sector 19A,  
Nerul, Navi Mumbai – 400 076.
- ... Respondents

Mr. Ankit Lohia, Advocate i/b Mr. Birrul Ali, Advocate o/b Bellator Legal for the Appellants.

Mr. Shyam Mehta, Senior Advocate with Mr. Mihir Mody, Mr. Arnav Misra, Mr. Mayur Jaisingh, Advocates i/b K. Ashar & Co. for the Respondent Nos. 1.

Mr. Vinay Chauhan, Advocate with Mr. K. C. Jacob, Advocate i/b Corporate Law Chambers India for the Respondent Nos. 2 & 3.

Mr. Somasekhar Sundaresan, Advocate with Mr. Abishek Venkatraman, Mr. Joby Mathew, Mr. Anshuman Sugla, Mr. Arihant Agarwal and Ms. Tanya Gupta, Advocates i/b Joby Mathew and Associates for the Respondent Nos. 5.

None for the Respondent Nos. 6.

Mr. Vikram Nankani, Senior Advocate i/b Finsec Law Advisors for the Respondent Nos. 7.

Mr. Somasekhar Sundaresan, Advocate with Mr. Nooruddin Dhillal and Ms. Anushka Merchant, Advocates i/b Hariani & Co. for the Respondent Nos. 8.

**With  
Misc. Application No. 366 of 2021  
And  
Appeal No. 257 of 2018**

1. IGL Finance Ltd.

Registered Office :  
A1, Industrial Area, Bazpur Road,  
Kashipur, Udham Singh Nagar,  
Uttarakhand – 244713.

Head Office :  
2B, Sector- 126, Noida  
Gautam Budh Nagar,  
Uttar Pradesh 201304.

2. Ms. Smita Bhartia  
Residing at S-5, Panchsheel Park,  
1<sup>st</sup> Floor, Opposite Panchsheel Club,  
New Delhi – 110 017.

.. Appellants

Versus

1. Securities & Exchange Board of India  
SEBI Bhavan, Plot No. C-4A, G Block,  
Bandra Kurla Complex, Bandra (East),  
Mumbai - 400 051.
2. Mr. Shreekant Javalgekar  
Flat No. 1002, 10<sup>th</sup> Flr., Tower III,  
The Orchard Residency, LBS Marg,  
Behind R City Mall, Ghatkopar (West),  
Mumbai – 400 086.
3. Mrs. Asha Shreekant Javalgekar (Deceased)  
Flat No. 1002, 10<sup>th</sup> Flr., Tower III,  
The Orchard Residency, LBS Marg,  
Behind R City Mall, Ghatkopar (West),  
Mumbai – 400 086.
4. Mr. Manish Shah  
504, Raheja Heaven, Prananjali,  
N. S. Road No. 10<sup>th</sup>, JVPD,  
Juhu, Vile Parle (W),  
Mumbai – 400 049.
5. Mr. Prakash Shah  
504, Raheja Heaven, Prananjali,

N. S. Road No. 10<sup>th</sup>, JVPD,  
Juhu, Vile Parle (W),  
Mumbai – 400 049.

6. Mr. Hariharan Vaidyalingam  
B/503/504, Plot No. 104, Dosti Elite,  
Next to Sion Telephone Exchange,  
Sion Circle, Mumbai – 400 022.
7. Mr. Arvindkumar Iyengar  
401, EMP 07, Jupiter,  
Evershine Millenium Paradise,  
Thakur Village, Kandivali (East),  
Mumbai – 400 101.
8. Mrs. Dhanashri Iyengar  
401, EMP 07, Jupiter,  
Evershine Millenium Paradise,  
Thakur Village, Kandivali (East),  
Mumbai – 400 101.
9. Mr. Bharat Kanaiyalal Sheth  
Ocean House, 134/A,  
Dr. Annie Besant Road, Worli,  
Mumbai – 400 018.

.. Respondents

Mr. Ankit Lohia, Advocate i/b Mr. Birrul Ali, Advocate o/b Bellator  
Legal for the Appellants.

Mr. Shyam Mehta, Senior Advocate with Mr. Mihir Mody,  
Mr. Arnav Misra, Mr. Mayur Jaisingh, Advocates i/b K. Ashar & Co.  
for the Respondent Nos. 1.

Mr. Vinay Chauhan, Advocate with Mr. K. C. Jacob, Advocate i/b  
Corporate Law Chambers India for the Respondent Nos. 2.

Mr. Vikram Nankani, Senior Advocate i/b Finsec Law Advisors for the Respondent Nos. 4 and 5.

None for the Respondent Nos. 6.

Mr. M. Raghuvamsi, Advocate i/b Finsec Law Advisors for the Respondent Nos. 7 and 8.

Mr. Somasekhar Sundaresan, Advocate with Mr. Tomu Francis, Mr. Abhishek Venkataraman, Mr. Arka Saha, Advocates i/b Khaitan & Co. for the Respondent Nos. 9.

CORAM : Justice Tarun Agarwala, Presiding Officer  
Justice M. T. Joshi, Judicial

Per : Justice M. T. Joshi, Judicial Member

1. In both the present appeals, identical facts are involved and all the respondents have raised a preliminary objection that the appeals are not maintainable. In the circumstances, both the appeals were heard on this issue jointly and, therefore, the present common order is being passed.

2. The facts on record would show that the Department of Consumer Affairs in both the appeals had conducted investigation into the alleged misconduct of National Spot Exchange Limited

(hereinafter referred to as 'NSEL') and in the circumstances, a show cause notice was issued to the NSEL. The other respondents in the appeals were either the officials of Multi Commodity Exchange Limited (hereinafter referred to as 'MCX') or connected thereto. It was found that after the issuing of show cause notice, they had traded in the scrip of the MCX and 63 Moons Technologies Ltd. (hereinafter referred as to '63 Moons'), one of the sister company for a period between April 27, 2012 to July 31, 2013. It was alleged that during this period, these respondents had traded in the scrip being in possession of Unpublished Price Sensitive Information (UPSI) i.e. issuance of notice to NSEL. The facts of the notice came to the knowledge of the public when the information of issue of notice to NSEL etc. was published by daily Economic Times on October 3, 2012.

3. The proceedings were initiated against the present respondent Nos. 2 to 8 in the appeal No. 256 of 2018 and respondent Nos. 2 to 9 in the appeal No. 257 of 2018 for alleged insider tradings. Interim orders of restraining them from dealing in the securities market as detailed therein were also passed. After hearing these respondents, however, the impugned orders dated January 5, 2018 and January 31, 2018 were passed of exonerating these respondents in the respective

matters out of which the present two appeals have arisen. By the said impugned orders, the learned Whole Time Member (hereinafter referred to as 'WTM') had exonerated all these respondents. The appellants claim that they are aggrieved by the said order and hence the present appeals were preferred.

4. It is the case of the appellants that they are the victims of the fraud committed by NSEL. They had filed various complaints with various authorities and even filed Writ Petition No. 1405 of 2015 and Writ Petition No. 519 of 2016 before the Bombay High Court. Respondent SEBI in one of the Writ Petition submitted that it was carrying the investigation and the same would be concluded in a timely manner. Accordingly, the order was passed in the Writ Petition. Now, however, the respondent Nos. 2 to 8 in the appeal No. 256 of 2018 and respondent Nos. 2 to 9 in the appeal No. 257 of 2018 are exonerated by the learned WTM vide the impugned orders and, therefore, the appellants are aggrieved by the same.

5. The facts on record would show that National Spot Exchange Ltd. was acting as spot exchange in commodity under the exemption granted by Department of Consumer Affairs (for short 'DCA'). Since it was a National Spot Exchange Ltd. of the



commodity, only one day forward contract permission was granted. Since the year 2009, the Commodity Exchange started trading contract for a longer settlement cycle i.e. trading day plus 25 day. It was alleged that in a way this cycle was used solely as a financial transactions - money lending cycle, wherein a pre-determined amount as a profit was being given which in fact was an interest. In view of the various complaints of various stake-holders including the appellants, the investigation was conducted. The show cause notice was issued against the Exchange etc. It appears that criminal cases were also lodged by the Government of India and various proceedings were lodged.

6. During investigation it was noted that during the period the notice was issued and it remained unpublished, the present respondent Nos. 2 to 8 in the appeal No. 256 of 2018 and respondent Nos. 2 to 9 in the appeal No. 257 of 2018 had traded in the scrip. Therefore, interim orders as detailed (supra) were passed in each of the appeals. After receipt of the material found by the respondents and upon hearing them, the learned WTM in both the appeals came to the conclusion that the appellants have not traded on the basis of unpolished price sensitive information (for short UPSI) and they have not violated the provisions of Regulation 3(i) of the Securities

and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as 'PIT Regulations') read with Regulation 4 of the PIT Regulations.

7. We have heard Mr. Ankit Lohia, the learned counsel for the appellants and Mr. Shyam Mehta and Mr. Vikram Nankani, the learned senior counsel with Mr. Vinay Chauhan, Mr. Somasekhar Sundaresan, Mr. M. Raghuvamshi, the learned counsel for the respondent through video conference.

8. The respondent submits that the appellants cannot be termed as aggrieved due to the passing of the said orders. Respondent SEBI while making investigation, noted that the respondents have traded in the relevant scrips after issuing show cause notice to the National Stock Exchange of India Ltd. (hereinafter referred to 'NSEIL') by the Department of Corporate Affairs. Upon hearing the respondents, however, respondent SEBI came to the conclusion that no violation of the PIT Regulation was found. Thus, the issue of insider trading is solely between SEBI and the noticees in both the proceedings, the appellants cannot be termed as aggrieved by the same and, therefore, the present appeals are not maintainable.

9. On the other hand, the learned counsel for the appellants Mr. Ankit Lohia in both the appeals submitted that the appellants are the victim of the misdeeds of the NSEIL, and, therefore, the appeals are maintainable.

10. Section 15T of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as ‘SEBI Act’) which provides for appeal runs as under :-

*“Appeal to the Securities Appellate Tribunal – (1) Save as provided in sub-section (2), any person aggrieved –*

*(a) by an order of the Board .....*

*(b) by an order made by an adjudicating officer under this Act, may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the manner.*

*(2) to (6) .....*”

11. The issue is whether the present appellants can be termed as a person aggrieved by the impugned order ? It is to be noted that the appellants claimed victims of the misdeeds. Respondent SEBI had conducted investigations on the complaints of various people including the appellants. During investigations, respondent SEBI found that the present respondent Nos. 2 to 8 in the appeal No. 256 of

2018 and respondent Nos. 2 to 9 in the appeal No. 257 of 2018 had traded in the concerned scrip and, therefore, the proceedings were lodged. After hearing them, however, the respondent SEBI came to the conclusion that they have not indulged into the insider trading.

12. In the case of ***Jasbhai Motibhai Desai vs. Roshan Kumar & Ors. [AIR 1976 SC 578]***, the Hon'ble Supreme Court was examined that question of *locus-standi* of the appellants therein and had laid down the following tests to determine when the person can be said to be aggrieved so as to get a right of appeal. For facility, the relevant portion is extracted hereunder :-

*“Whether the applicant is a person whose legal right has been infringed ? Has he suffered a legal wrong or injury, in the sense, that his interest, recognized by law, has been prejudicially and directly affected by the act or omission of the authority, complained of? Is he a person who has suffered a legal grievance, a person “against whom a decision has been pronounced which has wrongfully deprived him of something or wrongfully refused him something, or wrongfully affected his title to something? Has he a special and substantial grievance of his own beyond some grievance or inconvenience suffered by him in common with the rest of the public? Was he entitled to object and be heard by the authority before it took the impugned action? If so, was he prejudicially affected in the exercise of that right by the act of usurpation of jurisdiction on the part of the authority? Is the stature, in context of which the scope of the words “person aggrieved” is being considered, a social welfare measure designated to lay down ethical or professional standards of conduct for the community?*

*Or is it a stature dealing with private rights or particular individuals?”*

13. So far as the present issue is concerned, the appellants cannot at all be called as an aggrieved persons. The facts and issue in the proceedings before the learned WTM in both the appeals were as to whether the concerned respondent had indulged into the insider trading and whether they were liable for restraint to be put by the respondent SEBI. The person can be said to be aggrieved by the order if the party is directly affected by the order. The appellant cannot be said to have been affected by the order passed by the learned WTM. Admittedly, numerous persons have filed complaints against the alleged misdeeds of the Exchange on the basis of which separate independent action was taken against the Exchange. Therefore, in our view, since the appellants are not the aggrieved party, the appeals are not maintainable. In the reasons, the following order :-

**ORDER**

14. Appeal Nos. 256 and 257 of 2018 are hereby dismissed without any order as to costs.

15. The present matter was heard through video conference due to Covid-19 pandemic. At this stage it is not possible to sign a copy of this order nor a certified copy of this order could be issued by the Registry. In these circumstances, 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. Parties will act on production of a digitally signed copy sent by fax and/or email.

Justice Tarun Agarwala  
Presiding Officer

Justice M. T. Joshi  
Judicial Member

05.08.2021  
PTM