

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Hearing : 23.03.2022

Date of Decision : 11.04.2022

Appeal No. 278 of 2023

Maltiben Lalitbhai Gandhi
A/104, Krishraj, Opp. Phonix Hospital,
Boriwali (West), Mumbai – 400 092.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. Vikas Bengani, Advocate for the Appellant.

Mr. Sumit Rai, Advocate with Ms. Daksha Kasekar, Advocate i/b.
Mansukhlal Hiralal & Co. for the Respondent.

With

Appeal No. 279 of 2023

Rahul D. Shah
9/85, Shradhadeep Complex,
Ankur Road, Near Telephone Exchange,
Narangpura, Sola HBC,
Ahmedabad 380063, 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

Ms. Rinku Valanju, Advocate with Ms. Akshita Sharman, Advocate
i/b R V Legal for the Appellant.

Mr. Sumit Rai, Advocate with Ms. Daksha Kasekar, Advocate i/b.
Mansukhlal Hiralal & Co. for the Respondent.

With
Appeal No. 280 of 2023

Shital Navnitbhai Chokshi
A-6, Shital Apartment,
Ambawadi, Ahmedabad – 380006.

.....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. Jitendra Sharda, Advocate for the Appellant.

Mr. Sumit Rai, Advocate with Ms. Daksha Kasekar, Advocate i/b.
Mansukhlal Hiralal & Co. for the Respondent.

CORAM : Justice Tarun Agarwala, Presiding Officer
Ms. Meera Swarup, Technical Member

Per : Justice Tarun Agarwala, Presiding Officer

1. The appellants have filed the present appeals challenging the order dated December 29, 2022 passed by the Adjudicating Officer (hereinafter referred to as 'AO') of Securities and Exchange Board of India (hereinafter referred to as 'SEBI') imposing a penalty of Rs. 5 lacs each under Section 15HA for violation of Regulations 3 and 4 of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as 'PFUTP Regulations'). For facility, the facts stated in the Appeal No. 278 of 2023 is being taken into consideration.

2. The facts leading to the filing of the present appeals is, that SEBI conducted an investigation in the scrip of SFL International Ltd. and pursuant thereto issued a show cause notice dated March 24, 2022 to 13 noticees alleging that on the basis of trading pattern between the noticees the trades were not genuine and were made with the intention of inflating the price of the scrip.

3. The AO after considering the replies and material evidence on record held that even though there was no direct relationship amongst the noticees, namely, noticee nos. 1 to 7, the analysis of trading as depicted in paragraph nos. 34 and 35 indicates that the trades were not genuine and were made with the intention to inflate the price of

the scrip. The AO came to the conclusion that the trading pattern of the other noticees, imply collusion and meeting of minds as well as prearranged plan of inflating the scrip which was not genuine. The AO accordingly imposed a penalty of Rs. 5 lacs each on the appellants.

4. While arriving at the aforesaid finding, the AO also found that noticee nos. 1, 2, 3 and 4 were part of the suspected groups whose acts amounted to inflate the price of the scrip.

5. We have heard Mr. Vikas Bengani, the learned counsel with Ms. Rinku Valanju and Mr. Jitendra Sharda, the learned counsel for the appellants and Mr. Sumit Rai, the learned counsel with Ms. Daksha Kasekar, the learned counsel for the respondent.

6. The contention of the learned counsel for the appellant is that the appellant was a genuine investors and had bought the scrip on January 18, 2017 for 10 shares and sold it on January 26, 2017. The appellant contended that there was no connection of the appellant with the purchaser or with the seller and, therefore, on account of execution of one trade, the AO cannot come to the conclusion regarding meeting of minds between the noticees or collusion or a prearranged plan to inflate the price of the scrip especially when

there is no finding of any connection of the appellant with the other noticees and the purchaser and the seller.

7. On the other hand, the contention of the respondent is that the appellants have been penalized on the analysis of trading pattern of all the noticees which led to a presumption of meeting of minds, prearranged plan to inflate the price of the scrip and implying collusion between the parties and consequently, the trades were not genuine and the same were traded with the intention to inflate the price of the scrip.

8. Having heard the learned counsel for the parties and having perused the record, we find that admittedly the appellants had purchased 10 shares from one trade. This trade has found to be collusive by the respondent. The AO has dealt with the connection of the noticees in paragraph no. 28. We find that the AO has not found any connection of the appellants with any other noticees including the purchasers or the sellers. Thus, we are of the opinion that the appellants had no connection with the other noticees nor had any connection with the counter party from whom they had purchased.

9. Apart from one trade of 10 shares, there is no other trade executed by the appellants. In our opinion, one trade of the

appellants cannot indicate any trading pattern which would result in giving a finding of any illegal act, collusion, meeting of minds or prearranged plan to inflate the price. Collusion, meeting of minds and prearranged plan to inflate the price can only happen when there are two or more than two persons. Admittedly, the appellants are not connected to any other noticees and, therefore, there cannot be a finding on a preponderance of probability of collusion, meeting of minds or prearranged plan to inflate the price.

10. The analysis of trading has been depicted in paragraph nos. 34 and 35 which indicate the buy orders of the suspected groups and of the appellants. The details mentioned in the paragraph nos. 34 and 35 does not, in any manner, conclude that the appellants had any intention of inflating the price or was part of the prearranged plan to inflate the price of the scrip.

11. Considering the aforesaid, in the absence of any connection of the appellants with each other or with other noticees coupled with the fact that only one trade was executed by the appellants which is insufficient to find a trading pattern of the appellants to be collusive, we are of the opinion that the finding that the appellants have played a fraud and that their trades were not genuine cannot be accepted.

12. In view of the aforesaid, the impugned order in so far as it relates to the appellants cannot be sustained and is quashed. The appeals are allowed with no order as to costs.

13. 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

Ms. Meera Swarup
Technical Member

11.04.2023
PTM