BEFORE THE SECURITIES APPELLATE TRIBUNAL MUMBAI

Appeal No. 230 of 2009

Date of decision: 21.10.2010

Mrs. Priyanka Singhvi
D-1, Sunita Apartments, 62-CC,
Peddar Road, Mumbai. ……Appellant

Versus

Securities and Exchange Board of India
SEBI Bhavan, Plot No. C-4A, G Block,
Bandra Kurla Complex, Bandra (East), Mumbai. …… Respondent

Mr. Ankit Lohia, Advocate with Ms. Manik Joshi and Ms. Akshaya Bhansali, Advocates for the Appellant.

Mr. Shiraz Rustomjee, Advocate with Mr. Ajay Khaire, Advocate for the Respondent.

CORAM : Justice N. K. Sodhi, Presiding Officer
Samar Ray, Member
P. K. Malhotra, Member

Per : Justice N. K. Sodhi, Presiding Officer (Oral)

Same order as in Appeal no. 191 of 2009 decided on 21.10.2010.

Sd/-
Justice N. K. Sodhi
Presiding Officer

Sd/-
Samar Ray
Member

Sd/-
P. K. Malhotra
Member

21.10.2010
ptm

Prepared & Compared by
ptm

BEFORE THE SECURITIES APPELLATE TRIBUNAL MUMBAI

Appeal No. 191 of 2009

Date of decision: 21.10.2010

Mr. Praveen Mohnot
D-1, Sunita Apartments, 62-CC,
Peddar Road, Mumbai. ……Appellant

Versus

Securities and Exchange Board of India
SEBI Bhavan, Plot No. C-4A, G Block,
Bandra Kurla Complex, Bandra (East), Mumbai. …… Respondent

Mr. Janak Dwarkadas, Senior Advocate with Mr. Ankit Lohia, Advocate and Ms. Manik Joshi, Ms. Akshaya Bhansali, Advocates for the Appellant.
Mr. Shiraz Rustomjee, Advocate with Mr. Ajay Khaire, Advocate for the Respondent.

CORAM : Justice N. K. Sodhi, Presiding Officer
Samar Ray, Member
P. K. Malhotra, Member

Per : Justice N. K. Sodhi, Presiding Officer (Oral)

This order will dispose of five Appeals no. 190, 191 and 228 to 230 of 2009 all of which raise identical questions of law and fact. We have heard at length the learned senior counsel on behalf of the appellants and Mr. Shiraz Rustomjee learned counsel on behalf of the respondent Board. Since we are remanding the cases to the whole time member for a fresh decision, it is not necessary to notice the facts giving rise to these appeals. It is also not necessary to notice the contentions that were advanced on behalf of the appellants and the respondent Board. Suffice it to mention that the learned counsel for the respondent Board raised by way of an alternative submission and without prejudice to the other submissions made by him that the appellants were connected/deemed to be connected persons and, therefore, “insiders” within the meaning of the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 (for short the Regulations) and since they had traded while in possession of unpublished price sensitive information or

communicated the said information, they were guilty of insider trading. The learned senior counsel appearing on behalf of the appellants seriously disputed the fact that the appellants were connected/deemed to be connected persons and also submitted that there was no such charge laid against them in the show cause notice and, therefore, such a plea could not be allowed to be raised for the first time in appeal. According to the respondent Board, the appellants fall within the definition of 'insider' as contained in Regulation 2(e) of the Regulations and that the allegations in the show cause notice were wide enough to include that they were connected/deemed to be connected persons. He further contended that, in any case, the factual foundation for such a charge has been laid in the annexure to the show cause notice and that the appellants were not being taken by surprise. Without deciding this contention and the others that were raised by the learned counsel for the parties, we are of the view that lest there is any miscarriage of justice, the cases be remanded to the whole time member for issuing a fresh/supplementary show cause notice to the appellants laying therein a specific charge that they being connected/deemed to be connected persons were "insiders" within the meaning of the Regulations in addition to the allegations already made and thereafter decide all the issues afresh in accordance with law after affording an opportunity of hearing to the appellants. In this view of the matter, we set aside the impugned order, remand the cases to the whole time member with the aforesaid directions. It is made clear that all the contentions raised on both sides shall remain open. No costs.

Sd/-
Justice N. K. Sodhi
Presiding Officer

Sd/-
Samar Ray
Member

Sd/-
P. K. Malhotra
Member

21.10.2010
ptm

Prepared & Compared by
ptm