BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Hearing: 18.7.2023
Date of Decision: 24.7.2023

Misc. Application No.887 of 2023
And
Appeal No.384 of 2023

Jatin Chawla
B-1204, Ajmera Zeon,
Bhakti Park, Wadala (East),
Mumbai – 400 037. ...Appellant

Versus

Securities and Exchange Board of India
Plot No.C-4A, G Block,
Bandra Kurla Complex,
Bandra (E), Mumbai-400051. …Respondent

Mr. Kunal Katariya, Advocate with Ms. Priyanka Dadpe and Ms. Vidhi Mehta, Advocates i/b. Aagam Doshi for the Appellant.

Mr. Shiraz Rustomjee, Senior Advocate for the Respondent.

With
Misc. Application No.886 of 2023
And
Appeal No.385 of 2023

Bijal Shah
402, Lido Tower,
Opp. SNDT University
Juhu Road, Santacruz(W),
Mumbai – 400 049. ...Appellant

Versus

Securities and Exchange Board of India
Plot No.C-4A, G Block,
Bandra Kurla Complex,
Bandra (E), Mumbai-400051. …Respondent

Mr. Kunal Katariya, Advocate with Ms. Priyanka Dadpe and Ms. Vidhi Mehta, Advocates i/b. Aagam Doshi for the Appellant.

Mr. Shiraz Rustomjee, Senior Advocate for the Respondent.

With
Misc. Application No.889 of 2023
And
Appeal No.386 of 2023

Gopal Ritolia
1205, Royal Empire,
Near Lokhandwala Circle,
Andheri (W), Mumbai – 400 053. ...Appellant

Versus

Securities and Exchange Board of India
Plot No.C-4A, G Block,
Bandra Kurla Complex,
Bandra (E), Mumbai-400051. …Respondent

Mr. Pesi Modi, Senior Advocate with Mr. Kunal Katariya, Ms. Priyanka Dadpe and Ms. Vidhi Mehta, Advocates i/b. Aagam Doshi for the Appellant.

Mr. Shiraz Rustomjee, Senior Advocate for the Respondent.

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

Per: Justice Tarun Agarwala, Presiding Officer

1. The appellants have challenged the order dated 31st March, 2023 passed by the Whole Time Member (hereinafter referred to as 'WTM') debarring the appellants from accessing the securities market for a period of two years and, further, directing the appellants to disgorge a sum of Rs.7.52 crores jointly and severally and has further imposed a penalty of Rs.30 lakhs on each of the appellants for alleged violation of the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 while trading in the scrip of Zee Entertainment Enterprises Ltd.

2. The facts leading to the filing of the present appeal is, that an ex-parte ad-interim order dated 12th August, 2021 was passed by the WTM restraining the appellants from accessing the securities market till further orders pending investigation. The appellants were further directed to jointly and severally deposit a sum of Rs.7.52 crores in an escrow account towards alleged profits from

insider trading and further froze the bank accounts and demat accounts of the appellants. The said interim order was confirmed vide order dated 27th September, 2021 against which an appeal was filed before this Tribunal wherein after hearing the parties at some length this Tribunal by an order dated 9th November, 2021, set aside the confirmatory order regarding debarment of the appellants. The Tribunal, however, directed that the impounded money shall be kept in an escrow account during the pendency of the proceedings.

3. This order of the Tribunal was challenged by the respondent before the Supreme Court of India which was dismissed by order dated 4th March, 2022. The Supreme Court while dismissing the appeal of the respondent further directed the respondent to pass a final order within six months. The respondent did not pass any order and applied for extension of time which was granted by the Supreme Court and the respondents were directed to pass an order on or before 31st March, 2023. Based on the directions of the Supreme Court, the impugned order was passed on the last date i.e. 31st March, 2023 holding the

appellants guilty of insider trading and, further, directing the appellant to deposit the disgorged amount and also pay a penalty.

4. The appellants being aggrieved by the final order has filed the present appeal. This Tribunal while entertaining the appeal had on 27th April, 2023 directed the respondent to file reply within three weeks and the matter was to be listed on 10th July, 2023 for admission and for final disposal and if necessary to consider the stay application filed by the appellants.

5. We find that the reply has not been filed within three weeks and the respondent took two months to file the reply. The matter was accordingly adjourned and was listed today.

6. We have heard the learned counsel for the parties on the stay application.

7. The ad-interim ex-parte order was passed restraining the appellants from accessing the securities market on the basis of being in possession of four UPSI. In the final order the respondent have only found the appellant to be in possession of two UPSI on the basis of

which the appellants are alleged to have traded in the scrip of the Company. We find that the appellants were restrained from accessing the securities market when the interim order dated 12th August, 2021 was passed which continued till it was set aside on 9th November, 2021. For almost three months the appellants were restrained from accessing the securities market. Further, pursuant to the impugned order dated 31st March, 2023, the appellants have been restrained from accessing the securities market. More than three months have elapsed. Thus, the appellants have already undergone more than six months from accessing the securities.

8. Considering the aforesaid coupled with the fact that the disgorged amount has already been deposited which is lying in the escrow account, we are of the opinion that balance of convenience and irreparable injury is in favour of the appellant for grant of an ad-interim order coupled with the fact that this Tribunal had earlier set aside the order of debarment which was not interfered with the Supreme Court.

9. In view of aforesaid, the direction of the respondent restraining the appellant from accessing the securities market shall remain stayed during the pendency of the appeal provided the appellant also deposit the penalty amount of Rs.30 lakh each within four weeks from today. The stay applications are disposed of. List the appeal for admission and final disposal on 25.09.2023.

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

Ms. Meera Swarup
Technical Member

24.7.2023
RHN

RAJALAKSHMI HARISH NAIR
Digitally signed by RAJALAKSHMI HARISH NAIR
Date: 2023.07.27 10:51:16 +05'30'