

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Appeal No. 175 of 2007

Date of decision : 12.6.2008

Chirag Pujara

..... Appellant

Versus

Whole Time Member,
Securities and Exchange Board of India

..... Respondent

Mr.J.J. Bhatt Advocate for the Appellant.
Dr. Poornima Advani Advocate for the Respondent.

Coram : Justice N.K. Sodhi, Presiding Officer
Arun Bhargava, Member

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

This appeal is directed against the order dated November 1, 2007 passed by the whole time member of the Securities and Exchange Board of India (for short the Board) restraining, among others, the appellant from buying, selling, dealing or accessing the securities market in any manner for a period of four months from the date of the order.

The appellant is a day trader who trades during the day and settles the trades at the end of the day.

The Board investigated the trading in the scrip of Todays Writing Products Limited (hereinafter called the company) for the period from April 7, 2004 to May 11, 2004. Investigations revealed that the appellant and some others who formed a group traded in the scrip among themselves through

different brokers and executed circular/ reversal trades which were synchronized on the screen of the trading system and thereby violated the provisions of Regulation 4 of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (for short the Regulations). A show cause notice dated October 12, 2006 was issued to the appellant alleging that he along with others had purchased and sold the shares of the company which accounted for 50.21% and 50.22% respectively of the market volumes in that scrip. The details of the brokers through whom the trades had been executed were also mentioned in the show cause notice and the appellant was called upon to show cause why appropriate directions be not issued to him to restrain him from accessing the capital market for an appropriate period. The appellant filed his detailed reply which was considered by the whole time member and on a consideration of the material collected during the course of the inquiry, the Board found the appellant and others who formed a group to have executed circular / reversal trades in a synchronized manner thereby violating the provisions of Regulation 4. The appellant along with others has been restrained to access the capital market for a period of four months. Hence this appeal.

We have heard the learned counsel for the parties. The learned counsel appearing for the Board has placed before us coloured charts in the form of an Order Book with trades executed by the appellant and others on April 7, 2004. The brokers through whom the trades were executed have been assigned different colours alongwith their code numbers assigned to them by the stock exchange. On April 7, 2004 the appellant had placed two sell orders which were executed through different trades. He placed a sell order for 2450 shares at 14:18:11 hours at the rate of Rs. 50.05 per share. This sell order was executed through different trades bearing numbers 752 to 765 and the purchaser was a

broker whose code number was 779. The quantity, price and time of the buy order exactly matched with the sell order placed by the appellant. Similarly, the appellant placed another sell order within a few seconds thereafter and that too matched with the buy order of the broker whose code number was 779. During the course of the day the appellant executed the reverse trade and put in buy orders for the same quantity. When he bought the shares, the seller was represented by a broker whose code number was 253. These were also two orders which exactly matched with each other. Similar is the position with the trades executed by the appellant on other days during the investigation period. We have perused those charts as well and find that there is perfect matching of buy and sell orders in regard to quantity, price and time with slight differences in some of the orders which is not of much significance. From a perusal of these charts we are satisfied that the appellant has been matching the trades with the counter party broker with a clear prior understanding though it is not possible to hold that he was acting in concert with all those who are said to have formed the group. Executing matching trades with a prior understanding is by itself a serious violation of the Regulations which jeopardizes the integrity of the market. The learned counsel for the respondent has placed before us an order passed by this Tribunal in Appeal no. 84 of 2006 decided on 8.8.2007 pertaining to the appellant which shows that the appellant had on earlier occasions as well been found tampering with the market mechanism by executing structured deals with a prior understanding with the counter party brokers. We put it to the learned counsel for the appellant whether any other proceedings are pending against the appellant before the Board and he informs us that one such case is still pending before the Board. The learned counsel for the Board has placed two orders of this Tribunal passed in the earlier appeals where the charge of fictitious trades executed by the appellant has been upheld. In this back ground,

we are not inclined to reduce the penalty in the present case even though the volumes of shares traded by the appellant was less than those traded by others in the so-called group. In the result, the appeal fails and the same is dismissed with no order as to costs. We, however, make it clear that the period of penalty already undergone shall be taken into account while implementing the impugned order.

Sd/-
Justice N.K. Sodhi
Presiding Officer

Sd/-
Arun Bhargava
Member

12.6.2008
bk/-