

**BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI**

Appeal No. 104 of 2007

Date of decision : 7.7. 2008

Deep Stock Broking Pvt. Ltd.

..... Appellant

Versus

Securities and Exchange Board of India

..... Respondent

Mr. Shyam Mehta Advocate with Mr. Vinay Chauhan Advocate for the Appellant.

Mr. J.J.Bhatt Senior Advocate with Mr. Anant Upadhyay Advocate for the Respondent.

Coram : Justice N.K. Sodhi, Presiding Officer

Arun Bhargava, Member

Utpal Bhattacharya, Member

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

This order will dispose of Appeals no. 104, 106, 142 & 143 of 2007 and 35, 36 & 49 of 2008 in which common questions of law and fact arise for consideration. In all these cases the appellants had been restrained from accessing the capital market by an ex-parte order passed on April 27, 2006. This restraint order was to continue till the final conclusion of the investigations/enquiries which the Securities and Exchange Board of India had initiated as a result of the outbreak of the IPO scam in the year 2006. The ex-parte order was treated as a notice and each of the entities including the appellants herein had been called upon to show cause why the ex-parte order be not confirmed. By separate orders passed against the appellants, the ex-parte order has been confirmed. The whole time member prima facie found that as a result of the investigations carried out by the respondent Board, the appellants were involved in the larger game plan and that large number of fictitious accounts had been opened to corner the shares in different IPO's reserved for retail investors which shares on allotment were transferred to the key operators who in turn transferred them to the financiers. The financiers are then said to have offloaded the shares in the market after listing, there by making huge windfall gains. The appellants are said to be some of those financiers. They have challenged the

orders passed by the whole time member confirming the ex-parte order dated April 27, 2006. It is not in dispute that on the conclusion of the investigations, the appellants and several other entities involved in the scam have been issued appropriate notices under section 11B of the Securities and Exchange Board of India Act 1992 (for short the Act) and the enquiries are pending against them. We are informed that even adjudication proceedings had been initiated against the appellants and other entities. Since the enquiries are still pending, it will not be appropriate for us to record any findings in regard to the issues raised in the appeals lest they prejudice the case of either party and the proper course would be to leave it to the enquiry officers to conduct the enquiries independently, objectively and record their findings on the basis of the material that they collect during the course of the enquiry. Therefore, we are not inclined to interfere with the impugned order at this stage. However, while disposing of the appeals without deciding them on merits, we direct the respondent Board to complete the enquiries under section 11B of the Act on or before October 31, 2008. We are fixing the time limit having regard to the fact that the appellants have already remained out of the capital market for the last more than 25 months on the basis of the interim order. We further direct that the adjudication proceedings, if pending against the appellants, should also be disposed of before the end of October this year. The appeals are accordingly disposed of leaving it open to the appellants to move miscellaneous applications and have these cases revived in case the enquiries are not completed within the aforesaid period. No costs.

Sd/-

Justice N.K. Sodhi

Presiding Officer

Sd/-

Arun Bhargava

Member

Sd/-

Utpal Bhattacharya
Member

07.07.2008

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