

**BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI**

Appeal No. 3 of 2008

Date of decision : 4.9.2008

Sanjay Soni

..... Appellant

Versus

Whole Time Member,
Securities and Exchange Board of India

..... Respondent

Mr. J.J. Bhatt Advocate for the Appellant.

Dr. Poornima Advani Advocate with Mr. Amit Survase 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 11.12.2007 passed by the whole time member of the Securities and Exchange Board of India (hereinafter called the Board) issuing directions, among others, to the appellant under 11B of the Securities and Exchange Board of India Act, 1992 (for short the Act) restraining him from buying, selling or dealing in securities for a period of six months. The appellant is an investor/trader.

The Board found that during the period from September 27, 2004 to November 2, 2004 there was a spurt in price of the scrip of Vijay Textiles Ltd. (for short the company). It ordered investigations which revealed that a group of traders/investors alongwith a few brokers had executed reversal/circular trades in the scrip of the company during the period of investigation as a result whereof artificial volumes had been created leading to increase in price from Rs.62 to Rs.166 during the relevant period. The investigations further revealed that the appellant alongwith his wife Krupaben Soni and others formed a group and traded among themselves through their respective brokers executing reversal

and circular trades. Each of the entities was issued a separate notice calling upon them to show cause why appropriate directions be not issued to them under section 11B of the Act. The details of the connections between the appellant and other members of the group were furnished alongwith the show cause notice. Details of the synchronized/ circular/ reversal trades were also furnished alongwith the show cause notice. The appellant claims that he filed a reply to the show cause notice which fact is seriously disputed by the learned counsel appearing for the respondent Board. The impugned order also takes notice of the fact that the appellant did not file any reply. The appellant has not been able to satisfy us whether he actually filed a reply as contended by him. We are, therefore, proceeding on the basis that the appellant did not file any reply. After holding a detailed inquiry and on a consideration of the material collected during the course of the investigations, the Board found that the charge of violating 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) stood established. Accordingly, by the impugned order the appellant alongwith other members of the group have been restrained from accessing the capital market for a period of six months. Hence this appeal.

We have heard the learned counsel for the parties. The findings recorded in the impugned order have not been seriously challenged before us. It is, however, contended by Shri. J.J. Bhatt learned counsel that the appellant and his wife were lured by Haresh Soni a cousin brother of the appellant to join the group and it was he who executed all the trades on their behalf. He further contends that the appellant executed very small number of trades which have been found to be circular in nature. It is also urged on behalf of the appellant that he and his wife did not know that they were executing circular trades and that the quantum of punishment imposed on them is unduly harsh. We are unable to agree with the learned counsel for the appellant. The appellant has not even produced a copy of the show cause notice which we have now obtained from the learned counsel for the respondent. It has been alleged that the appellant along with others

formed a group and executed circular and synchronized trades. The details of the connections between the members of the group have also been furnished. The details of the circular and synchronized trades have also been given to the appellant in the form of charts. Charts are print outs from the computer where all the trades were recorded. The fact that the appellant formed a part of the group and that he alongwith his wife executed the trades shown in the charts has not been disputed. In view of this documentary material against the appellant no fault can be found with the findings recorded by the whole time member. Since all the members of the group executed trades among themselves and their trades constitute 67.11% of the total traded quantity in 17 days, each one of them has been debarred from buying, selling or dealing in securities for six months. The penalty imposed is reasonable and cannot be said to be harsh or disproportionate to the gravity of the charge established. In this view of the matter, we find no merit in the appeal and the same stands dismissed with no order as to costs.

Sd/-
Justice N.K. Sodhi
Presiding Officer

Sd/-
Arun Bhargava
Member

4.9.2008
bk/-