

**BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI**

Appeal No. 48 of 2008

Date of decision: 17.9.2008

Urvish Ramesh Vora

.....Appellant

Versus

Securities and Exchange Board of India

..... Respondent

Mr. Pesi Modi Advocate with Mr. Zal Andhyarujina, Mr. Amit Vyas, Mr. Sanjay I. and Ms. Nikita Ajwani Advocates for the Appellant.

Dr. Poornima Advani Advocate with Ms. Sejal Shah Advocate and Mr. S. Sahadevan 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)

It is not necessary for us to state in detail the facts giving rise to this appeal as we are inclined to remand the case back to the Securities and Exchange Board of India (for short the Board) for holding a fresh enquiry under section 11B of the Securities and Exchange Board of India Act, 1992 (for short the Act).

The Board conducted investigations in the dealings in the scrip of Genus Commutrade Limited (hereinafter called the company) for the period from May 2002 to September 2002. Investigations revealed that the company had made some misleading advertisements in several newspapers regarding a proposal to buy-back its shares from the public shareholders at a price of Rs. 11 per share when the scrip was then being traded around Rs.2.40 per share in the market. When the advertisements were issued, the Articles of Association of the company did not even have a provision for the buy-back of shares and the Board found that the misleading advertisements were only meant to create an interest for the lay investors in the scrip of the company which was otherwise illiquid. Investigations further revealed that the promoters of the company

even prior to the advertisements had traded their shares with a view to raise the price of the scrip and thereafter they off-loaded their shares in the market. Having unearthed this game plan, the Board found that as many as 22 persons including the appellant played a dubious role in the entire manipulative process. On the conclusion of the investigations, the Board issued a common show cause notice to all the 22 persons. Some of the delinquents approached the Board for a consent order and their requests are still pending while others replied to the show cause notice and contested the same. The appellant is the only person who has come up in appeal though the impugned order holds some others as well guilty of the charges levelled in the show cause notice.

The charge against the appellant is contained in Clauses (j) and (k) of para 6 which deals with charge II against the directors of the company and persons acting in concert with them who are said to have violated various provisions of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 by off-loading the huge promoters holding in the artificially inflated market. Clauses (j) and (k) pertaining to the appellant read as under:

“(j) Sri. Rajesh Kumar Patel, Kirti R Patel, Paresh Kumar Patel and Hema P. Patel together transferred 10 lakh shares to Sri. Urvish Vora on 17 June, 2002. Urvish Vora offloaded these 10 lakh shares in the market through the broker Parklight Investment Pvt. Ltd. during June-July 2002. It appears that Shri. Urvish Vora was acting as a front entity for Shri. Rajesh Kumar Patel, who was banned from operating in the securities market by the order of SEBI.

(k) It is seen that Piyush Jhavery, Santosh Gaykwad, Raju B. Shah, Shah Maheshbhai M, Atul B. Shah, Paresh Kumar Patel, Tushar Jhavery, Ramilaben Patel, Hema Paresh Kumar Patel, Urvish Vora, Atul H. Shah and Rakesh Ramniklal Sheth: by acting as the front entities in the manipulative process as described in para 1-17 has violated Regulations 3, 4(a), (b), (c) &(d) and 6(a) of SEBI (Prohibition and Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations 1995.”

From a reading of the aforesaid charges it is clear that the appellant is said to have acted as a front entity for Rajesh Kumar Patel and his family members who were persons acting in concert with the directors of the company in the entire manipulative process. The said Rajesh Kumar Patel had been debarred from operating in the securities market

for a period of one year commencing from March 2002. The appellant filed a reply denying that he was a front entity of Rajesh Kumar Patel as alleged. On a consideration of the material on the record the whole time member found that the charge(s) levelled against the appellant stood established as also against the others and by order dated February 19, 2008 debarred, among others, the appellant from accessing the securities market for a period of two years. It is against this order that the present appeal has been filed.

Having heard the learned counsel for the parties at some length, we are of the view that the enquiry conducted by the Board under section 11B of the Act is inadequate and that the matter should have been examined in greater depth and also by calling upon the appellant to furnish further information/documents. We have also perused the impugned order and are at a loss to understand as to how the charges against the appellant have been held to have been established. We do not find any discussion regarding the case setup against the appellant and common findings have been recorded against all the delinquent entities even though they may have had different roles to play. Lest there is any miscarriage of justice, we set aside the impugned order qua the appellant and remand the case back to the Board for a fresh enquiry in the matter. It will be open to the Board to proceed on the show cause notice already issued to the appellant or it may issue a fresh show cause notice and then proceed further in accordance with the law. Since the matter is quite old, we shall appreciate if the enquiry is completed before the end of March next year. There is no order as to costs.

Sd/-
Justice N.K.Sodhi.
Presiding Officer

Sd/-
Arun Bhargava
Member

Sd/-
Utpal Bhattacharya
Member

17.9.2008
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