

**BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI**

Appeal No. 4 of 2011

Date of Decision : 11.02.2011

Monika Jain
413, Manish Chamber,
Sonawala Lane,
Opp. Hotel Karan Palace,
Goregaon (E),
Mumbai – 400 063.

...Appellant

Versus

Ms. Branali Mukharji
Adjudicating Officer,
Securities and Exchange Board of India,
SEBI Bhavan, Plot No. C-4A, G-Block,
Bandra-Kurla Complex, Bandra (East),
Mumbai – 400 051.

...Respondent

Mr. Ravi Ramaiya, Chartered Accountant for the Appellant.

Dr. Poornima Advani, Advocate with Mr. Ajay Khair, Advocate for the Respondent.

CORAM : Justice N.K. Sodhi, Presiding Officer
S.S.N. Moorthy, Member

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

The appellant before us is a trader who traded in two scrips of Allcargo Global Logistics Ltd. and Unity Infraprojects Ltd. (hereafter referred to as Allcargo and Unity respectively). Both the scrips are listed on the Bombay Stock Exchange Ltd., Mumbai and the National Stock Exchange of India Ltd. (for short BSE and NSE respectively). The appellant traded for a period of 15 days during the period from April 1, 2008 to May 15, 2008 which is the investigation period. There were only 30 trading days during this period. The appellant is said to have executed circular trades in both the scrips on both the exchanges. Her statement was recorded by the investigating officer during the course of the investigations whereafter adjudication proceedings were initiated against her. She was served with a show cause notice alleging violation 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). She filed a reply denying the

allegations. On a consideration of the material collected during the course of the investigations and the enquiry conducted by the adjudicating officer, he came to the conclusion that the appellant executed along with others, circular trades in both the scrips and on both the exchanges. Accordingly, by her order dated November 29, 2010 she imposed a monetary penalty of ₹ 3 lacs on the appellant. It is against this order that the present appeal has been filed.

2. We have heard the authorised representative of the appellant and the learned counsel appearing for the respondent Board who have taken us through the record. The fact that the appellant executed circular trades in the two scrips on both the exchanges has not been disputed before us. What is strenuously argued by the authorised representative is that the appellant was not a part of any group which indulged in circular trading and that the adjudicating officer was wrong in recording a finding to this effect. We have perused the trades executed by the appellant and they are, admittedly, circular in nature. We cannot agree with the representative of the appellant that the appellant was not a part of the group. May be, she is not related to any of the other persons who formed the group but the fact that circular trades were executed among a group of traders including the appellant is enough to establish the link as, without her, the chain or link would have broken. The trades executed by the appellant along with the others clearly show that on April 1, 2008 one Rajnish Jain who is also part of the group transferred 1000 shares of Allcargo on BSE to the appellant and another 255 shares to Anjana Mehta who was also a part of the group. Anjana Mehta, in turn, transferred those 255 shares to the appellant and the appellant transferred 1255 shares (1000 shares received from Rajnish Jain directly and 255 shares received from Anjana Mehta) to Rajnish Jain. The circle, thus, got completed. The shares which started from Rajnish Jain were received back by him within seconds. This is not a solitary instance. A large number of trades in the same fashion were executed by this group of persons including the appellant where shares in both the scrips were traded among themselves on both the exchanges and were not allowed to go out of the circle. We are, therefore, satisfied that the charge of executing circular trades levelled against the appellant stands established and that she indulged in unfair trade practices and thereby violated regulation 4 of the regulations.

A circular trade is a fictitious trade which is executed on the trading screen of the exchange which does not result in the transfer of beneficial ownership in the traded scrip. Such trades only create false or misleading appearance of trading in the securities market and thereby lure the lay investors to jump into the fray. In this view of the matter, no fault can be found with the impugned order. The learned representative of the appellant contends that the appellant was a victim of misrepresentation made by one Sunil Mehta on whose instructions she had traded in the two scrips. It is further contended that it was Sunil Mehta who was executing the trades in her name. That may be so, but the fact remains that the trades that were executed were circular in nature and would be regarded as unfair trade practices in the securities market and this is what is prohibited by regulation 4 of the regulations.

3. The authorised representative of the appellant then urged that since the appellant had traded only for a small period of 15 days during which period the volumes did not increase on the trading screen and that she made no profits out of the trades executed by her and that she stopped trading as she incurred some losses and in this background, the amount of penalty levied may be reduced. Having regard to the peculiar facts and circumstances of this case and taking a sympathetic view, we reduce the penalty to ₹ 1.5 lacs. This shall not be treated as precedent for other cases.

In the result, we uphold the order of the adjudicating officer holding the appellant guilty but reduce the penalty to ₹ 1.5 lacs. The appeal stands disposed of accordingly. No costs.

Sd/-
Justice N.K. Sodhi
Presiding Officer

Sd/-
S.S.N. Moorthy
Member

11.2.2011

Prepared and compared by:
msb