

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Appeal No. 74 of 2011

Date of Decision : 07.06.2011

Mr. Pradeep Kumar Bansal
1503, Safalaya Targa Baug,
Love Lane, Byculla (East),
Mumbai – 400 010.

...Appellant

Versus

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

...Respondent

Mr. D.P. Desai, Advocate with Ms. Dhvani Mehta, Advocate for the Appellant.

Dr. Mrs. Poornima Advani, Advocate with Mr. Ajay Khaire and Ms. Amrita Joshi,
Advocates for the Respondent.

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

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

This appeal is directed against the order dated February 22, 2011 passed by the adjudicating officer imposing a penalty of ₹ 1 lakh on the appellant for violating Regulations 3 and 4 of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003. ₹ 50,000 is for violating the regulations and another sum of ₹ 50,000 has been imposed for violating the code of conduct prescribed for stock brokers.

2. The only ground on which the impugned order has been challenged before us is that the respondent - Securities and Exchange Board of India (for short the Board) had earlier initiated proceedings under the enquiry regulations against the appellant

for violating Regulations 3 and 4 of the aforesaid regulations and that its certificate of registration had been cancelled by the whole time member of the Board by his order dated June 28, 2006 and now adjudication proceedings could not be initiated for the same violations. The learned counsel for the respondent Board points out that the charges levelled against the appellant in the earlier proceedings were totally different from the charges now levelled by the adjudicating officer. Without going into this issue, we are clearly of the view that even for the same violations, the Board after cancelling the certificate of registration of the appellant, could initiate proceedings under Chapter VIA of the Securities and Exchange Board of India Act, 1992 for the imposition of a monetary penalty. Proceedings under section 12A read with the enquiry regulations framed by the Board is one set of actions which the Board can initiate and proceedings under Chapter VIA of the Act which are independent could be initiated for imposing a monetary penalty. This is the scheme of the Act. We cannot, therefore, accept the contention of the learned counsel for the appellant in this regard. Since the impugned order has not been challenged on any other ground, we cannot but uphold the impugned order and dismiss the appeal which we hereby do with no order as to costs.

Sd/-
Justice N.K. Sodhi
Presiding Officer

Sd/-
S.S.N. Moorthy
Member

07.06.2011

Prepared and compared by:
msb