

**BEFORE THE SECURITIES APPELLATE TRIBUNAL  
MUMBAI**

**Appeal No. 204 of 2010**

**Date of Decision : 28.02.2011**

Samradha Finstock Pvt Ltd.  
12/B, Sairaj Nagar,  
Mathuradas Road South,  
Kandivali (West),  
Mumbai – 400 067.

...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. Vinay Chauhan, Advocate for the Appellant.

Mr. Kumar Desai, Advocate with Ms. Daya Gupta and Ms. Harshada Nagare,  
Advocates for the Respondent.

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

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

This appeal is directed against an ex parte order dated October 27, 2010 passed by the adjudicating officer imposing a monetary penalty of ₹ 26 lacs on the appellant for violating different clauses of Regulation 4 of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003. Even though the appellant was served with the show cause notice dated July 25, 2008 after the case was remanded by this Tribunal on January 12, 2010, it did not file its reply and the adjudicating officer had no option but to proceed ex parte. The learned counsel for the appellant has not made any grievance of the fact that the appellant was not heard. He has, however, drawn our attention to paragraph 41 of the impugned order wherein it has been observed that the violations committed by the appellant were of a repetitive nature and reference has been made to the case of Atlanta Ltd. wherein some interim order had been passed in September 2007 against the appellant and some other entities by the whole time member of the respondent Board. Section 15J of the Securities and Exchange Board of India Act, 1992 lays down the factors to be taken into account by the adjudicating officer while imposing monetary penalties under Chapter VIA of the

Act. One of the factors mentioned therein is whether the default committed by the delinquent is repetitive in nature. As already observed, the appellant has been found to be guilty of repetitive defaults by making reference to the order passed in the case of Atlanta Ltd. The learned counsel for the appellant has placed before us the order dated February 11, 2010 passed by the adjudicating officer in the case of Atlanta Ltd. wherein also the appellant was one of the traders who was alleged to have manipulated the scrip of Jindal Drilling & Industries Ltd. (for short the company). We have perused this order and find that the adjudicating officer gave a clean chit to the appellant and absolved it of the wrong doing as alleged in that case. This being so, the adjudicating officer wrongly observed in paragraph 41 of the impugned order that the appellant was guilty of violations which were repetitive in nature. It appears that it was for this reason that a heavy penalty of ₹ 26 lacs had been imposed. The learned counsel for the appellant has also brought to our notice the order passed by this Tribunal in Hem Kanak Mercantile Pvt. Ltd. vs. The Adjudicating Officer, Securities and Exchange Board of India, Appeal no. 171 of 2009 decided on March 11, 2010. The appellant in that case was also one of the entities alleged to have manipulated the scrip of the company along with the appellant now before us. While dealing with the case of Hem Kanak Mercantile Pvt. Ltd. we had reduced the penalty from ₹ 26 lacs to ₹ 7 lacs. Since it has not been shown that the appellant was guilty of any repetitive violations, the penalty imposed by the adjudicating officer is reduced to ₹ 7 lacs. Since the impugned order has not been challenged on merits, we do not disturb the other findings recorded therein.

In the result, the appeal is disposed of as above and the impugned order stands modified accordingly. No costs.

Sd/-  
Justice N.K. Sodhi  
Presiding Officer

Sd/-  
P.K. Malhotra  
Member

Sd/-  
S.S.N. Moorthy  
Member

28.2.2011

Prepared and compared by:  
msb