

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Appeal No. 104 of 2011

Date of decision: 29.06.2011

V. Natarajan
Old # 48 – A, New # 42,
Mahadevan Street,
West Mambalam,
Chennai – 600 033.

..... 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. J. J. Bhattt, Advocate for the Appellant.

Mr. Shiraz Rustomjee, Advocate with Ms. Harshada Nagare, Advocate 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 the order dated April 18, 2011 passed by the whole time member of the Securities and Exchange Board of India (for short the Board) restraining the appellant from buying, selling and dealing in securities in any manner whatsoever or accessing the securities market directly or indirectly for a period of three years from the date of the order. He has also been restrained from holding an office of a director in any listed company for the same period.

2. The appellant at the relevant time was the chairman cum whole time director of a company called Pyramid Saimira Theatre Ltd. (for short the company) whose shares were listed on different stock exchanges in the country. It is alleged that during the financial year 2007-08 the board of directors of the company inflated its revenues and profits by fictitious entries in its accounts and disclosed the same in quarterly and annual accounts to the stock exchanges and thereby mislead the investing public in their investment decisions. Investigations carried out by the Board revealed that the company had committed serious irregularities in its books of accounts and by showing inflated profits and revenues it lured the general public to invest in the shares of the company. It has been found that the financial results as disclosed to the public through the stock exchanges were false and inaccurate and the finding in this regard is not being challenged before us. It is also not in issue that the appellant being the chairman and whole time director was a part of the board of directors which approved the financial results. This being so, we are satisfied that the provisions of 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 were violated. These regulations, among others, prohibit any person from employing any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on an exchange. They also prohibit persons from engaging in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities that are listed on stock exchanges. These regulations also prohibit persons from indulging in a fraudulent or unfair trade practice in securities which includes publishing any information

which is not true or which he does not believe to be true. Any advertisement that is misleading or contains information in a distorted manner which may influence the decision of the investors is also an unfair trade practice in securities which is prohibited. The regulations also make it clear that planting false or misleading news which may induce the public for selling or purchasing securities would also come within the ambit of unfair trade practice in securities. It is by now well understood that unaudited financial results that are required to be published by every listed company on a quarterly basis do form the basis for the investing public to take informed decisions. Any false information or false accounts depicting inflated revenues and profits by fictitious entries in accounts is, indeed, a very serious wrong doing which directly impacts the securities market and the investors. Since the appellant was a part of the board of directors which approved the financial results of the company which were actually false and untrue, we are satisfied that the appellant is guilty of the charges levelled against him. Having regard to the nature of the serious market violation committed by the appellant, the Board was justified in keeping him out of the market for a period of three years and not allowing him to be a director on any listed company for that period.

3. It is contended by the learned counsel for the appellant that his client was financially illiterate and was not even a graduate and was not a member of the audit committee that submitted its report to the board of directors. That may be so but we do not think that this would be a mitigating factor. He was the chairman of the company and a whole time director looking after its day to day affairs and having approved the financial results which were untrue, he

cannot escape his responsibility by pleading that the financial accounts had been approved by the audit committee set up under Section 292A of the Companies Act, 1956. It is also argued by the learned counsel for the appellant that the appellant had resigned from the directorship of the company in April, 2008. That is so but no action is being taken against him for the financial results published thereafter. In any case, the appellant continued as chairman emeritus of the company thereafter though he claims that he was never invited to attend any meetings thereafter.

In the result, 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/-
P. K. Malhotra
Member

Sd/-
S.S.N. Moorthy
Member

29.06.2011

Prepared and compared by-ddg