

**BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI**

Appeal No.154 of 2011

Date of Decision: 9.11.2011

Forever Merchants Pvt. Ltd.
25, Black Burn Lane,
4th Floor, Room No.404,
Kolkata – 700 012.

..... Appellant

Versus

Securities and Exchange Board of India
SEBI Bhavan, Plot No.C4-A, 'G' Block,
Bandra Kurla Complex, Bandra (East),
Mumbai – 400 051.

.....Respondent

Mr. Zal Andhyarujina, Advocate with Mr. Nishit Dhruva, Mr. R.S. Loona, Ms. Dhvani Mehta and Mr. Abhishek Borgikar, Advocates for the Appellant.

Mr. Shiraz Rustomjee, Senior 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 order will dispose of two Appeals no.154 and 160 of 2011 both of which are directed against the common order dated July 19, 2011 passed by the whole time member of the Securities and Exchange Board of India (for short the Board) confirming the ad-interim ex-parte order dated December 2, 2010 by which the appellants, among others, have been restrained from accessing the securities market and prohibited from buying, selling or dealing in securities till further directions. Admittedly, the investigations in the matter are still on and the Board has found that the scrip of five companies had been manipulated and that a large number of entities had joined hands together in the manipulation. The learned counsel appearing for the appellants contends that his clients are similarly situated to the two entities referred to in para 28(b) of the impugned order against whom the ad-interim directions have been revoked. Counsel for the parties have taken us through the impugned order and also the ad-interim ex-parte order which was treated as a show cause notice against the entities. Since the investigations are still pending, it may not be appropriate for us to examine the merits of the contentions now

sought to be urged before us. We are informed that the investigations are in progress. In this view of the matter, we dispose of the appeal with a direction to the Board to conclude the investigations expeditiously and, in any case, before the end of this year. It will be open to the Board to proceed against different entities on the basis of the findings recorded in the investigations.

2. The learned counsel for the appellants have pointed out that their clients are investment companies and are holding shares of a large number of companies by way of investment and that in view of the falling market, they may be allowed to dispose of some of the scrips with a view to reduce their losses. The prayer appears to be reasonable. We, therefore, direct that the appellants may sell any or all the scrips which they are presently holding to safeguard against the erosion of the value of their portfolio. The details of the sales shall be furnished to the Board within 24 hours and the sale proceeds be invested in a fixed deposit(s) with a nationalised bank. The appellants shall not be allowed to withdraw monies from the fixed deposit(s) including the interest thereon without the prior permission of the Board. Further, the appellants shall deposit the fixed deposit receipts with the Board. In case the appellants wish to deal with the sale proceeds lying in fixed deposit(s) or the interest that accrues thereon, they shall seek the permission of the Board which should be considered expeditiously within a reasonable time. Liberty is given to the parties to apply in case of any difficulty. No costs.

Sd/-
Justice N.K.Sodhi
Presiding Officer

Sd/-
P.K. Malhotra
Member

Sd/-
S.S.N. Moorthy
Member

