

**BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI**

Appeal No. 193 of 2011

Date of Decision : 21.11.2011

India Focus Cardinal Fund
365, Royal Road,
Rose Hill, Mauritius

...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. P.N. Modi, Advocate with Mr. N.P. Lashkari, Advocate for the Appellant.

Mr. Prateek Seksaria, Advocate with Mr. Mihir Mody and Mr. Mobin Shaikh,
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 ad interim ex parte order dated September 21, 2011 passed by the whole time member of the Securities and Exchange Board of India (for short the Board) whereby some directions have been issued, among others, to the appellant restraining it from dealing in securities or instruments with Indian securities as the underlying in any manner whatsoever until further orders. The two Depositories have also been directed to freeze the beneficial owner accounts of several entities including the appellant. The ex parte order has been ordered to be treated as a show cause notice. This order has been passed pending investigations. Since the matter is at the investigation stage, we do not think it appropriate to examine the merits of the issues sought to be raised by the appellant. The learned counsel for the appellant on instructions from his client who is present in Court states that the memorandum of appeal be treated as the reply on behalf of the appellant to the ex parte order cum show cause notice. In the circumstances, we dispose of the appeal with a direction to the Board to pass an order after affording an

opportunity of hearing to the appellant before the end of this year. Having regard to the nature of the disputes raised in this appeal and taking note of the fact that the ad interim order is adversely affecting the business of the appellant, we further direct the Board to conclude the investigations before the end of February, 2012. In the meanwhile, the appellant is allowed to sell all the securities held by it as enlisted in Exhibits 'G' and 'J' to the appeal and the sale proceeds therefrom shall be deposited in a fixed deposit with ICICI Bank earning interest. The appellant shall not be allowed to withdraw monies from that account including interest without the prior permission of the Board. In case the appellant wants to utilize any or whole of the sale proceeds, it shall seek the permission of the Board in this regard which shall be considered expeditiously. The direction regarding sale of securities has been given with the consent of the parties in view of the falling market to avoid further erosion in the value of the portfolio held by the appellant. No costs.

Sd/-
Justice N.K. Sodhi
Presiding Officer

Sd/-
P.K. Malhotra
Member

Sd/-
S.S.N. Moorthy
Member

21.11.2011

Prepared and compared by:

msb