

**BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI**

Appeal No. 170 of 2011

Date of Decision : 19.10.2011

Kajal Shah
1st Floor, 37 Gayatri Society,
Sukhabag Road,
Palanpur – 385 001, Gujarat.

...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. Zal Andhyarujina, Advocate with Ms. Akshaya Bhansali and
Mr. Shubhadip Choudhary, Advocates for the Appellant.

Dr. Poornima Advani, Advocate with Mr. Omprakash Jha, 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)

The charge against the appellant is that she did not cooperate with the investigations which were carried out by the Securities and Exchange Board of India (for short the Board) in the scrip of Mega Corporation Ltd. (hereinafter referred to as the company). After the investigations were over, the appellant and her husband were both charged with manipulating the scrip by executing trades in a manner by which the price of the scrip was artificially raised. Adjudication proceedings were initiated against her and her husband for manipulating the scrip of the company. In those proceedings the respondent Board itself let off the husband and imposed a monetary penalty of ₹ 2 lacs on the appellant. She filed Appeal no. 112 of 2011 which came up before us on August 11, 2011 and we allowed the same. It is pertinent to mention that even the company had been alleged to have been a party to manipulating its own scrip. Proceedings were initiated against the company and its directors and in those proceedings the company, too, was exonerated by us in appeal. In these

circumstances, the charge against the appellant that she did not cooperate with the investigations loses its significance. The respondent Board is said to have issued three summons to the appellant as referred to in para 3 of the show cause notice to which she is alleged not to have responded. It is the case of the appellant that she did not receive the summons. An acknowledgement receipt has been produced before us which purports to have been signed by the appellant. She disputes her signatures thereon. We have compared those signatures with some of the letters received by the respondent Board from her which admittedly had her signatures. We cannot say with certainty whether the signatures on the acknowledgement are those of the appellant or not. In this view of the matter, we give benefit of doubt to the appellant and set aside the impugned order. The matter is quite old and no useful purpose would be served in remitting the case to the Board.

2. The learned counsel for the respondent Board insists that the signatures on the acknowledgment are those of the appellant and that she is making a wrong statement. She has suggested that the appellant be directed to file an affidavit stating that the signatures on the acknowledgement are not hers. Mr. Zal Andhyarujina, learned counsel appearing on behalf of the appellant undertakes that an affidavit shall be filed by her within a week with a copy to the respondent Board. The affidavit when filed shall be taken on record.

In the result, the appeal is allowed and the impugned order set aside with no order as to costs.

Sd/-
Justice N.K. Sodhi
Presiding Officer

Sd/-
P.K. Malhotra
Member

Sd/-
S.S.N. Moorthy
Member

19.10.2011

Prepared and compared by:
msb