

Mehta Equities Ltd., Vs. Adjudicating Officer, Securities and Exchange Board of India Sebi Bhavan

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Court : SEBI Securities and Exchange Board of India or Securities Appellate Tribunal SAT

Decided On : Oct-13-2011

Judge : The Honourable Justice N. K. Sodhi, Presiding Officer, the Honourable Justice P.K. Malhotra, Member & the Honourable Justice S.S.N. Moorthy, Member

Appeal No. : Appeal No. 161 of 2011

Appellant : Mehta Equities Ltd.,

Respondent : Adjudicating Officer, Securities and Exchange Board of India Sebi Bhavan

Advocate for Pet/Ap. : For the Appellant: J. J. Bhatt, Advocate. For the Respondent: Mrs. Dr. Poornima Advani Omprakash Jha, Ms. Dipti Bhande, Advocates.

Judgement :

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

1. Challenge in this appeal is to the order dated July 29, 2011 passed by the adjudicating officer imposing a monetary penalty of Rs.50,000/- on the appellant for having violated the code of conduct prescribed for the stock-brokers.

2. The appellant is a stock-broker registered with the Securities and Exchange Board of India (for short the Board). It had a sub-broker by the name of Crystal Finstocks Pvt. Ltd. The sub-broker is said to have executed manipulative trades in the scrip of Popular Estate Management Ltd. during the period from February 9, 2009 to February 24, 2009. The sub-broker is being dealt with separately by the Board. Proceedings were initiated against the appellant as well and it is alleged to have violated Clauses A(1) to A(5) of the code of conduct for Stock Brokers under the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992 (hereinafter called the Regulations). The code of conduct lays down that a stock-broker shall maintain high standards of integrity, promptitude and fairness in the conduct of his business. Clause (2) requires a stock-broker to act with due skill, care and diligence in the conduct of his business. Clauses A(3) to A(5) prohibit a stock-broker from indulging in manipulative and fraudulent transactions and also from creating false market either by himself or in concert with others. The adjudicating officer after holding an enquiry came to the conclusion that the sub-broker had executed synchronized and reverse trades on behalf of the clients in the aforesaid scrip. Having recorded this finding he observed as under:

“However, I find that there is nothing on record to show that the Noticee had aided and abetted Crystal or the said clients in the said manipulation. Therefore, I am of the view that allegation against the Noticee with regard to manipulation and malpractice do not stand.”

The adjudicating officer then went on to hold that the appellant “being a registered broker has failed to maintain high standards of due diligence.” He, therefore, found that the appellant failed to exercise due diligence and was guilty of violating Clause A(2) of the Code of Conduct. Accordingly, by the impugned order he imposed the aforesaid penalty. Hence this appeal.

3. We have heard the learned counsel for the parties who have taken us through the record and the impugned order. In view of the finding that the appellant had not aided and abetted Crystal, the sub-broker, in regard to manipulation and malpractice as alleged, we do not find any ground to hold the appellant guilty of

not maintaining “high standards of due diligence”. When the appellant did not aid and abet the sub-broker, it is obvious that the sub-broker acted on its own and executed manipulative trades on behalf of the clients. In these circumstances, we cannot uphold the findings that the appellant was guilty of not exercising due diligence. It is clear from the record that the manipulative trades were executed by the sub-broker only on three trading days. If the sub-broker has played mischief without the appellant knowing about it, the charge of not exercising due diligence cannot stand.

In the result, the appeal is allowed and the impugned order set aside. No costs.

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