

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Appeal No. 75 of 2007

Date of decision: 30.6.2008

Karvy Stock Broking Limited

..... Appellant

Versus

Securities and Exchange Board of India

..... Respondent

Mr. Navroz Seervai Senior Advocate with Mr. Shyam Mehta and Mr. Vinay Chauhan
Advocates for the Appellant.

Mr. J. J. Bhatt Senior Advocate with Mr. Shiraz Rustomjee and Mr. Anant Upadhyay
Advocates for the Respondent.

Coram: Justice N.K. Sodhi, Presiding Officer
Arun Bhargava, Member
Utpal Bhattacharya, Member

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

This order will dispose of three Appeals no.75, 111 and 153 of 2007 in which
common questions of law and fact arise and they are all directed against the order
dated June 22, 2007.

We have heard the learned senior counsel on both sides who have taken us
through the record and the impugned order running into more than 190 pages.
Appeals no.75 and 111 of 2007 have been filed by Karvy Stock Broking Limited
whereas Appeal no.153 of 2007 is filed by Karvy Computershare Pvt. Ltd., which is
a group company. A common show cause notice was issued to the appellants herein
specifying therein the alleged irregularities committed by Karvy Stock Broking
Limited as a stock broker and also as a Depository Participant (DP). Karvy
Computershare Pvt. Ltd. is a Registrar and Transfer Agent and the irregularities
allegedly committed by it had also been mentioned in the same show cause notice.
The appellants filed three separate replies and the respondent Board conducted three

separate enquiries. One enquiry was held against Karvy Stock Broking Limited as a stock broker and another in regard to the alleged irregularities as a DP. On receipt of three separate enquiry reports holding the appellants guilty, the learned wholetime member of the Board issued separate show cause notices to the appellants furnishing to them a copy of the enquiry report in each case. It is thereafter that the wholetime member by a composite order which is impugned in these appeals found that the allegations and charges levelled against the appellants stood established. Having carefully gone through the impugned order we find that the wholetime member has recorded common findings against Karvy Stock Broking Limited both as a stock broker and also as a DP and we feel that it would have been more appropriate to record separate findings against this appellant in regard to its role as a stock broker and also as a DP. During the course of the hearing, we put it to the learned senior counsel on both sides that we remand the matter to the respondent Board with a direction to pass separate orders in regard to the violations emanating from the initial show cause notice issued by the enquiry officer. On seeking instructions from their respective clients, they are agreed that the impugned order be set aside and the cases be remanded back to the Board for passing fresh orders.

In this view of the matter we allow the appeals, set aside the impugned order dated June 22, 2007 and remand the cases to the respondent Board with a direction to pass three separate orders on the three show cause notices issued by the learned wholetime member. It is, however, made clear that while passing the fresh orders the wholetime member shall take into account only the material that is already on the record and will not permit either party to produce any fresh material or file fresh replies or written submissions. He will, however, grant a fresh oral hearing to the parties and take into consideration the replies and written submissions already filed. The parties will however be at liberty to cite case law in support of their respective submissions. The wholetime member while passing the fresh orders shall not be influenced by any observation or finding recorded in the impugned order. We also make it clear that we have not decided any issue on merits and, therefore, all the issues raised by the parties remain open to be decided afresh by the learned

wholetime member in accordance with law. In case the final order(s) were to go against the appellant(s), the same shall not be given effect to for a period of four weeks from the date of receipt thereof by the appellant(s). This order shall not preclude the appellant(s) to apply for a consent order to the respondent Board and in case such an application is filed, the same shall be heard and disposed of in accordance with law. There is no order as to costs.

Sd/-
Justice N. K. Sodhi
Presiding Officer

Sd/-
Arun Bhargava
Member

Sd/-
Utpal Bhattacharya
Member

30.6.2008
pw

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Appeal No. 111 of 2007

Date of decision: 30.6.2008

Karvy Stock Broking Limited

..... Appellant

Versus

Securities and Exchange Board of India

..... Respondent

Mr. Navroz Seervai Senior Advocate with Mr. Shyam Mehta and Mr. Vinay Chauhan
Advocates for the Appellant.

Mr. J. J. Bhatt Senior Advocate with Mr. Shiraz Rustomjee and Mr. Anant Upadhyay
Advocates for the Respondent.

Coram: Justice N.K. Sodhi, Presiding Officer
Arun Bhargava, Member
Utpal Bhattacharya, Member

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

Same order as in Appeal no.75 of 2007 decided on 30.6.2008.

Sd/-
Justice N. K. Sodhi
Presiding Officer

Sd/-
Arun Bhargava
Member

Sd/-
Utpal Bhattacharya
Member

30.6.2008
pw