

**BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI**

**Miscellaneous Application No.50 of 2010
And
Appeal No.124 of 2010**

India Capital Markets Private Limited.

.....Appellant

Versus

Securities and Exchange Board of India

..... Respondent

Mr. Janak Dwarkadas, Advocate with Mr. Somasekhar Sunderasan, Mr. Ravi Hegde,
and Mr. Paras Parekh, Advocates for Appellant.

Mr. Shiraz Rustomjee, Advocate with Ms. Daya Gupta, Advocate for the Respondent.

Order:

Admitted.

We have heard the learned senior counsel for the appellant and Mr. Shiraz Rustomjee, Advocate on behalf of the respondent Board in regard to the prayer for interim stay. The present appeal is directed against the ad-interim ex-parte order dated April 23, 2009 and the primary grievance of the appellant is that from the date of the order no further steps have been taken by the respondent Board and that the appellant is being kept out of the market on the basis of the ex-parte order. It is not in dispute that the appellant had filed its reply to the ad-interim order which was treated as a show cause notice. When this appeal came up for preliminary hearing on July 23, 2010, the learned counsel for the respondent Board produced before us a copy of the order dated July 20, 2010 confirming the ex-parte order dated April 23, 2009. This order has been taken on record.

We have perused this order and it appears that it is a reproduction of the ex-parte ad-interim order passed earlier. Be that as it may, we directed the learned counsel for the respondent Board to produce before us the records and the related file which has been produced today. On the basis of some inspection carried out by the respondent

Board, the appellant was served with a show cause notice and after obtaining its reply the designated authority after conducting an enquiry submitted its report recommending the penalty of warning to the appellant. It appears that the designated member has not agreed with the findings of the designated authority and is proceeding further in the matter. Without expressing any opinion on the procedure that is being followed, we are clearly of the view that in the circumstances, this is not a fit case where the interim order against the appellant should be allowed to continue any further. We, therefore, direct that the operation of the order dated July 20, 2010 shall remain stayed during the pendency of the appeal.

The original file which was produced today has been returned to the respondent Board. The same be produced at the time of final hearing.

Sd/-
Justice N.K.Sodhi
Presiding Officer

Sd/-
Samar Ray
Member

Sd/-
P.K. Malhotra
Member

26.7.2010

Prepared and compared by
RHN