

**BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI**

Appeal No.156 of 2010

Date of Decision : 22.10.2010

Keynote Capitals Limited
4th Floor, Balmer Lawrie Building,
5, J.N. Heredia Marg,
Ballard Estate, Mumbai - 01.

..... 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. Somasekhar Sundaresan, Advocate with Mr. Ravichandra S. Hegde and Mr. Paras Parekh, Advocates for the Appellant.

Mr. Darius Khambatta, Additional Solicitor General with Ms. Daya Gupta and Ms. Harshada Nagare, Advocates for the Respondent.

CORAM : Justice N.K. Sodhi, Presiding Officer
Samar Ray, Member
P.K. Malhotra, Member

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

This appeal is directed against the order dated July 6, 2010 passed by the whole time member confirming the ex-parte ad-interim order dated April 23, 2009 by which the appellant had been prohibited from giving any trade recommendations in respect of companies listed on any recognized stock exchange(s) till further orders.

2. The appellant is a registered stock broker and a corporate member of the National Stock Exchange of India Limited (NSE) and the Bombay Stock Exchange Limited (BSE). It claims to be a part of the Keynote group which is said to be providing comprehensive investment banking facilities/advice in regard to the companies in India. The appellant also claims to be providing the entire range of stock broking services backed by investment research. It further claims that it has a large retail network comprising of more than 75 terminals spread across the country with more than 6000 clients. The appellant came out with a research analysis report in regard to the scrip of Pyramid Saimira Theatre Limited (for short PSTL) which anticipated/predicted that the price of the scrip of PSTL after 18 months would be Rs.1074/- when the prevailing price of the scrip on the date of the report

was Rs.372. Again, on February 5, 2008 the appellant came out with a similar report predicting the target price of the scrip of PSTL at RS.1074 when the prevailing price of the scrip on the date of the report was Rs.400. However, on August 5, 2008 the appellant in its research update suggested that the price of the scrip of PSTL would be Rs.285 after 18 months when the prevailing price of the scrip was Rs.161 per share. The appellant had given buy recommendations in all its reports predicting a higher price of the scrip after a period of 18 months. The Securities and Exchange Board of India (for short the Board) carried out investigations into the trading in the scrip of PSTL and on the basis of an interim investigation report it prima facie found that the price of the scrip was allegedly manipulated by active connivance of various intermediaries and entities in the market. Detailed investigations were then ordered which are still pending. Pending investigations, the whole time member passed an ex-parte order on April 23, 2009 restraining the appellant from giving any trade recommendations in respect of companies listed on any recognised stock exchange still further orders. He prima facie came to the conclusion that the appellant had issued unfounded and questionable trade recommendations about the shares of PSTL which had the effect of misleading the investors. It is pertinent to mention that apart from the appellant, there were several other entities found to be involved in the manipulation of the scrip of PSTL and they were prohibited from accessing the capital market while some of them had been told not to accept new clients. The ex-parte order was treated as a show cause notice to which the appellant filed its reply denying the charges and also furnished the basis for giving the research analysis report in regard to the scrip of PSTL. The whole time member by his order of July 6, 2010 has confirmed the ex-parte ad-interim order stating that “As the investigation in the present matter is in an advanced stage, it would be prudent on my part to wait till the outcome of the investigation and review the action against keynote. The ongoing investigation shall inter alia examine the said research reports and analyse whether the target price of Rs.1074/- was arrived at based on reasons and supporting material and come to their conclusion. Therefore, at this stage I am of the considered view that it would not be appropriate to revoke the interim direction issued against Keynote vide the order till further orders”. Hence, this appeal.

3. We have heard the learned counsel on behalf of the appellant and the learned Additional Solicitor General on behalf of the respondent Board who have taken us through

the record. There is no gainsaying the fact that investigations in the matter are still pending and the appellant has remained out of the market in regard to a part of its business for the last more than 18 months. The merits of the research analysis report that was given by the appellant in December, 2007 and the subsequent updates are yet to be gone into as observed by the whole time member. The report involves technical issues and the same needs expert analysis. The impugned order tells us that the same is being examined. The whole time member has not given any cogent reasons for confirming the ex-parte ad-interim order and the only reason mentioned in the order is that the investigations are at an advanced stage. The respondent Board filed a detailed affidavit before us pointing out the facts which have emerged from the investigations on the basis of which the learned Additional Solicitor General wants us to uphold the impugned order. Admittedly, the whole time member has not examined these factors in the impugned order and is waiting for the investigations to conclude. Since the investigations are still pending, we would not like to comment on any of the issues now sought to be raised before us lest any observation made by us prejudice the case of either party.

Having regard to the circumstances of the case and taking note of the fact that the appellant has now stayed out of the market for 18 months, the equities of the case demand that the interim order against the appellant be vacated and the investigations be allowed to proceed. We, therefore, allow the appeal, set aside the impugned order confirming the ad-interim ex-parte order and direct the Board to continue with the investigations and on their conclusion proceed with the matter in accordance with law. Before concluding, we may mention that nothing stated herein should be taken as an opinion expressed by us on any of the issues raised before us by either of the parties. No costs.

Sd/-
Justice N.K.Sodhi
Presiding Officer

Sd/-
Samar Ray
Member

Sd/-
P.K. Malhotra
Member

