

**BEFORE THE SECURITIES APPELLATE TRIBUNAL  
MUMBAI**

**Appeal No.175 of 2012**

**Date of decision: 05.10.2012**

1. D&A Financial Services P. Limited
2. Dinesh R. Kaushik

H.O. & Regd. Office at  
13, Community Center,  
Second Floor, East of Kailash,  
New Delhi – 110 065.

...Appellants

Versus

Securities and Exchange Board of India  
SEBI Bhavan, Plot No. C-A, G-Block,  
Bandra Kurla Complex,  
Mumbai – 400 051.

... Respondent

Mr. Dinesh Agnani, Senior Advocate with Ms. Leena Tuteja, Advocate for Appellants.

Mr. Shiraz Rustomjee, Senior Advocate with Mr. Mobin Shaikh, Advocate for the Respondent.

CORAM : P. K. Malhotra, Member & Presiding Officer (*Offg.*)  
S. S. N. Moorthy, Member

Per : P. K. Malhotra (Oral)

Appellant no.1 in this appeal is a merchant banker. It acted as book running lead manager to the public issue of Brooks Laboratories Limited (the company).

Appellant no.2 is one of the Directors of the appellant-company.

2. The Securities and Exchange Board of India (the Board) carried out an investigation into the IPO issue of the company and found certain irregularities committed by the appellants. Therefore, by an ex-parte ad-interim order dated December 28, 2011, it restrained the appellants from taking up any new assignment or involvement in any new issue of the capital including IPO, the follow-on issue, etc. from the securities market in any manner whatsoever till further directions. The said ex-parte ad-interim order was also treated as a show-cause notice and the appellants

were afforded an opportunity to file their reply. A personal hearing was also granted on February 27, 2012. Since no order was passed by the Board after the personal hearing, the appellants approached this Tribunal for setting aside the impugned order. The grievance of the appellants is that the Board has not passed any order thereafter and the appellants are deprived of continuing their business although there is no material evidence on record to prove the charges as alleged in the ex-parte ad-interim order. During the pendency of the appeal, the Board passed an order on September 5, 2012 confirming the ex-parte ad-interim order. We, therefore, permitted the appellants to amend the appeal challenging the order dated September 5, 2012 also.

3. We have heard learned senior counsel for the parties for some time. We find that the matter is still at the investigation stage. While passing the interim order on September 5, 2012, the whole time member of the Board has considered the submissions made before him. Therefore, we are not inclined to intervene in the matter at this stage.

4. Learned senior counsel for the Board very fairly stated before us that the Board will complete its investigation qua the appellants by November 30, 2012 and if need be, take further action within a month thereafter.

5. On that understanding, we dispose of the appeal with a direction to the Board to complete the investigation, qua the appellants, by November 30, 2012. In case the investigation is not completed by that date, interim order qua the appellants shall stand vacated. No costs.

Sd/-  
P. K. Malhotra  
Member &  
Presiding Officer (*Offg.*)

Sd/-  
S.S.N. Moorthy  
Member

05.10.2012  
Prepared & compared by-ddg