BEFORE THE SECURITIES APPELLATE TRIBUNAL MUMBAI

Order Reserved On: 23.06.2016
Date of Decision : 30.06.2016

Appeal No. 113 of 2014

Sumeet Industries Limited
504, Trividh Chambers,
Opp. Fire Station, Ring Road,
Surat, Gujarat- 395 002 …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

WITH
Appeal No. 114 of 2014

1. Shankarlal Somani
2. Raj Kumar Somani
3. Bajranglal Somani
   504, Trividh Chambers,
   Opp. Fire Station, Ring Road,
   Surat, Gujarat- 395 002 …Appellants

Versus

Securities and Exchange Board of India,
SEBI Bhavan, Plot No. C-4A, G-Block,
Bandra-Kurla Complex, Bandra (East),
Mumbai -400 051 …Respondent

WITH
Appeal No. 115 of 2014

1. Sumeet Kumar Somani
2. Mahesh Kumar Somani
   504, Trividh Chambers,
   Opp. Fire Station, Ring Road,
   Surat, Gujarat- 395 002 …Appellants

Versus

Securities and Exchange Board of India,
SEBI Bhavan, Plot No. C-4A, G-Block,
Bandra-Kurla Complex, Bandra (East),
Mumbai -400 051 …Respondent

AND
Appeal No. 116 of 2014

1. Somani Overseas Ltd.
   306, Nilkanta Apartments,
   Near Umrajakat Naka Athwa Lines,
   Surat- 395 002

2. Sumeet Menthol Pvt. Ltd.
   504, Trividh Chambers,
   Opp. Fire Station, Ring Road,
   Surat, Gujarat- 395 002

3. Sumeet Silk Processors Pvt. Ltd.
   504, Trividh Chambers,
   Opp. Fire Station, Ring Road,
   Surat, Gujarat- 395 002

4. Sitaram Prints Pvt. Ltd.
   306, Nilkanta Apartments,
   Near Umrajakat Naka Athwa Lines,
   Surat- 395 002

5. Ambaji Syntex Pvt. Ltd.
   504, Trividh Chambers,
   Opp. Fire Station, Ring Road,
   Surat, Gujarat- 395 002

6. Urmila Sunder
   129, Sarjan Society,
   Umrajakat Naka Parle Point,
   Surat- 395 002

7. Ganga Somani
   12, Keshav Park Society,
   Parle Point,
   Surat- 395 002

8. Sumandevi Somani
   37, Ghod Dod Road,
   Surat- 395 002 …Appellants

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. Paras Parekh and Mr. Dhaval Kothari, Advocates i/b. J. Sagar Associates for Appellants.

Mr. Shyam Mehta, Senior Advocate with Mr. Saurabh Bacchawat and Mr. Hitesh Mutha, Advocates i/b K. Ashar & Co. for the Respondent.

CORAM: Justice J.P. Devadhar, Presiding Officer
Dr. C.K.G. Nair, Member

Per: Justice J.P. Devadhar

1. Appellants in these four appeals are aggrieved by the common order passed by the Adjudicating Officer ("AO" for short) of Securities and Exchange Board of India ("SEBI" for short) on 20.02.2014. By the said order penalty is imposed on each appellant under Section 15HA of the Securities and Exchange Board of India Act, 1992 ("SEBI Act" for short) totally aggregating to ₹ 17,92,00,000/- on ground that the appellants have violated the provisions contained in the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 ("PFUTP Regulations" for short) read with Section 12A of the SEBI Act.

2. It is not in dispute that in respect of the very same violations committed by the appellants herein, the Whole Time Member ("WTM" for short) of SEBI passed an order against the appellants on 21.05.2014 under Section 11 & 11B of the SEBI Act. The said order was challenged by appellants by filing appeals before this Tribunal. By our two separate orders passed today in Appeal No. 224 of 2014 and Appeal No. 225 of 2014 we have upheld the decision of WTM of SEBI that Sumeet Industries Ltd. ("SIL" for short) in concert with Mr. Purshottam

Khandelwal had resorted to inflating the price of SIL and therefore the trades executed by the promoters of SIL were fraudulent and manipulative trades and consequently, the unlawful gains made by the promoters of SIL are liable to be disgorged. We have also upheld the restraint order passed against SIL and its two directors. However, we have found fault with the quantum of unlawful gains computed by the WTM of SEBI and therefore, we have, inter alia, quashed the quantum of unlawful gains quantified by the WTM of SEBI and restored the matters for re-computing the unlawful gains.

3. As the decision of the WTM of SEBI that the appellants have violated the provisions contained in the PFUTP Regulations is upheld by us, arguments to the contrary, advanced by the appellants in these appeals cannot be sustained. However, argument of the appellants that the penalty imposed by the AO against the appellants is not commensurate with the violations allegedly committed by each appellant deserves consideration.

4. In the impugned order, the AO has not discussed the basis on which the quantum of penalty has been fixed on each individual. Since the basis for determining the quantum of penalty on each appellant is not set out in the impugned order, it is not possible to answer the question as to whether the penalty imposed is commensurate with the violations committed by each appellant.

5. Apart from the above, since the decision of the WTM of SEBI in relation to the quantum of illegal gains made by each appellant is set aside and restored for fresh decision, in our opinion, it would be just and proper to quash and set aside the impugned order passed by the AO and restore the matter for fresh decision on merits and in accordance with law.

6. Accordingly, for the reasons stated hereinabove, we set aside the impugned order passed by the AO on 20.02.2014 and direct the AO to pass fresh order on merits and in accordance with law.

7. All four appeals are disposed of in the above terms with no order as to costs.

Sd/-
Justice J.P. Devadhar
Presiding Officer

Sd/-
Dr. C.K.G. Nair
Member

30.06.2016
Prepared & Compared By: PK