

BEFORE THE SECURITIES APPELLATE TRIBUNAL  
MUMBAI

**Date of Decision : 16.06.2016**

**Misc. Application No. 127 of 2016  
And  
Appeal No. 182 of 2016**

1. Sharmila Raj Thackeray  
Flat No. 1, 3<sup>rd</sup> Floor,  
Krishna Kunj, M.B. Raut Road,  
76, Shivaji Park Scheme,  
Dadar (West),  
Mumbai – 400 028.
2. Swati Sandesh Mayekar  
218, Madhusheela,  
Bandra Band Stand,  
Bandra (West),  
Mumbai – 400 050.
3. Sandesh Madhukar Mayekar  
218, Madhusheela,  
Bandra Band Stand,  
Bandra (West),  
Mumbai – 400 050.
4. Shivani Sandesh Mayekar  
218, Madhusheela,  
Bandra Band Stand,  
Bandra (West),  
Mumbai – 400 050.
5. Sunetra Gangadher Limaye  
169/D, Laxmi Niwas,  
Dr. Ambedkar Road,  
Dadar (East),  
Mumbai – 400 014.
6. Rajan Hemchandra Gupte  
Rajdeep, 143, Lt Dilip Gupte Road,  
Mahim,  
Mumbai – 400 016.
7. Arun Sadashiv Bhide  
A-3/6, Satya Darshan Society,  
Malpa Dongri Road No. 3,  
Andheri (East),  
Mumbai – 400 093.
8. Madhav Gangadhar Natu  
20, Avishkar, 3 Mahant Road,  
Vile Parle (East),  
Mumbai – 400 057.

9. Shilpa Rajan Gupte  
Rajdeep, 143, Lt Dilip Gupte Road,  
Mahim,  
Mumbai – 400 016.
10. Vibha Ajit Vaze  
8,9, Meghdoot, S.H. Paralkar Marg,  
Shivaji Park, Dadar (West),  
Mumbai – 400 028.
11. Ajit Mahadev Vaze  
8,9, Meghdoot, S.H. Paralkar Marg,  
Shivaji Park, Dadar (West),  
Mumbai – 400 028.
12. Vidya Vinayak Wagle  
D-202, Shiv Parvati Society,  
Chincholi Bunder Road,  
Malad (West),  
Mumbai – 400 064.
13. Felicila Lobo  
Genesis Villa, St. Francis Av.  
Santacruz (W),  
Mumbai – 400 054.
14. Prodigy Finvest Pvt Ltd.  
169/A, Mayur Niwas,  
Dr. Ambedkar Road,  
Dadar (East),  
Mumbai – 400 014.

...Appellants

Versus

1. Securities and Exchange Board of India,  
SEBI Bhavan, Plot No. C-4A, G-Block,  
Bandra-Kurla Complex, Bandra (East),  
Mumbai – 400 051.
2. SMC Global Securities Limited  
11/6B, Shanti Chamber,  
Pusa Road,  
New Delhi – 110005  
and also having address at  
1<sup>st</sup> Floor, Dheeraj Sagar Building,  
Opp. Goregaon Sports Complex,  
Link Road, Malad (West),  
Mumbai – 400 064.
3. Sunchan Securities Limited  
(Official Liquidator of Bombay High Court)  
Bank of India Building, Fort,  
Mumbai.

4. Sunil Mansinghani  
18/4, Navjivan Society,  
Mori Road, Mahim,  
Mumbai – 400 016.
  5. National Stock Exchange of India Ltd.  
Exchange Plaza, Plot No. C/1,  
G Block, Bandra Kurla Complex,  
Bandra (E),  
Mumbai – 400 051.
- ...Respondents

Mr. Zal Andhyarujina, Advocate with Ms. Shruti Sardesai, Advocate for Appellants.

Mr. Kumar Desai, Advocate with Mr. Manish Acharya i/b Vigil Juris for Respondent No. 1.

Mr. Prakash Shah, Advocate for Respondent No. 2.

None for Respondent No. 3.

Ms. Dhvani Mehta, Advocate for Respondent No. 4.

None for Respondent No. 5.

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

Per : J.P. Devadhar (Oral)

1. Appellants have filed the above appeal (with Misc. Application seeking condonation of delay) to challenge the order passed by the Whole Time Member ('WTM' for short) of Securities and Exchange Board of India ('SEBI' for short) on August 2, 2013. By the said order SMC Global Securities Limited (Respondent No. 2) has been prohibited from taking up any new assignment or contract or launch a new scheme for a period of three months.

2. Grievance of the appellants is that they had invested funds / securities through the Respondent No. 3 as their Trading Member, whose clearing member was Respondent No. 2, with a view to trade / deal in securities. It is the case of the appellants that Respondent Nos. 2, 3 & 4 in connivance with

each other have fraudulently utilized the funds / securities belonging to the appellants for their own gains and thus made unlawful gains for themselves to the detriment of the appellants. It is the case of the appellants that in the impugned order, the WTM of SEBI instead of restraining the Respondent No. 2 from taking up any new assignment for three months ought to have cancelled the Registration Certificate of Respondent No. 2 as a clearing member and further directed the Respondent No. 2 to disgorge the wrongful gains with 18% interest. Accordingly the appellants want that this Tribunal to modify the impugned order.

3. It is relevant to note that the appeal filed by Respondent No. 2 against the impugned order being Appeal No. 152 of 2013 has been dismissed by this Tribunal on January 31, 2014 and thus the impugned order has attained finality.

4. Apart of the above, reliefs claimed in the present appeal, in fact, amounts to seeking enhancement / substitution of the order passed by WTM of SEBI.

5. Jurisdiction of this Tribunal u/s. 15T of the Securities and Exchange Board of India Act, 1992 is restricted to confirm, modify or setting aside the order appealed against and does not extend to enhancing or substituting the order passed by SEBI.

6. In these circumstances, counsel for the appellants seeks to withdraw the Misc. Application as also the appeal with liberty to move SEBI by way of an application seeking redressal of grievances which remain to be redressed even after the passing of the impugned order.

7. Accordingly, we permit the appellants to withdraw the Misc. Application as also the appeal with liberty to the appellants to move an

application before SEBI seeking redressal of their grievances. If the appellants make an application to SEBI within two weeks from today, then, SEBI shall consider the said application and pass appropriate orders thereon in accordance with law, preferably within six weeks thereafter.

8. Both the appeal and the Misc. Application 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

16.06.2016  
Prepared and compared by:  
msb