

BEFORE THE SECURITIES APPELLATE TRIBUNAL  
MUMBAI

**Order Reserved: 18.1.2021**

**Date of Decision: 26.4.2021**

**Appeal No.213 of 2018**

Gajendra Nagpal  
H. No.1932, Sector-28,  
Faridabad PIN-121008  
(Haryana)

...Appellant

Versus

Securities and Exchange Board of India  
SEBI Bhavan, Plot No.C4-A,  
'G' Block, Bandra-Kurla Complex,  
Mumbai – 400051.

...Respondent

Mr. Somasekhar S., Advocate with Mr. Abhishek V., Mr.  
Joby Mathew and Mr. Anshuman Sugla, Advocates i/b.  
Joby Mathew and Associates for the Appellant.

Mr. Kumar Desai, Advocate with Mr. Abhiraj, Advocate  
i/b. ELP for the Respondent.

**With**  
**Misc. Application No.227 of 2018**  
**And**  
**Appeal No.215 of 2018**

1. Sonia Nagpal  
H. No.1932, Sector-28,  
Faridabad PIN-121008  
(Haryana)

2. I360 Staffing and Training Solutions

Private Limited

1st Floor, DLF Industrial Area,  
Najafgarh Road, Moti Nagar,  
New Delhi – 110015.

...Appellants

Versus

Securities and Exchange Board of India

SEBI Bhavan, Plot No.C4-A,  
'G' Block, Bandra-Kurla Complex,  
Mumbai – 400051.

...Respondent

Mr. Somasekhar S., Advocate with Mr. Abhishek V., Mr. Joby Mathew and Mr. Anshuman Sugla, Advocates i/b. Joby Mathew and Associates for the Appellant.

Mr. Kumar Desai, Advocate with Mr. Abhiraj, Advocate i/b. ELP for the Respondent.

CORAM: Justice Tarun Agarwala, Presiding Officer  
Justice M.T. Joshi, Judicial Member

Per : Justice M.T. Joshi, Judicial Member

1. Aggrieved by the order of the learned Whole Time Member ('WTM' for short) of Securities and Exchange Board of India (hereinafter referred to as 'SEBI') dated 15<sup>th</sup> March, 2016 prohibiting the present appellants from accessing the securities market, in any manner, for a period of 10 years from the date of

passing of the earlier ex-parte interim order dated 26<sup>th</sup> May, 2014 the present appeals are filed.

Delay in filing Appeal no. 215 Of 2018 is condoned.

2. The record would show that the proceedings were initiated against 20 noticees which included companies/entities floated by the appellant Mr. Gajendra Nagpal and another noticee Mr. Ram Mohan Gupta, the Company I360 Staffing and Training Solutions Private Limited (hereinafter referred to as 'I360 STS') in which another appellant Smt. Sonia Nagpal alongwith her deceased mother Smt. Kaushal Kumari Nagpal were the partners. (appeal filed by Smt Kaushal abated upon her death). The rest of the noticees against whom similar common order was passed by the WTM did not prefer any appeal.
3. The order would show that various omissions and commissions in defrauding the investors, diverting their funds and carrying various acts against the provisions of the securities laws were alleged.

4. The essence of the defence of the appellant Mr. Gajendra Nagpal is that he is not at all responsible for any of the misconduct as none of the acts can be attributed to him when he was at the helm of the affairs of the Unickon Securities Private Limited (hereinafter referred to as 'Unickon Securities' noticee no.1). It is the stock broker entity of which appellant Mr. Gajendra Nagpal as well as another noticee Mr. Ram Mohan Gupta were the director and promoter till 6<sup>th</sup> September, 2013. It is a common ground that in view of the dispute between them appellant Mr. Gajendra had resigned and sold shares to Mr. Ram Mohan Gupta with effect from 6<sup>th</sup> September, 2013. It was also urged on behalf of appellant Sonia that she did not indulge in any fund diverting activity of the Unickon Securities and, therefore, respondent SEBI had no jurisdiction over any financial activities carried by I360 STS of which she was the Director. The learned WTM however did not agree with the submissions and,

therefore, the impugned order was passed. Hence the appeal.

5. Heard Mr. Somasekhar Sundaresan, Advocate assisted by Mr. Abhishek V., Mr. Joby Mathew and Mr. Anshuman Sugla, Advocates for the Appellant and Mr. Kumar Desai, Advocate assisted by Mr. Abhiraj, Advocate for the Respondent.

6. It is an admitted fact that Unickon Securities is a company registered with SEBI according to the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992 (hereinafter referred to as 'Stock Brokers Regulations'). Besides this it is also a Depository Participant and was stock broker with National Stock Exchange of India Ltd, BSE Ltd., Multi-Commodities Exchange of India Ltd., Central Depository Services Ltd. etc.

From January, 2014 SEBI started receiving numerous complaints from investors regarding non receipt or delay in payment of funds and securities. Accordingly, SEBI undertook an enquiry, and ex-parte ad-interim

directions were issued on 26<sup>th</sup> May, 2014. Upon hearing the parties, the said interim order was confirmed on 2<sup>nd</sup> March, 2015 and lastly the final order proceedings were undertaken in which the impugned order is passed.

7. The summary of the allegations against the appellant and other noticees is as under :-

- i. Unickon Securities had fraudulently transferred client securities to other group entity - Unickon Fincap Private Limited (other noticees). The securities were subsequently pledged with various financiers. Funds were raised from these activities which were transferred to group companies. All these activities were done in violation of Section 12A(b) and (c) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as 'SEBI Act') and Regulation 3(a) and (d) and Regulation 4(1) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market)

Regulations, 2003 (hereinafter referred to as 'PFUTP Regulations').

- ii. Unickon Securities in violation of Rule 8(1)(f) of the Securities Contracts (Regulations) Rules, 1957, Section 12(1) of the SEBI Act, Regulations 9(6) and (f) of the Stock Brokers Regulations, Clauses A(3) and A(S) of the Code of Conduct for Stock Brokers specified under Schedule II read with Regulation 9 of Stock Brokers Regulations had earned interest from Inter Corporate Deposits which constituted more than fifty percent of its total operating income for the financial years 2011-12 and 2012-13 which is an illegal fund based activity.
- iii. Unickon Securities has mis-utilised clients' funds and securities by diverting the same for its own utilization and its Group Companies in violation of Section 12(1) of the SEBI Act, Regulations 9(6) and (f) of the Stock Brokers Regulations, SEBI Circulars No.MRD/DoP/SE/CIR-11/2008 dated April 17, 2008 and No. CIR/MRD/DMS/13/2010 dated April

23, 2010, respectively, Clauses A(1)-(3) and A(S) of the Code of Conduct for Stock Brokers specified under Schedule II read with Regulation 9 of Stock Brokers Regulations.

iv. Unickon Securities had allegedly extended margin trading facility to its clients without any approval from any recognised stock exchange as specified in the SEBI Circular No. SEBI/MRD/SE/SU/Cir-15/04 dated March 19, 2004. Allowing these clients further exposure in spite of debit balances had also allegedly violated SEBI Circular No. SEBI/MRD/SE/SU/Cir-15/04 dated March 19, 2004, Clauses A(1)-(3) and A(S) of the Code of Conduct for Stock Brokers specified under Schedule II read with Regulation 9(f) of Stock Brokers Regulations.

v. Unickon Securities failed to settle the clients' funds and failed to provide statements of transaction in securities in violation of Clause 12 of the SEBI Circular No. MIRSD/SE/Cir-19/2009 dated December 3, 2009, Clause 33 of Rights and



Obligations document for Stock Broker, Sub-Brokers and Clients specified in SEBI Circular No. CIR/MIRSD/16/2011 dated August 22, 2011, Clauses A(1)-(3) and A(S) of the Code of Conduct for Stock Brokers specified under Schedule II read with Regulations 9(6) and 9(f) of Stock Brokers Regulations, Regulation 20(2)(6) of the Depository and Participants Regulations, Clause 1 and 3 of Code of Conduct for Depository Participants under Regulation 20AA of the Depository and Participants Regulations, Regulation 43 of the Depository and Participants Regulations and SEBI Circular No. CIR/MRD/DP/37/2010 dated December 14, 2010.

- vi. Unickon Securities failed to segregate its fund from those of its clients in violation of SEBI Circular No. SMD/SED/CI/93/23321 dated November 18, 1993, Circular No.MRD/DoP/SE/CIR-11/2008 dated April 17, 2008 and Clause 15 of Rights and Obligations document for Stock Broker,

Sub-Brokers and Clients specified in SEBI Circular No.CIR/MIRSD/16/2011 dated August 22, 2011.

- vii. Unickon Securities failed to ensure that periodic internal audit were conducted of its operations and have thus violated SEBI Circular No. MIRSD/DPSIII/Cir-26/08 dated August 22, 2008 and Circular No. MRD/DMS/Cir-29/2008 dated October 21, 2008.
- viii. Further appellant Mr. Gajendra Nagpal and another noticee Mr. Ram Mohan Gupta entered into a Share Purchase Agreement dated September 2, 2013 and thus the management and control of Unickon Securities was changed. However no prior approval was obtained from SEBI in this regard in violation of Section 12(1) of the SEBI Act, Regulations 9(b) and (c) of the Stock Brokers Regulations; Regulations 20(2)(b) and 20(2)(ca) of the Depository and Participants Regulations.
- ix. Unickon Securities failed to redress investors'/ clients' complaints including the complaints which

pertained to period prior to the Settlement Agreement between the appellant and Mr. Gajendra Nagpal and Mr. Ram Mohan Gupta and has therefore alleged to have violated Regulations 9(b), (e) and (f) of the Stock Brokers Regulations; Regulations 20(2)(b), 20(2)(e) and 53B of the Depository and Participants Regulations and Clauses I, 2(d), 3 and 5 of the Code of Conduct for Depository Participants under Regulation 20AA of the Depository and Participants Regulations.

x. This allegation pertains to the another noticee Compliance Officer of Unickon Securities Mr. Neeraj Grover regarding non-compliance of the above mentioned regulatory provisions.

8. Appellant Mr. Gajendra Nagpal denied the allegations. His reply to the show cause notice in short was as under:

9. That for the period of 2005 to 2011 he was at the helm of the affair of Unickon Securities. During that period there was no unaddressed complaint or non-

compliance of any other provisions. However, in January, 2012 private equity investors appointed their own man Mr. S. Krishnaswami as the CEO. It was also decided that for each company independent CEO would be put and the same decision was carried with effect from August, 2012. Till June, 2013 there was no pending complaint. On 6<sup>th</sup> September, 2013 he sold his entire stake to Mr. Ram Mohan Gupta. Mr. Gupta, however, may have later on indulged into the illegal activities and the appellant is being made the victim of his acts. So far as transaction with I360STS is concerned it was a loan contract between this entity and Unickon Fincap and not Unickon Securities and, thus, the transaction has nothing to do with the securities laws. He himself or any of his family members did not derive any economic benefit from any transaction. In fact Unickon Securities had received more than Rs.29.27 crores from Unickon group of companies and, therefore, there was no loss to the investors. Shri Ram Mohan Gupta became the CEO of

Unickon Real Estate (one of the notice) in August, 2012 and since then Unickon Real Estate has to collect Rs.93 crores from 149 builder till June, 2012. No list of unsatisfied claimant is provided by respondent SEBI to them which would show that during his tenure any complaint was received.

10. I360STS of which appellant Smt. Sonia was one of the director alongwith her mother submitted that I360STS as well as appellant Smt. Sonia Nagpal had merely transacted in the share market through Unickon Securities-the stock broker.. This entity had obtained a loan from Unickon Fincap and write off some loan was made by Unickon Fincap. In the circumstances, Unickon Securities had nothing to do with all these activities inviting any jurisdiction of respondent SEBI in this matter.

11. The learned WTM had given inspection to appellant Mr. Gajendra Nagpal of the documents like reply to the show cause notice given by Mr. Ram Mohan Gupta, Unickon Securities and other entities

alongwith the documents provided by the company and thereafter a hearing was undertaken.

12. Upon hearing both the sides, the learned WTM came to the conclusion that appellant Mr. Gajendra as well as Mr. Ram Mohan Gupta were in the game of blaming each other for the activities. In fact documents obtained/supplied by Unickon Securities clearly showed that both appellants were responsible for the misconducts as detailed supra and, therefore, the impugned order came to be passed.

13. Mr. Somashekhar Sundaresan, the learned counsel for the appellant submitted before us as under.

14. That some of the charges levelled by respondent SEBI clearly pertains to the period after 6<sup>th</sup> September, 2013 i.e. the date when appellant Mr. Gajendra Nagpal ceased to be a Director. He has listed those charges like failure to carry out clients' funds and securities on the ground that the charge is relating to a period "from September, 2013 onwards". Second charge of failure to carry out a periodic audit for the half year ended

September 30, 2013 also relates to be same subsequent period. Third charge of failure to obtain approval arising out of change in control of Unickon Securities also pertain to the subsequent period of appellant Mr. Gajendra Nagpal leaving the Unickon Securities and putting Mr. Ram Mohan Gupta at the helm of the affairs. He claimed that infact the then Compliance Officer had alerted Mr. Ram Mohan Gupta on the need of approval which can be found from the statement of the then Compliance Officer Mr. Neeraj Grover - the another noticee. The next of charge regarding non-redressal of investor grievances within 30 days of receipt of the same and non-cooperation with Investor Redressal Grievance Committee pertains to the subsequent period as the show cause notices itself shows that those were received during the period from January, 2014 onwards.

15. As regards the defaults alleged to have occurred during the appellant's tenure as Director- Promoter, he submitted that so far as alleged fund based activity is

concerned the income from deposits from the year 2011-12 was only Rs.2.39 crores and for 2012-13 it was Rs.4.83 crores as can be seen from the annual report of the company. It should be seen in the light of the total income from the broking operation of these years as can be seen from the very annual report. Therefore, according to him the income from deposits did not constitute 50% of the income from broking operation and, therefore there was no violation of any regulation.

As regards the charge of pledge of client securities without their consent he submitted that not only the charge is very vague but the impugned order refers to such activities from June, 2012 onwards. However, all the transfers right from February 12, 2008 till 2016 are clubbed in the charge. He further submitted that regular authorized pledge transactions were there between the clients and Unickon Fincap. However, no details of any unauthorised pledge transactions are given and, thus, the charge cannot be sustained.



According to him, Unickon Securities was subject to regular audit and inspection by both the stock exchanges and no such unauthorised pledging of client securities was found in the inspection. Mr. Ram Mohan Gupta in his statement before SEBI had contended that due to technical failure of the database he was unable to view details of pledged transactions for the period from September, 2012 to March, 2013. Thus, the details being not available no conclusion could have been drawn in this regard by the learned WTM. No details about the applications allegedly made by clients could be supplied by respondent SEBI even when those were sought by the appellant under right to information. Further, the appellant was handicapped as the documents and record are and were under the control of Mr. Ram Mohan Gupta since September, 2013. Further all the fund transfer between April, 2012 to October, 2014 between Unickon Securities and Unickon Fincap have been blamed without any basis. Vague allegations were made

regarding fund transfer including client's funds transferred by Unickon Securities without identifying as to whether those were based on authorised or unauthorised pledge of securities. There was surplus funds to the tune of Rs.29 crores with Unickon Securities as per the impugned order itself and thus the funds received by Unickon Securities exceeded the funds transferred by it to Unickon Real Estate. The details of the same are given. This fact of having surplus funds has been confirmed by National Stock Exchange in an affidavit filed before the Patiala House Court. As regards the charge that Unickon Securities indulged in margin funding without approval of the stock exchange it was submitted that there was no margin funding at all by Unickon Securities. In fact funding was provided by Unickon Fincap which is a registered NBFC (group company of Unickon Securities) from its own funds which was found by BSE Ltd. in its inspection report. In these circumstances, there was no question of seeking any

approval of the exchanges for margin funding by Unickon Securities. The charge of non segregation of funds of Unickon Securities from that of its clients is belied by the finding in the impugned order itself that there were separate business accounts of the Unickon Securities and client's bank accounts.

He further submitted that it was wrongly observed in the impugned order that appellant Smt. Sonia Nagpal was key managerial personnel of Unickon Securities. The transaction between I360STS of which appellant Sonia was Director and Unickon Fincap is totally separate from any activity with Unickon Securities and, therefore, no fault regarding the same can be found. In the circumstances he submitted that appeal be allowed.

16. Mr. Kumar Desai, the learned counsel for the respondent submitted that all those all the charges are supported by the documentary evidence collected by respondent SEBI or submitted by Unickon Securities before the learned WTM. The annual reports, financial

statements and auditor's reports clearly showed that all the illegal activities were held long before the appellant left Unickon Securities and other group companies. However, the complaints started pouring only thereafter. Therefore, the learned counsel submitted that the appeal be dismissed.

17. Upon hearing both the sides in our view both the appeals are liable to be dismissed for the following reasons.

18. The main allegation against the appellant so also with other noticees was misuse of clients' securities by Unickon Securities itself or through its NBFC arm Unickon Fincap. Both these entities were held by Unickon Financial Intermediaries P. Ltd. Appellant Mr. Gajendra Nagpal as well as Mr. Ram Mohan Gupta were the promoter and had majority shareholding in the parent entity Unickon Financial Intermediaries P. Ltd. Both were controlling all the subsidiaries. Only from September, 2013 Mr. Ram Mohan Gupta became the controlling authority in view

of the resignation and selling of shares by appellant Mr. Gajendra Nagpal. In these circumstances, a detailed analysis of the fund transfer and the transfer of the securities of the client has been made in the impugned order vide paragraph no.6.

For the purposes of analysing the fund transfer the learned WTM relied not only on the statements of the Unickon Securities or other personnel but also on the annual reports, bank statements and the then auditors' report. All these documents would show that since the year 2008 till the crunch of finance ultimately opened the lid these activities were continuing. Though it is the defence of the appellant Mr. Gajendra Nagpal that the client's securities were transferred to the Unickon Fincap, the NBFC arm, on the basis of instructions of the clients, it is equally crystal clear that the securities were also transferred to the Unickon Securities itself which were eventually encashed by Unickon Securities and were used for funding various subsidiaries that is the other noticees during this period. The record

showed that Unickon Securities pledged its clients' securities upon transfer to its own account to various financial services initially through Unickon Fincap. Later on even without the consent of the clients the said activity was done. From June, 2012 onwards however a cash crunch was faced by Unickon Securities due to the mismatch between its clients' financial ledger account and clients' available bank account balance. In the circumstances, securities of the clients who had not even entered into an agreement for pledging facility were also pledged without the knowledge and consent of such clients. This pledging of securities was carried out without any pre-defined period and the clients' were not aware as and when such securities were released from the pledge. Not only this Unickon Securities transferred some of the clients' securities to its own account as is borne by the account statement of the client beneficiary account from February 8, 2008 to January, 2015. Unickon Securities had no proprietary trading and, therefore,

there could not have any occasion for it to transfer client's securities to its own account. The transactions that have occurred in various stages in this regard are analysed in detail by the learned WTM in the said paragraph. Many of the securities were transferred to and fro through off market transactions from Unickon Fincap account NSDL demat account to this other NSDL demat account or between NSDL account and CDSL account. These transfers and pledge of securities has been illustrated by a diagram in the impugned order. The information received from various banks and the financial institutions as detailed in the order reveals that the pledge were later on invoked by those institutions and the securities pledged with them were sold.

19. More particularly the transfer of securities from the clients' beneficiary account to Unickon Securities own other demat account are also detailed in the order. It is pertinent to note that the funding activity provided to the clients' securities by Unickon Fincap was carried

without any approval of any of the exchanges. The fact is highlighted in the inspection report of the BSE Ltd. dated 20<sup>th</sup> May, 2014. It was further found that the funds were raised by Unickon Securities by unauthorised transferring and pledging clients' securities with ICICI Bank and some with third party financier through Unickon Fincap. The funds received from the same were subsequently transferred to group companies, associate companies and subsidiaries of Unickon Financial Intermediaries P. Ltd. Client ledger balance dated 5<sup>th</sup> March, 2014 showed that the next credit balance payable to the clients of Unickon Securities has risen to Rs.15.47 crores by that time. Unickon Securities bank balance was negative Rs.13.99 crores due to the availing of overdraft. In the result, Unickon Securities had no requisite funds for making payment to its clients. Ultimately it was declared as defaulter by the exchanges and was accordingly dealt with.



20. The learned WTM has relied on the balance sheet of Unickon Securities for the financial year 2011-12 and 2012-13 to hold that Unickon Securities had got transferred funds from its clients' bank account to its business bank accounts. Additionally vide a letter dated 7<sup>th</sup> November, 2014 Unickon Securities submitted additional information in this regard for transactions that is between 2012 to 2014. The transfer was around Rs.175.10 crores out of which Rs.102 crores were transferred to Unickon Real Estate - another subsidiary, bank and other noticees. The fund transfer is explained by the learned WTM by various tables for each of the financial years that is 2012-13, 2013-14 and onwards.

21. The annual report of Unickon Securities for the financial year 2012-13 revealed that outstanding amount with group companies of Unickon Securities was around Rs.42 crores. These subsidiaries were facing severe working capital crunch and, therefore, these funds were transferred. The bank account

analysis of the Unickon Securities also affirmed these facts.

Annual reports of Unickon Securities for the financial years 2013-13 and 2013-14 showed the revenue consisting of income generated from operations and also from interest on inter-corporate deposits and interest on fixed deposits made with these subsidiaries.

On the basis of these annual report, the learned WTM concluded that the interest income of Unickon Securities from other subsidiaries consistently rose year to year from 55% of its total income to 95% in the year 2013-14. Thus, the major portion of the operating income was the interest on inter-corporate deposit and fixed deposit against the provisions of the securities laws detailed supra.

The details of the fund transfer are also given by the learned WTM in the impugned order on the basis of bank account statements of the other subsidiaries like Unickon Real Estate. Rs.1.22 crores was used for purchase of securities by Unickon Real Estate in the

month of April and May, 2012. However, the information obtained by respondent SEBI from the seller namely, Delhi Land and Finance showed that Unickon Real Estate never purchased any property. However, the property was booked in the name of Unickon Real Estate or other group companies of Unickon Securities.

22. All the above facts would show that the learned WTM on the basis of the documentary evidence before him came to the conclusion that Unickon Securities not only misused the client securities without the consent of the clients through Unickon Fincap but itself also transferred the securities in its own demat account and, thereafter the funds were used for various purposes of financing group companies through inter-corporate deposits, fixed deposits, generating the income (may be only in the books) much in excess than permitted.

23. As regards the transaction with I360STS of which appellant Ms. Sonia Nagpal and her mother were the only shareholders, the same would show that I360STS

owed an amount of approximately 19.50 crores to Unickon group of companies. However, the payments made to it were not reflected in the relevant balance sheet. The learned WTM, therefore, quoted the extract from the audit report submitted by DSFR & Co. in this regard. This extract would show that the modification in the record of the company were made during the year 2008-2011 as a result the company did not recognise provision in respect of bad and doubtful loan in this respect. The auditors had also highlighted that though the director of this company are related to the promoter this fact was not disclosed to the company as a part of the statutory declaration as required under the Companies Act. The loan was given for purchase of certain shares by I360STS. The amount however was not repaid and ultimately the same was written off. In this respect, the appellant Ms. Sonia Nagpal filed a bank statement to strengthen her case that Unickon Securities had nothing to do with these transactions. The learned WTM however observed that the bank

statements were incomplete and, therefore, vide summons dated 31<sup>st</sup> March, 2015 he directed her to provide complete details of the bank account of I360STS. However, the same information was never submitted. The learned WTM had observed that Ms. Sonia Nagpal was also key managerial person of Unickon Securities which fact is denied by her. The above record however clearly shows that I360STS was related party company of Unickon Securities. Therefore, in view of the said relationship the company was also under executive and financial control of the parent company i.e. Unickon Financial Intermediaries P. Ltd. The auditors' report revealed that the said relationship however was not disclosed either by appellant Mr. Gajendra Nagpal and/or by Mr. Ram Mohan Gupta. More particularly the loss in the trade was set off by debiting the accounts of Unickon Securities itself as well as Unickon Fincap though they had no connection to the said trade. Additionally, the books entries of interest income earned through

I360STS which were not recovered recognised as revenue by Unickon Securities itself as well as Unickon Fincap. The said outstanding dues were Rs.1950 as per the audit report.

24. In view of the above fact the submissions of the appellant Mr. Gajendra Nagpal that the learned WTM vaguely held that the client securities were misused for funding the activities of other group companies cannot be accepted.

25. The learned WTM has taken into consideration all the above detailed documentary evidence on record and correctly came to the conclusion on all these aspects.

26. As regards the other aspect that on September, 2013 Unickon Securities failed to carry actual periodic settlement of funds and securities of its client though technically would pertain to the period subsequent to the resignation of appellant Mr. Gajendra Nagpal, it is to be noted that it was an ultimate effect of the earlier transactions as detailed supra. As regard the failure to

have periodic audit from September, 2013 onward appellant Mr. Gajendra Nagpal cannot be blamed for the same and the learned WTM also did not categorically held him guilty on this count.

However, in view of the above finding regarding misuse of the clients securities, its unauthorised pledging, diverting the funds to the group companies ultimately resulted in Unickon Securities being declared as a defaulter and its clients driven to the take action for recovery of their dues would show that no fault can be found with the ultimate direction of the learned WTM.

27. In the result, the following order.

Both the appeals fail and are dismissed with no orders as to costs. Misc. application no.227 of 2018 is also disposed of accordingly.

28. The present matter was heard through video conference due to Covid-19 pandemic. At this stage it is not possible to sign a copy of this order nor a certified copy of this order could be issued by the

registry. In these circumstances, this order will be digitally signed by the Private Secretary on behalf of the bench and all concerned parties are directed to act on the digitally signed copy of this order. Parties will act on production of a digitally signed copy sent by fax and/or email.

Justice Tarun Agarwala  
Presiding Officer

Justice M.T. Joshi  
Judicial Member

26.4.2021  
RHN