

BEFORE THE SECURITIES APPELLATE TRIBUNAL  
MUMBAI

**Date of Hearing : 24.03.2022**

**Date of Decision : 15.06.2022**

**Appeal No. 584 of 2019**

1. Ameen Khwaja
2. Noorjahan A. Khwaja
3. Ashik Ali Khwaja
4. Rozina Hirani Khwaja
5. Shefali Ameen Khwaja
6. Shahid Khwaja

Flat No. 4B, H. No. 4-1-1233/4, 4<sup>th</sup> Floor,  
Subodaya Apartments, Besides Fernandez  
Hospital, Boggulakunta,  
Hyderabad – 500001.

..... 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. 696 of 2021**

1. Ameen Khwaja
2. Noorjahan A. Khwaja
3. Ashik Ali Khwaja
4. Rozina Hirani Khwaja
5. Shefali Ameen Khwaja
6. Shahid Khwaja

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

... Respondent

Mr. Kunal Kataria, Advocate with Mr. Ankur Loona, Ms. Aparna Wagle, Ms. Siddhi Somani, Advocates i/b Alliance Law for the Appellants.

Mr. Pradeep Sancheti, Senior Advocate with Mr. Abhiraj Arora, Ms. Anshu Mehta, Mr. Shourya Tanay, Mr. Harshvardhan Nankani, Advocates i/b ELP for the Respondent.

CORAM : Justice Tarun Agarwala, Presiding Officer  
Justice M. T. Joshi, Judicial Member  
Ms. Meera Swarup, Technical Member

Per : Justice M. T. Joshi, Judicial Member

1. Vide the impugned order dated August 13, 2019, the learned Whole Time Member (hereinafter referred to as 'WTM') of the respondent Securities and Exchange Board of India (hereinafter

referred to as 'SEBI') had restrained the present appellants from accessing the securities market, in any manner, for a period of three years and prohibited their association with any listed companies for the similar period and also directed the present appellant nos. 2 to 6 to disgorge the amount indicated in the table in paragraph no. 73 of the impugned order. Disgorged amount was already impounded vide interim order dated February 4, 2016, as regards the appellant no. 1 Ameen Khwaja however was directed to be released.

By another impugned order dated September 2, 2021 passed by the Adjudicating Officer (hereinafter referred to as 'AO') various penalties were imposed on the appellants.

2. Aggrieved by the adverse directions as detailed above, the present appeals are preferred. Facts narrated in the appeal no. 584 of 2019 are taken into consideration.

3. The appellants except appellant Ameen Khwaja alongwith other 9 entities were alleged to have violated the provisions of the Section 12A(d) and 12A(e) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as 'SEBI Act') and Regulation 3(i) and 3(ii) of the Securities and Exchange Board of

India (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as 'PIT Regulations, 1992') read with Regulation 12 of the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as 'PIT Regulations, 2015'). Appellant Ameen Khwaja was alleged to have violated all the above provisions except 3(i) of the PIT Regulations, 1992.

4. In essence, the allegations against the present appellants are that appellant nos. 1 Ameen Khwaja having Unpublished Price Sensitive Information (hereinafter referred to as 'UPSI') concerning Palred Technologies Ltd. (hereinafter referred to as 'PTL or the company') imparted the said information of the company to other appellants who traded in the stock of the company when in possession of said UPSI. Appellant Noorjahan A. Khwaja is the mother of the appellant Ameen Khwaja. Ashik Ali Khwaja is his father. Appellant Shefali Ameen Khwaja is his wife while appellant Shahid Khwaja is his brother and appellant Rozina Hirani Khwaja is his brother's wife.

5. The show cause notice covered two UPSIs. So far as the present appellants are concerned, allegations against them are

restricted to first UPSI which according to SEBI started from September 18, 2012 to August 10, 2013. The said UPSI was in respect of slump sale of software solution business of the company to one Kewill group. The next of the UPSI with which the appellant is not concerned is declaration of interim dividend of Rs. 29 per share as a result of the slump sale and reduction of the 50% of the capital of the company, etc. which came into existence on September 12, 2013 and continued till October 14, 2013.

6. The record would show that the company had executed a non-disclosure agreement (hereinafter referred to as 'NDA') on September 18, 2012 of slump sale of the software solution business to Kewill group. Vide the same NDA, Kewill group proposed to acquire the company's entire investments in the share capital of its foreign three subsidiaries for a lump sum cash consideration of USD 22.5 million. Besides this, the company agreed to transfer its entire investments in the share capital to those foreign subsidiaries. The aggregate consideration was of USD 43.13 million. The proposals were earlier put before the board of the company on August 10, 2013 and was approved. During the same meeting, the board of directors considered the utilization of the funds to distribute the

excess fund that would be lying with the company upon slump sale, to the shareholders, etc. Initial discussions were earlier held with notice no. 1 Palem Reddy, the managing director of the company and some other noticees (not the appellant). Thereafter, the above NDA came to be executed on September 18, 2012. Thereafter, other steps like sharing of information, visit of certain teams, etc. started and the corporate announcement about it was made on October 10, 2013.

7. Between September 18, 2012 to August 20, 2013, appellant nos. 2 to 6 transacted / principally purchased the shares of the company in the following manner.

	<b><i>18.09.2012 to 20.08.2013</i></b>	
	<b><i>Buy</i></b>	<b><i>Sell</i></b>
<i>Noorjahan A. Khwaja</i>	<i>120972</i>	<i>2456</i>
<i>Khwaja Ashik Ali</i>	<i>64193</i>	<i>0</i>
<i>Rozina Hirani</i>	<i>43014</i>	<i>0</i>
<i>Shefali Ameen Khwaja</i>	<i>45000</i>	<i>0</i>
<i>Shahid Khwaja</i>	<i>50822</i>	<i>0</i>

8. SEBI alleged that the above trading was made by the respective appellants on the basis of the information received by them from the appellant Ameen Khwaja being their near relatives as detailed (supra).

9. In so far as the appellant Ameen Khwaja's connection is concerned, annual report of the company PTL for the period 2012-13 showed that one Pal Premium Online Media Pvt. Ltd. (hereinafter referred to as 'POMPL') was an enterprise influenced by key managerial personnel or its relatives. Appellant Ameen Khwaja was the co-director-promoter of this POMPL alongwith another promoter and managing director of the present company PTL i.e. noticee no. 1 Palem Reddy. Further, POMPL had provided services to the present company PTL during September 2011 to May 2013 in the nature of search engine related services. On January 8, 2014 POMPL merged into the company PTL, discussion of which started on December 19, 2013. Further, on January 8, 2014, the present company PTL acquired a website from Premium Web Services Pvt. Ltd. (hereinafter referred to as 'PWSPL') wherein the appellant Ameen Khwaja was the director alongwith his parents. On the basis of these connections, SEBI alleged that the appellant Ameen Khwaja can be reasonably inferred to have the first UPSI with him,

which he parted with his other near relatives i.e. rest of the appellants and they ultimately traded when in possession of the said UPSI.

10. To buttress this inference, respondent SEBI alleged that four of the appellants except appellant Noorjahan Khwaja had opened trading account only during the relevant period i.e. between June 26, 2013 to July 12, 2013. Those appellants had not earlier traded at all in any scrip. So far as the appellant Noorjahan Khwaja is concerned, though she had traded in more than 70 scrips other than the company PTL, her maximum purchases value was Rs. 2.13 lacs. However, her trading in the scrip of the company was of Rs. 16.62 lacs. Appellant Noorjahan Khwaja did not trade in any scrip during the above period. Thus, within a short period of two and half months, this appellant group invested more than Rs. 49 lacs for 3,24,002 shares of PTL. The shares of the company PTL were not frequently traded scrip. They had bought 3,24,001 shares of the company PTL for a price of Rs. 49,25,124/- as can be seen from the above table for an average price of Rs. 15.20 having knowledge of the forthcoming slump share of the software division of the company.

11. The appellants denied the allegations. It was denied that the appellant Ameen Khwaja had any knowledge of UPSI or that the

appellants traded when in possession of the UPSI supplied by him. The learned WTM and the AO however did not agree with the submissions. Hence the present appeals.

12. We have heard Mr. Kunal Kataria, the learned counsel with Mr. Ankur Loona, Ms. Aparna Wagle, Ms. Siddhi Somani, the learned counsel for the appellants and Mr. Pradeep Sancheti, the learned senior counsel with Mr. Abhiraj Arora, Ms. Anshu Mehta, Mr. Shourya Tanay, Mr. Harshvardhan Nankani, the learned counsel for the respondent.

13. The appellants filed their replies to the show cause notice issued by the respondent SEBI. They submitted that SEBI has wrongly drawn an inference that the noticees were insiders and connected persons based on the fact that the appellant Ameen Khwaja was a common director with Mr. Palem Reddy who also happened to be managing director of the present company PTL. A person being a common promoter or common director in another company cannot be treated as an insider or connected person during the investigation period as per the provisions of the Regulation 2(c) and 2(e) of the PIT Regulations. The fact that appellant Ameen Khwaja participated in the discussion regarding to the merger of

PMEPL and PTL with the present company after the investigation period, has no relevance for determining the status of the person as an insider or a connected person. Appellant Ameen Khwaja was not actively involved in providing search engine services by PMOPL to the company PTL. He was not holding any position, or not involved in any company business relationship between himself and the company. They further submitted that even if it is assumed that the appellant Ameen Khwaja was an insider and the connected person of PTL during the relevant period, he could not be reasonably expected to have access to the UPSI to the company, as the nature of his job being done by PMOPL for the company had nothing to do with UPSI regarding slump share. Merely because PMOPL was providing search engine services to the company there is nothing to infer that Palem Reddy, the managing director of the company had directly or indirectly imparted UPSI to the appellant Ameen Khwaja. Sweeping and vague allegations cannot be accepted to prove the charges of insider trading since appellant Ameen Khwaja was not in possession of the UPSI relating to the company, consequently question of communicating such UPSI to other appellants would not arise. Further, there is no evidence of any nature to show that the appellant Ameen Khwaja has provided the said UPSI to the other appellants. It

was further submitted that the Khwaja family had sold certain immovable property during the relevant period and from the proceeds of the said sale, appellant nos. 2 to 6 had purchased the shares of the company during the said period. Appellant nos. 2 to 6 were of the view that the company had a good future prospectus and based on this fact, they made investment in the scrip of the company.

14. The learned WTM held that the company PTL itself in annual report 2012-13 has described PMOPL as enterprise significantly influenced by key managerial persons or their relatives. Appellant Ameen Khwaja and Mr. Palem Reddy were the co-promoters of the PMOPL. Mr. Palem Reddy was also managing director in the PTL during the relevant period. Further, PMOPL provided search engine related services to PTL during the period from September 2011 to May 2013. During the same period, the UPSI one had arisen. Further, post these transactions PMEPL and PMOPL got merged with PTL. Discussion about merger started on December 19, 2013 and ultimately a public announcement was made on January 8, 2014. All these facts according to SEBI would show that there was close connection between the appellant Ameen Khwaja and Mr. Palem Reddy, the managing director of PTL.

15. Further, the trading pattern of the appellant nos. 2 to 6 was taken into consideration by the WTM and the AO. They along with Appellant Ameen Khawja reside in one house. It was found that during UPSI period, these near relatives of the appellant Ameen Khwaja had purchased 3,24,001 shares of PTL though the shares of PTL were not frequently traded and that except appellant Noorjahan Khwaja, none of them had traded earlier in any stocks. Further, the trading of appellant Noorjahan Khwaja prior to the impugned trades was meager of Rs. 2,13,000/- while she was invested Rs. 16.62 lacs in the scrip of PTL. The overall trading pattern of the Khwaja group in PTL in a short period of two and half months wherein more than Rs. 49 lacs were invested by these appellants, in view of the learned WTM and AO confirmed that the appellants' trades were based on the communication of the UPSI relating to the scrip by Ameen Khwaja. It was further pointed out by the learned WTM that while this appellant group started trading in the scrip from June 20, 2013, after the execution of the non-binding agreement from buyers they stopped trading in PTL from August 2013 i.e. just before the announcement of the transaction by PTL to the stock exchange was made. Considering all these facts, the orders came to be passed.

16. The learned counsel for the appellants strenuously submitted before us that neither Ameen Khwaja can be called as connected person nor insider within the meaning of the PIT Regulations, 1992. Consequently, rest of the appellants cannot be termed as connected person. He submitted that merely because appellant Ameen Khwaja happened to be a co-promoter in the company in which Mr. Palem Reddy, the managing director of the PTL was also promoter alongwith the facts that some services were rendered by this company PMOPL to PTL cannot *ipso facto* conclude that the appellant Ameen Khwaja received UPSI from Mr. Palem Reddy.

17. The definition of a 'connected person' is found in Regulation 2(c)(ii) of the PIT Regulations, 1992. The same is as under :-

*“2(c)(ii). occupies the position as an office or an employee of the company or holds a position involving a professional or business relationship between himself and the company whether temporary or permanent and who may reasonably be expected to have an access to unpublished price sensitive information in relation to that company:*

*Explanation : For the purpose of Clause (c), the words “connected person” shall mean any person who is connected person six months prior to an act of insider trading;”*

18. Under Regulation 2(e) an ‘insider’ is defined as under :-

“2(e). “insider” means any person who,

- (i) *is or was connected with the company or is deemed to have been connected with the company and is reasonably expected to have access to unpublished price sensitive information in respect of securities of a company, or*
- (ii) *has received or has had access to such unpublished price sensitive information;”*

19. The learned counsel emphatically submitted that to brand a person as a connected person merely professional or business relationship between himself and the company is not sufficient. The term “and” as found in the definition of connected person would show that it should also be reasonably expected that he had an access to UPSI in relation to the said company. Further, a person can be termed as an insider only when he has received or had access to such UPSI.

20. In the present case, SEBI alleges that the appellant Ameen Khwaja was connected person. So far as the PTL is concerned, he had business relationship through company PMOPL of which he was

a promoter, in view of the services rendered by PMOPL to PTL. Further, a person can be treated as insider when he is connected or remain to be connected with the company and is reasonably expected to have access to the UPSI.

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

22. There is no denial to the fact that the appellant Ameen Khwaja during the relevant period was co-promoter of the PMOPL along with Mr. Palem Reddy who was the managing director of the PTL during the relevant period. Additionally, the said PMOPL was providing search engine services to PTL. Besides this, post UPSI, deliberation for merger of PMOPL with PTL had started and ultimately the merger took place. All these facts coupled with the trading pattern of the appellant nos. 2 to 6 as detailed (supra) on preponderance of probability would establish that appellant no. 1 Ameen Khwaja can “reasonably expected to have access to the unpublished price sensitive information” and he being near relatives of the rest of the appellants who reside together with him can reasonably expected to have imparted the said UPSI to the rest of the appellants.

23. The trading pattern of the appellant nos. 2 to 6 would show that in this illiquid stock of PTL, without any earlier history of trading, they have invested an amount of Rs. 49 lacs and purchased the shares of the company for an average price of Rs. 15/-. The record would show that, during this first UPSI it was deliberated by the PTL that the proceeds of the sale would be distributed to the shareholders. This discussion is a part and parcel of the process of decisions regarding slump sale. After the slump sale, the company PTL distributed dividend at the rate of Rs. 29/- per share as against the average price of Rs. 15/- paid by the appellant nos. 2 to 6 for purchase of the shares.

24. The learned counsel for the appellants heavily relied on the ratio in the judgments of *Chintalapati Srinivas Raju & Ors. vs. SEBI [AIR 2018 SC 2411]* as well as *Balram Garg vs. SEBI Civil Appeal No. 7054 of 2021* decided by the Hon'ble Supreme Court on April 19, 2022.

25. So far as the case of *Chintalapati S. Raju (supra)* is concerned, vide the majority judgment of this Tribunal the decision of the respondent SEBI that Chintalapati S. Raju had indulged into

the insider trading was upheld. Minority judgment however did not accept the said proposition. Aggrieved by the majority judgment the appeal was preferred.

26. The Hon'ble Supreme Court of India took into consideration the definitions of the connected persons, insider and other persons as provided in the PIT Regulations. In paragraph no. 11, it was underlined that under the second part of the Regulation 2(e)(i), the connected person must be reasonably expected to have access to the UPSI. It was declared that the expression 'reasonably expected' cannot be a mere *ipse dixit* - there must be material to show that such person can reasonably expected to have access to the UPSI. The facts of the case would show that one B. Ramalinga Raju had manipulated financial statement of Satyam Computer Services Ltd. (hereinafter referred to as 'SCSL') with some other personnel. The same was suppressed from the board of directors. Ultimately, the same was disclosed later on. Appellant Chintalapati Raju was a non-executive director of the said company SCSL. The appellant was also co-brother of Mr. B. Rama Raju. The Hon'ble Supreme Court found that though the appellant was non-executive director of the board, it was the case of SEBI itself that the financial results were

suppressed from the board of directors of SCSL. Therefore, it was found difficult to hold that the appellant was in possession of the said UPSI. Further, the fact that the promoters of the company who became aware of the credit crunch faced by the SCSL sold their shareholding but the appellant continued to retain the substantial shareholding showed that the appellant was not aware of the UPSI. Additionally, the last transaction of sale of shares by the appellant was made just like any other shareholders of SCSL. Last but not the least, the appellant had no professional or business relationship with his co-brother B. Rama Raju and he had no connection with any other entities who colluded by the Rama Raju. All these facts were highlighted in the minority judgment and the Hon'ble Supreme Court held that the view is correct both in law and facts and deserved the acceptance.

27. In the case of *Balaram Garg vs. SEBI cited (supra)*, the appellant Balram Garg was the managing director of PC Jewellers Ltd. (hereinafter referred to as 'PCJ'). His deceased brother's daughter-in-law Shivani Gupta had traded in the shares of PCJ through her husband and cousin brother-in-law. It was alleged that

she traded on the basis of UPSI received by her on account of proximity with deceased P. C. Gupta and his brother Balram Garg.

28. This Tribunal upholding decision of SEBI held that the insider trading was made. The Hon'ble Supreme Court of India, set aside the said decision. The Hon'ble Supreme Court found that there were two family partitions / settlements between the family. Further, all these persons were residing in separate residence in a big plot and there was no evidence that either appellant Balram Garg or deceased P. C. Gupta had imparted the information to these appellants. Further, the Hon'ble Supreme Court underlined that Shivani earlier to UPSI had also sold the scrip like during UPSI. It was underlined that onus to prove that the appellant was in possession of the UPSI was on SEBI. In these circumstances, the appeal was allowed by the Supreme Court.

29. Learned counsel for the appellants heavily relied on the certain paragraphs of the said judgment. In paragraph no. 32, the Hon'ble Supreme Court of India has observed as under :-

*“32. Moreover, we find merit in the submission of the counsel for the appellants in C. A. No. 7590 of 2021 that even assuming that the said family arrangements did not result in complete estrangement of social relations*

*between the parties. The SAT could not, by virtue of this very fact, discharge SEBI of the onus of proof placed on them to prove that the Appellants were in possession of UPSI. In our opinion, the approach adopted by the SAT turns the SEBI Act on its head as it places the burden of proving that there was a complete breakdown of ties between the parties on the Appellants in C. A. No. 7590 of 2021 while conveniently ignoring the fact that the onus was actually on SEBI to prove that the appellants were in possession of or having access to UPSI. The legislative note to Regulation 2(1)(g) makes the above position of law explicitly clear.*

*“..... The onus of showing that a certain person was in possession of or had access to unpublished price sensitive information at the time of trading would, therefore, be on the person leveling the charge after which the person who has traded when in possession of or having access to unpublished price sensitive information may demonstrate that he was not in such possession or that he has not traded or he could not access or that his trading when in possession of such information was squarely covered by the exonerating circumstances.”*

30. Learned counsel for the appellants further submitted that while the burden of proof to prove that the appellant Ameen Khwaja was in possession of UPSI is on SEBI, in paragraph no. 39 of the learned WTM in the impugned order dated August 13, 2019 concluded as under :-

*“39. In my view, Ameen Khwaja is a promoter director of Pal Premium Online Media Pvt. Ltd. (PMOPL) with Palem S. Reddy who was also a promoter-director of*

*POMPL. POMPL was rendering professional services related to IT to PTL. As Palem Reddy and Ameen Khwaja were co-promoters and co-directors of POMPL, I am of the view that there existed a business relationship between the two promoters and by extending services of POMPL to PTL, Ameen Khwaja can also be stated to have had a business relationship with the company because the service contract between the two companies would be a reflection of the understanding exchanged between these two promoters. In this case, one cannot distinguish between the company and its promoter because the very identity of POMPL for availing services has arisen out of the connection that existed between the two promoters. Thus, in the facts and circumstances of the case it can be reasonably presumed that the UPSI regarding Slump sale was passed on to the Khwaja group by none other than Palem S. Reddy.”*

31. He further submitted that merely the pattern of trading of Khwaja group in PTL was held to be having distinct likelihood of the trades based on the communication of UPSI to them.

32. On the other hand, Mr. Pradeep Sancheti, the learned senior counsel for the respondent SEBI submitted that the facts as enumerated (supra) would show that the appellant Ameen Khwaja had close relationship with Mr. Palem Reddy. Both of them were common promoter, director of PMOPL and this PMOPL was rendering services to the company PTL wherein Mr. Palem Reddy was managing director. He further highlighted the facts that the

relationship was so thick that after the UPSI period PMOPL got merged into PTL. Further, according to him, the trading pattern of appellant nos. 2 to 6 as detailed (supra) would show that in this illiquid stock which valued for Rs. 15/-, these appellants without having any earlier experience in trading, invested Rs. 49 lacs to purchase those shares. He, therefore, submitted that respondent SEBI had, on preponderance of probability established that appellant Ameen Khwaja “can reasonably be expected to have an access to UPSI in relation to the company”. Consequently, his close relatives appellant nos. 2 to 6 who resides with him have traded in the scrip of the company in the fashion as detailed (supra) and, therefore, the same principle applies to them. He additionally relied on the ratio in the judgment of *Top Class Capital Markets Pvt. Ltd. vs. SEBI in Appeal no. 31 of 2020 and Appeal no. 23 of 2021 decided by this Tribunal on March 8, 2022* and in the case of *Gagan Rastogi & Ors. vs. SEBI Appeal no. 91 of 2015 and 219 of 2015 decided by this Tribunal on July 12, 2019*.

33. Upon hearing both the sides, in our view, the case essentially rests on its own facts to find out as to whether it can be reasonably

expected from the material on record on preponderance of probability that the appellant Ameen Khwaja had access to UPSI.

34. The burden of proof of having reasonable expectation of having access to the UPSI is initially no doubt on respondent SEBI. Once the respondent SEBI place material/probabilities then onus to prove shifts to the other side i.e. the appellants to prove otherwise. Since, admittedly, respondent SEBI is required to establish the facts on preponderance of probability and not beyond reasonable doubt, the similar standard of proof would apply to the appellants to shift the onus.

35. Respondent SEBI besides the facts as detailed (supra) had also added one probability in the proceedings. It was alleged in the show cause notice that appellant nos. 2 to 6 had no known source of income to buy the shares. The appellants however on the basis of copies of the registered sale deed were able to show that during the same period the respective appellants had sold certain common immovable property and from the proceeds of the same the shares were purchased.

36. As regards the other probabilities, however, the case of the respondent SEBI remained firm. Those probabilities as detailed earlier can be summarized as under to find out as to whether there is preponderance of probabilities i.e majority of the probabilities to conclude that it is reasonably expected that the appellants had access to the UPSI.

37. Appellant Ameen Khwaja and Mr. Palem Reddy, were promoters as well as co-directors of PMOPL. This PMOPL during the relevant period provided search engine services to the company PTL in which Mr. Palem Reddy was managing director. Besides this soon after the UPSI, PMOPL and PWSPL wherein three appellants were directors merged into PTL. All these factors would lead to establish on preponderance of probabilities that PMOPL of which the appellant Ameen Khwaja was promoter director had professional and business relationship with the company PTL.

Besides this professional and business relationship, personal relationship between these two personalities can also be inferred from the facts of these close business relations.

38. Further, the conduct of appellant nos. 2 to 6 would also show that they purchased in otherwise abnormal manner the illiquid scrips of the company PTL. The appellants had no earlier experience of trading in shares still they purchased substantive shares of the company PTL. They were not able to show as to what was the rationale in purchasing these illiquid shares. They eat, drink and sleep under the common roof with the appellant no. 1 Ameen Khwaja. If all these facts are taken into consideration it can very well be concluded on preponderance of probabilities, that respondent SEBI was able to show that it is reasonable to expect that appellant nos. 2 to 6 traded in the shares of the company PTL when in possession of UPSI.

39. In the case of **Chintalapati Raju**, the facts highlighted above in paragraph nos. 24 would show that except the facts that Chintalapati Raju was co-brother of B. Ramalinga Raju and that he was non-executive director of the said company SCSL, there were numerous facts countering these probabilities which were pointing towards the improbability that Chintalapati Raju had access to UPSI through B. Ramalinga Raju.

40. In the case of **Balram Garg** cited (supra), also there were facts countering such expectations. There was disruption in the joint family in view of two partitions / family settlements, the parties residing separate from each other and further trading pattern of Shivani Gupta was running counter to the probabilities of having UPSI with her. Highlighting those facts, the Hon'ble Supreme Court of India upheld the case of Balram Garg and Shivani Gupta and others.

41. In the facts and circumstances of the present case however as detailed (supra), we find that the respondent SEBI was able to show on preponderance of probabilities that appellant Ameen Khwaja and consequently other appellants are reasonably expected to have an access to UPSI in relation to the PTL.

42. In the result, the following order :

**ORDER**

43. Both the appeals are hereby dismissed without any order as to costs.

44. 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. Certified copy of this order is also available from the Registry on payment of usual charges.

Justice Tarun Agarwala  
Presiding Officer

Justice M. T. Joshi  
Judicial Member

Ms. Meera Swarup  
Technical Member

15.06.2022  
PTM