

BEFORE THE SECURITIES APPELLATE TRIBUNAL  
MUMBAI

**Order Reserved on : 25.09.2023**

**Date of Decision : 09.10.2023**

**Appeal No. 679 of 2023**

Jatin Manubhai Shah  
A/4, Shashwat Flat,  
Near Hirabaugh Crossing,  
Ambawadi,  
Ahmedabad – 380 006.

...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

Mr. Ashim Sood, Advocate with Mr. Ekansh Gupta, Mr. Abhishek Venkatraman, Advocates i/b Mr. Vikas Bengani, Advocate for the Appellant.

Mr. Pradeep Sancheti, Senior Advocate with Mr. Mihir Mody, Mr. Arnav Misra, Advocates i/b. K. Ashar & Co. for the Respondent.

**WITH**  
**Appeal No. 672 of 2023**

Hemant Dusad  
House No. 19, First Floor,  
Vrindavan Enclave,  
Sector – 12, Vasundhara,  
Ghaziabad – 201 012.

...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

Mr. Vikas Bengani, Advocate for the Appellant.

Mr. Pradeep Sancheti, Senior Advocate with Ms. Nidhi Singh, Ms. Deepti Mohan, Mr. Nishin Shrikhande, Ms. Komal Shah, Mr. Harish Ballani, Ms. Hubab Sayyed, Ms. Nidhi Faganiya, Advocates i/b Vidhii Partners for the Respondent.

**WITH  
Appeal No. 673 of 2023**

1. Anshul Aggarwal
2. Ashok Kumar Agrawal  
(Through his son Mr. Anshul Aggarwal)
3. Anshu Aggarwal
4. Anshul Aggarwal CO HUF

J-402, BPTP Park,  
Grandeura Sector – 82,  
Faridabad,  
Haryana – 121 004.

...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. Kunal Katariya, Advocate with Mr. Vikas Bengani, Advocate for the Appellants.

Mr. Pradeep Sancheti, Senior Advocate with Ms. Nidhi Singh, Ms. Deepti Mohan, Mr. Nishin Shrikhande, Ms. Komal Shah, Mr. Harish Ballani, Ms. Hubab Sayyed, Ms. Nidhi Faganiya, Advocates i/b Vidhii Partners for the Respondent.

**WITH  
Appeal No. 674 of 2023**

Angad M Rathod  
94, Samit Nagar,  
Maheshwari Nagar Part 2,  
Odhav, Ahmedabad – 382 415

...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

Mr. Vikas Bengani, Advocate for the Appellant.

Ms. Shreya Parikh, Advocate with Ms. Nidhi Singh, Ms. Deepti Mohan,  
Mr. Nishin Shrikhande, Ms. Komal Shah, Mr. Harish Ballani, Ms. Hubab  
Sayyed, Ms. Nidhi Faganiya, Advocates i/b Vidhii Partners for the  
Respondent.

**WITH**  
**Appeal No. 675 of 2023**

Jatin Manubhai Shah  
A/4, Shashwat Flat,  
Near Hirabaugh Crossing,  
Ambawadi,  
Ahmedabad – 380 006.

...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

Mr. Vikas Bengani, Advocate for the Appellant.

Ms. Shreya Parikh, Advocate with Ms. Nidhi Singh, Ms. Deepti Mohan,  
Mr. Nishin Shrikhande, Ms. Komal Shah, Mr. Harish Ballani, Ms. Hubab  
Sayyed, Ms. Nidhi Faganiya, Advocates i/b Vidhii Partners for the  
Respondent.

**WITH**  
**Appeal No. 676 of 2023**

Daivik Jatin Shah  
A/4, Shashwat Flat,  
Near Hirabaugh Crossing,  
Ambawadi,  
Ahmedabad – 380 006.

...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

Mr. Vikas Bengani, Advocate for the Appellant.

Ms. Shreya Parikh, Advocate with Ms. Nidhi Singh, Ms. Deepti Mohan, Mr. Nishin Shrikhande, Ms. Komal Shah, Mr. Harish Ballani, Ms. Hubab Sayyed, Ms. Nidhi Faganiya, Advocates i/b Vidhii Partners for the Respondent.

**WITH  
Appeal No. 677 of 2023**

Heli Jatin Shah  
A/4, Shashwat Flat,  
Near Hirabaugh Crossing,  
Ambawadi,  
Ahmedabad – 380 006.

...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

Mr. Vikas Bengani, Advocate for the Appellant.

Ms. Shreya Parikh, Advocate with Ms. Nidhi Singh, Ms. Deepti Mohan, Mr. Nishin Shrikhande, Ms. Komal Shah, Mr. Harish Ballani, Ms. Hubab Sayyed, Ms. Nidhi Faganiya, Advocates i/b Vidhii Partners for the Respondent.

**WITH  
Appeal No. 680 of 2023**

Daivik Jatin Shah  
A/4, Shashwat Flat,  
Near Hirabaugh Crossing,  
Ambawadi,  
Ahmedabad – 380 006.

...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

Mr. Vikas Bengani, Advocate for the Appellant.

Mr. Sumit Rai, Advocate with Mr. Mihir Mody, Mr. Arnav Misra,  
Advocates i/b. K. Ashar & Co. for the Respondent.

**WITH**  
**Appeal No. 681 of 2023**

Heli Jatin Shah  
A/4, Shashwat Flat,  
Near Hirabaugh Crossing,  
Ambawadi,  
Ahmedabad – 380 006.

...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

Mr. Vikas Bengani, Advocate for the Appellant.

Mr. Sumit Rai, Advocate with Mr. Mihir Mody, Mr. Arnav Misra,  
Advocates i/b. K. Ashar & Co. for the Respondent.

**WITH**  
**Appeal No. 682 of 2023**

Karavan Tradelink (OPC) Private Limited  
UGF-08, Goyal Terrace,  
Bodakdev, Nr. Judges Bungalow,  
Sattelite, Ahmedabad – 380 054

...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

Mr. Vikas Bengani, Advocate for the Appellant.

Mr. Sumit Rai, Advocate with Mr. Mihir Mody, Mr. Arnav Misra,  
Advocates i/b. K. Ashar & Co. for the Respondent.

**AND**  
**Appeal No. 683 of 2023**

Angad M Rathod  
94, Samit Nagar,  
Maheshwari Nagar Part 2,  
Odhav, Ahmedabad – 382 415

...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

Mr. Vikas Bengani, Advocate for the Appellant.

Mr. Sumit Rai, Advocate with Mr. Mihir Mody, Mr. Arnav Misra,  
Advocates i/b. K. Ashar & Co. for the Respondent.

CORAM : Justice Tarun Agarwala, Presiding Officer  
Ms. Meera Swarup, Technical Member

Per : Justice Tarun Agarwala, Presiding Officer

1. In this group of appeals two separate orders have been passed by the Whole Time Member ('WTM' for short) of the Securities and Exchange Board of India ('SEBI' for short) relating to the scrip of Sadhna Broadcast Limited ('Sadhna' for short) and Sharpline Broadcast Limited ('Sharpline for short). Since the *modus operandi* and the issue is similar all these appeals are being decided together. For facility, the facts stated

in Appeal no. 679 of 2023, Jatin Manubhai Shah is being taken into consideration.

2. The appellants in Appeal nos. 679 of 2023, 680 of 2023, 681 of 2023, 682 of 2023 and 683 of 2023 are aggrieved by the confirmatory order dated July 20, 2023 passed by the WTM affirming the *ex parte ad interim* order dated March 2, 2023 passed by SEBI against 31 noticees including the appellant in the matter relating to the scrip of Sadhna.

Appeal nos. 672 of 2023, 673 of 2023, 674 of 2023, 675 of 2023, 676 of 2023 and 677 of 2023 are against the order dated July 11, 2023 passed by the WTM confirming the *ex parte ad interim* order dated March 2, 2023 relating to the scrip of Sharpline.

3. It transpires that some complaints were received by SEBI regarding price manipulation and offloading of shares by certain entities in the scrip of Sadhna. It was alleged that misleading YouTube videos with false contents were being uploaded to lure unsuspecting investors to trade in the scrip of Sadhna. Based on these complaints, SEBI conducted a preliminary examination to look into a possible violation of various provisions of the SEBI Act and its Regulations and found that in patch 1 which is from

April 27, 2022 to July 14, 2022, there was a spurt in the price and volume of the scrip in question. The examination further revealed that in patch 2, i.e. from July 15, 2022 to September 30, 2022, false and misleading videos about the company were uploaded on two YouTube channels, namely, 'The Advisor' and 'Moneywise'. These YouTube channels were created by noticee no. 1 and false and misleading news recommending that investors should buy the scrip of Sadhna. The examination further revealed that YouTube video was uploaded on July 15, 2022 which led to an increase in the price and trading volume on the basis of the videos being streamed on the YouTube channels which had lakhs of subscribers. During this period, certain promoters, shareholders, key managerial personnel of the company and non-promoters, shareholders off-loaded a significant portion of their shareholding at inflated prices and booked profit.

4. Based on the above, the WTM, *prima-facie*, came to the conclusion and held in paragraph no. 6.9 of the *ex parte ad interim* order dated March 2, 2023 that various noticees collectively helped to create trading volumes and interest in the scrip and spread false and misleading YouTube videos and, therefore, induced unsuspecting investors to buy the scrip of



Sadhna at elevated prices, thereby, prima-facie, violating the provisions of the PFUTP Regulations.

5. In paragraph no. 19 of the *ex parte ad interim* order, the WTM, prima facie, concluded that the noticees including the appellants were involved in a scheme / device to manipulate the volume of Sadhna through the trades of some of the noticees and through buy recommendations made through YouTube videos which, prima-facie, induced small investors to deal in Sadhna. In paragraph no. 28, the WTM, prima-facie, found that the modus operandi indicates that the noticees were engaged in the coordinated scheme to induce unsuspecting investors to acquire securities in the scrip in question to buy at inflated price thereby making illegal gains at the cost of new investors and accordingly, prima-facie, found violation of Section 12A of the SEBI Act and Regulations 3 and 4 of the PFUTP Regulations.

6. The WTM in paragraph no. 32 held that all the noticees are individually liable to disgorge the illegal gains individually made by them as depicted in table no. 16 but simultaneously held that noticees nos. 1, 4, 5, 6, 7, 10, 11, 23 and 31 are jointly and severally liable for all of the illegal gains cumulatively

made by all the noticees as tabulated in table no. 16 which works out to Rs. 41.85 crore.

7. The WTM further found that some of the noticees named in paragraph no. 30 of the impugned order were engaged in the similar *modus operandi* with regard to scrip (namely Sharpline). Considering the aforesaid, the WTM came to the conclusion in paragraph no. 37 of the impugned order that the noticees may divert the alleged unlawful gains before the investigation is concluded and directions for disgorgement, if any, are passed and, therefore, by the impugned order issued a slew of directions including impounding of the alleged unlawful gains, freezing of their bank accounts and further restraining them from accessing the securities market.

8. On similar facts and on same *modus operandi*, the WTM passed another *ex parte ad interim* order dated March 2, 2023 in the scrip of Sharpline against 24 noticees.

9. 4 out of 31 noticees filed two Appeal nos. 284 of 2023 and 285 of 2023. The directions against these 4 noticees were set aside and their appeals were allowed with the following directions:-

*“32. Considering the aforesaid :-*

- a. Directions contained in the impugned order against the appellants in appeal no. 284 of 2023 are set aside with the following directions :-*
  - (i). The appellants are restrained from trading in the scrip of Sadhna during the pendency of the investigation.*
  - (ii). The appellants shall deposit 50% of the alleged unlawful gains in an escrow account with a scheduled commercial bank within 15 days from today. For the balance amount, the appellants shall give an undertaking within the same period of 15 days that they will deposit the balance amount within 30 days from the date of final order, if any, passed by the WTM.*
  - (iii). This escrow account shall be kept in an interest bearing escrow account and a lien will be created in favour of SEBI.*
  - (iv). Directions (i), (ii) and (iii) would continue to operate during the investigation.*
  - (v). The appeal is partly allowed.*
- b. In Appeal No. 285 of 2023, the impugned order in so far as it relates to the said appellant is quashed. The appeal is allowed. We however restrain the appellant from dealing in the scrip of Sadhna during the pendency of the investigations.*
- c. We also direct SEBI to complete the investigation within six months and initiate appropriate proceedings, if any, against the appellants. If the investigations remain incomplete and no proceedings are initiated, it will be open to the appellants to apply for modification of our order.*

- d. *Any observation, findings given in this order is only tentative in nature and will not affect the investigation. Further, neither party will rely upon any observation / finding in any proceedings before any authority.*
- e. *In the circumstances of the case, parties shall bear their own costs.”*

10. We may point out at this stage that the directions to complete the investigation stood completed on September 27, 2023. The investigation has not been concluded and a miscellaneous application was filed by respondent SEBI before us praying further time to complete the investigation. This Tribunal by an order dated October 4, 2023 extended the time to complete the investigation in the interest of justice.

11. Against the *ex parte ad interim* order the appellants in Appeal nos. 679 of 2023, 680 of 2023, 681 of 2023, 682 of 2023 and 683 of 2023 appeared before WTM and filed their objections praying for vacation of the *ex parte ad interim* order. Their objections were heard but no orders were being passed by the WTM and accordingly some of these appellants filed an appeal before this Tribunal which appeals were disposed of by an order dated July 12, 2023 directing the respondent to pass a confirmatory order on before July 21, 2023. Based on the

directions of this Tribunal the impugned confirmatory order was passed on July 20, 2023. By the confirmatory order the *ex parte ad interim* order dated March 2, 2023 was confirmed with the following modifications, namely-

“21.1        *The liability for the illegal gain made by Noticee nos. 4, 5, 6, 7 and 9 individually shall stand modified as mentioned at Table no. 3. Consequently, the total illegal gain made by all the Noticees also stands modified to INR 40,60,66,012.*

21.2.        *The direction in para 38.7 of the Interim Order shall not prohibit the credit of shares to be received on account of corporate actions.”*

12. We have heard Shri Ashim Sood, the learned counsel, Shri Kunal Katariya, Shri Vikas Bengani, Shri Ekansh Gupta, Shri Abhishek Venkatraman, the learned counsel for the appellant in respective appeals and Shri Pradeep Sancheti, the learned senior counsel, Ms. Shreya Parikh, Shri Sumit Rai, Shri Mihir Mody, Shri Arnav Misra, Ms. Nidhi Singh, Ms. Deepti Mohan, Shri Nishin Shrikhande, Ms. Komal Shah, Shri Harish Ballani, Ms. Hubab Sayyed and Ms. Nidhi Faganiya, the learned counsel for the respondent.

13. While entertaining the appeals the Tribunal had directed the appellants to deposit their share of unlawful gain within two

weeks. We have been informed that the unlawful gains as computed in the impugned orders against the name of each of the appellants have been deposited.

14. From a perusal of the impugned order we find that the matter is a typical case of 'pump and dump' scheme, namely, that initially there is a period when there is a minimal interest of trading activity in the scrip in question. Thereafter there is a sudden spurt in trading volumes in the scrip in question without any fundamental reason. This spurt in trading results in increase in the price and volume in the shares of the scrip. This trading activity is accounted by a few individuals. Thereafter, misleading message is disseminated resulting in inducement of small investors to trade in the scrip. At this stage the net sellers enter the market and off load their shares to the gullible investors. Finally, after selling the shares, there is a sharp fall in the price of the shares and the retail investors are left holding the scrip and are put to a loss.

15. In the instant case the appellants are termed as volume creators and profit makers or volume creators and net sellers meaning thereby that sale made by the appellants resulted in a

spurt of activity in the trading of the shares in question which generated volume and increased the price.

16. The impugned order finds that the appellants to be connected with the mastermind, namely Noticee no. 1, Manish Mishra. According to the appellants in Appeal no. 679 of 2023, 680 of 2023, 681 of 2023, 682 of 2023 and 683 of 2023 the appellants had advanced loans to Manish Mishra and therefore were connected. This fact is admitted by the appellants as well as to the respondents. The impugned order indicates that the appellants have not denied the *inter se* connection with the other noticees as indicated in the interim order, namely, with the Misleading Message Disseminator (MMD), namely, Noticee no. 1 who was the creator of the YouTube video. In the light of the aforesaid finding the *ex parte ad interim* order was confirmed.

17. Having heard the learned counsel for the parties and having perused the record we find that the controversy involved in the present appeal is squarely covered by a decision of this Tribunal in ***Appeal no. 284 of 2023, Arshad Husain Warsi and Others vs SEBI and other connected appeals decided on March 27, 2023*** wherein we had set aside the directions and issued certain directions during the pendency of the

investigation. In our view the appellant is also entitled for the same relief for the following reasons:-

- (a) The appellants admit that they are connected to Noticee no. 1. Some of the appellants have extended loan and therefore to that extent the connection is admitted.
- (b) On the other hand, we find that :-
  - (i) The appellants were not involved in the making / distribution or uploading of the videos on the YouTube channels nor do the appellants feature in such videos.
  - (ii) There is no finding that the appellants are connected to the company, its shareholders or key managerial personnel.
  - (iii) The appellants are not connected with other volume creators or net sellers other than noticee no. 1.



- (iv) There is nothing to indicate that the appellants by their conduct had created any interest on any investor to trade in the scrip of Sadhna.
- (v) The appellants have not spread any false and misleading information regarding the scrip in question.
- (vi) There is no evidence to indicate that the appellants had induced unsuspecting investors to buy the scrip in question.

18. The only allegation against the appellant at the moment is that they are volume creators and are connected to Noticee no. 1. In this regard we find that the appellants were in a possession of shares much prior to the investigation period and had sold it during the investigation period and made profits. We are of the opinion that there is no harm if the person buys and sells the shares to make profits. The WTM have only relied on call data records and financial transaction, namely, loan given by some of the appellants to Noticee no. 1 and further held that the extent of collusion, connivance or participation of the appellants in the

fraudulent scheme is a subject matter of further investigation. In this regard we find that apart from the aforesaid there is no other evidence and investigation is still going on.

19. The financial transactions are the loans given to Noticee no. 1 by some of the appellants. There is no finding that the loan given by the appellants was used in the making of the YouTube videos. There is no finding till date of the appellants' involvement in the making of the YouTube videos with Noticee no. 1.

20. In the light of the aforesaid, we are of the considered view that the WTM has passed the order in haste and without considering the essential facts. *Prima face*, there is no evidence at the moment to show that appellants were engaged in a coordinated scheme to induce unsuspecting investors to acquire securities in the scrip in question. There is no evidence that the trades made by the appellants led to the increase in the price of the scrip. There is no evidence to show that the sale of the shares by the appellants were made to gullible unsuspected investors. There is no evidence to show that the appellants were involved in the making, distribution, promotion and uploading of the videos on YouTube channels.

21. Thus, mere connection with Noticee no. 1 at the moment cannot lead to any conclusion that the appellants were engaged in a coordinated scheme to induce unsuspecting investors to acquire securities in the scrip in question.

22. *Ad-interim* orders can be passed in case of urgency or where it is found that the noticee is about to dispose of the property. In the absence of any finding that the appellants will defalcate the unlawful gains, the impounding order constitutes malice in law. Further, the power must be exercised with extreme care and caution and should be resorted to only as a last resort or measure. Merely by stating that the appellants may divert the unlawful gains is not based on any cogent evidence rather on surmises and conjectures and formation of unguided subjected satisfaction which is not permissible. The appellants are full time investors in the securities market. Their livelihood depends on their trading activities. They have been out of the securities market for more than six months in view of the *ad interim* order. Such denial of accessing the securities market during the pendency of the investigation period becomes inappropriate and does not commensurate with the alleged violation that has been found in the impugned interim order and

confirmatory order. Denial of the right to trade would become violative of Article 19 of the Constitution of India.

23. Pursuant to our order, the appellants have deposited the alleged unlawful gains. Thus, interest of the respondent is secured to that extent. The investigation are still going on and even though we had directed the respondent to complete the investigation within six months they have failed to do so and applied for extension which we have extended by another two months. Considering the aforesaid, and in the light of the decisions of this Tribunal in *North End Foods Marketing Pvt. Ltd. & Anr. vs SEBI, Appeal no. 80 of 2019 decided on March 12, 2019*, *Affluence Fincon Services Pvt. Ltd. & Ors. vs SEBI, Appeal no. 269 of 2020 decided on September 7, 2020*, *Dr. Udayant Malhoutra vs SEBI, Appeal no. 45 of 2020 decided on June 2, 2020*, *Cameo Corporate Services Limited vs. SEBI, Appeal no. 566 of 2019* *Arshad Hussain Warsi & Ors. vs SEBI, Appeal no. 284 of 2023 decided on March 27, 2023* we are of the opinion that the appellants are entitled for a similar relief.

24. The directions contained in the *ad interim* order and confirmatory order against the appellants is bereft of any evidence. Balance of convenience is required to be considered at this stage. Considering the aforesaid, we issue the following directions:-

- (i) The impugned orders are set aside insofar as the appellants are concerned.
- (ii) The appellants are restrained from trading in the scrip in question during the pendency of the investigation.
- (iii) The deposit of the unlawful gains will continue till final order is passed, if any, by the WTM.
- (iv) If the investigation is not completed and show cause notice, if any, is not issued on or before December 31, 2023 the aforesaid directions would come to an end automatically and it will be open to the appellants to trade in the scrip in question and withdraw the amount deposited pursuant to the order of the Tribunal.

- (v) Any observation, findings given in this order is only tentative in nature and will not affect the investigation. Further, neither party will rely upon any observation / finding in any proceedings before any authority.

25. The appeals are allowed. In the circumstances of the case, parties shall bear their own costs.

Justice Tarun Agarwala  
Presiding Officer

Ms. Meera Swarup  
Technical Member

09.10.2023  
msb