

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date : 29.01.2024

Appeal No. 13 of 2024

Sanjay Kumar Agrawal & Anr. ...Appellants

Versus

Securities and Exchange Board of India ...Respondent

Mr. Vikas Bengani, Advocate for the Appellant.

Mr. Pradeep Sancheti, Senior Advocate with
Mr. Manish Chhangani, Mr. Sumit Yadav, Mr. Abhay
Chauhan and Mr. Atul Kumar Agrawal, Advocates i/b The Law
Point for the Respondent – SEBI.

AND
Appeal No. 14 of 2024

Aryavrat Suppliers Private Limited ...Appellant

Versus

Securities and Exchange Board of India ...Respondent

Mr. Vikas Bengani, Advocate for the Appellant.

Mr. Pradeep Sancheti, Senior Advocate with
Mr. Manish Chhangani, Mr. Sumit Yadav, Mr. Abhay
Chauhan and Mr. Atul Kumar Agrawal, Advocates i/b The Law
Point for the Respondent – SEBI.

ORDER:

1. Appeal no. 13 of 2024 has been filed by Sanjay Kumar Agrawal (Appellant no. 1) and Sunita Agrawal (Appellant no. 2) challenging the Order No. QJA/GR/IVD/ID16/29180/2023-24 dated September 8, 2023 issued by the Securities and Exchange Board of India ('SEBI' for short) whereby the Appellants have been restrained from accessing the securities market for a period of 6 months from the date of the order and a penalty of Rs. 5 lakh each has been imposed under Section 15HA of the SEBI Act, 1992 on the ground that by virtue of holding promotership and directorship of the Company, namely, Gokul Solutions Limited (GSL) and by providing funds to an entity who traded in the scrip, the Appellants were guilty of manipulating the scrip of GSL. Appeal no. 14 of 2024 has been filed by Aryavrat Suppliers Private Limited impugning the above stated order dated September 8, 2023 whereby the appellant, Aryavrat Suppliers Private Limited (Appeal no. 14 of 2024) has been restrained from accessing the securities market for a period of 6 months from the date of the order and a penalty of Rs. 5 lakh has been imposed under Section 15HA of the SEBI Act. The Appellant has also been directed to disgorge the unlawful gain

of Rs. 24.98 lakh being the alleged amount of enrichment made by the appellant at the cost of investing public.

2. It is the case of the Appellants that, at this stage, interim relief be provided to them by staying the impugned order dated September 8, 2023 as the original order uploaded on the website of the Respondent was removed and a fresh order was uploaded wherein a number of modifications, additions and deletions were made. Further, there has been an inordinate delay in initiation and conclusion of the proceedings. The Appellant nos. 1 and 2 have not executed any trades in the scrip and they have a strong case on merits as they have been made vicariously liable for mistakes allegedly committed by the Company without any evidence about their involvement in the manipulation of the scrip of the Company. The Appellants have also contended that while this appeal has been admitted by this Tribunal, the Respondent has started Recovery Proceedings instead of awaiting the result of the Appeal.

3. On the other hand, the Respondent stated that the Appellants have not filed any miscellaneous application seeking interim relief. They have not raised sufficient grounds to show that the findings against them were erroneous. A minimum

penalty of Rs. 5 lakh under Section 15HA of SEBI Act, 1992 has been imposed on the Appellants and they have not produced any evidence to show that they are incapable of paying the penalty amount. On the uploading of the order on SEBI's website, the Respondent stated that an unended draft of the order got inadvertently uploaded instead of the final version of the signed order. The mistake was immediately corrected by uploading the correct version of the final order. The modifications were inconsequential changes and corrections of the errors which can be rectified under Rule 5(5) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995.

4. Having heard both the parties on the interim relief sought by the Appellants, I am of the view that keeping in view that Appellant nos. 1 and 2 have not traded in the scrip of the Company and in order to balance the equities, it would be appropriate to direct the Appellant no. 1 (Sanjay Kumar Agrawal) and Appellant no. 2 (Sunita Agrawal) in Appeal no. 13 of 2024 to deposit a sum of Rs. 2.50 lakh each before the Respondent within two weeks from today. If the same amount is deposited, the balance amount shall not be recovered during the pendency of the appeal. Considering that trades carried out by

the Appellant has been impugned, no interim relief is being allowed to Aryavrat Suppliers Private Limited in Appeal no. 14 of 2024 at this stage.

5. Let a reply be filed by the Respondent on the appeal within three weeks. Rejoinder to be filed within three weeks thereafter. The matter would be listed for admission and for final disposal on April 2, 2024.

Ms. Meera Swarup
Technical Member

29.01.2024
msb