**(2020) 02 SEBI CK 0043**

**In the Securities Appellate Tribunal Mumbai**

**Case No :** ?Appeal No. 56 Of 2020

4A Securities Limited APPELLANT

Vs

National Stock Exchange Of India Limited RESPONDENT

**Date of Decision :** 04-02-2020

**Acts Referred:**

**Citation :** (2020) 02 SEBI CK 0043

**Hon'ble Judges :** Tarun Agarwala, Presiding Officer;Dr. C. K. G. Nair, Member;M. T. Joshi, J

**Bench :** Full Bench

**Advocate :** Amit Gupta, Rashid Boatwalla, Pruthvi Dhinoja

**Final Decision :** Dismissed

## Judgement

Tarun Agarwala, Presiding Officer

1. The present appeal has been filed against the order of the Member and Core Settlement Guarantee Fund Committee (â??MCSGFCâ?) and NSE

dated January 14, 2020 wherein the appellant has been directed to pay a penalty of Rs.48,94,000/- and suspension for 5 trading days in all segments

after giving three weeks notice which will start from February 05, 2020 to February 11, 2020.

2. Having heard the learned counsel for the appellant we find that the appellant is a member registered with the Stock Exchange in Capital Market

(â??CMâ?), Futures & Options (â??F&O) and in the Currency Derivatives (â??CDâ?). Pursuant to an inspection conducted by the Stock

Exchange a show cause notice was issued for various violations committed by the appellant. After considering the response and the material evidence

that was collected the impugned order was passed.

 

3. We find that the noticee had failed to abide by the Code of Conduct for trading members under Regulations 4.5.1 and 4.5.2 of NSEIL CM and

F&O Regulations. The violations ranged from misuse of client funds, non-availability of client securities, client obligation met from other client

securities, payments made to clients despite debit balance and misuse of pledging of client securities. The said violations in our opinion are serious

which justifies the aforesaid penalty and suspension.

4. An attempt was made that during investigation the inspector officer took certain data by himself without taking assistance from the appellantâ??s

staff and which resulted in incomplete and incorrect data resulting in the issuance of the show cause notice and the impugned order. Such statement

so made is not based on any documentary evidence such as protest letters been filed immediately after the inspection nor has been raised in the

response to the show cause notice. Such contention therefore cannot be taken into consideration.

5. In the light of the aforesaid violations which are serious we are of the opinion that trading members holding client assets in their fiduciary capacity

has to ensure that all obligations imposed upon them under the Act and the Regulations are complied with. We find that the appellant did not act in a

diligent manner. Consequently we do not find any error in the impugned order. Dismissed.

 