(2021) 06 SEBI CK 0177

In the Securities Appellate Tribunal Mumbai

Case No : Appeal No. 180 Of 2021

Abhishek Bhutra And Others APPELLANT

Vs

Securities And Exchange Board Of India RESPONDENT

Date of Decision : 14-06-2021

Acts Referred:

Securities And Exchange Board Of India (Prohibition Of Fraudulent And Unfair Trade Practices Relating To Securities Market) Regulations, 2003 — Regulation 3, 4

Citation : (2021) 06 SEBI CK 0177

Hon'ble Judges : Tarun Agarwala, Presiding Officer;M. T. Joshi, J

Bench : Division Bench

Advocate : Dr. S. K. Jain, Vikas Bengani, Suraj Choudhary, Abhiraj Arora, Rashi Dalmia, Karthik Narayan

Final Decision : Allowed

Judgement

Noticee Group,Basis of Connection

Noticee no. 4 and 6,"Common UCC address and Common UCCP hone

Number

Noticee no. 5 and 8,"Common UCC Phone Number andC ommon

Directorship

Noticee no. 7 and 9,"Common UCC address and Common UCCP hone

Number

11. We are further of the opinion that the finding that the appellants had contributed to the LTP in view of the unusual premanipulative trading pattern,

and, therefore, was violative of Regulations 3 and 4 of the PFUTP Regulations cannot be acceped. In the instant case, there is no charge of collusion.",

There is no connection with the other notices. If there is no charge of collusion, there is no charge of fraud and if there is no connection with the other",

notices, then individual trading pattern is to be taken into consideration. We find that miniscule trading was done by the appellants which did not impact",

the market, Thus there was no unusual premanipulative trading pattern executed by the appellants and consequently, there cannot be any violation of",

Regulations 3 and 4 of the PFUTP Regulations. In this regard, the WTM has found that the individual contribution of the appellants towards positive",

LTP was small but found the appellants guilty based on the cumulative impact of the total volume of trades made by the nine noticees. The WTM also,

found that there was an increase in the price after every corporate announcement made by the company. Thus, we are of the confirmed view that the",

trades made by the appellants did not make any impact on the price rise and, in any case, in the absence of any collusion, there was no violation of",

Regulations 3 and 4 of the PFUTP Regulations.,

12. In view of the aforesaid, it is not necessary for us to dwell on the principles propounded in the case of M/s. Nishith M. Shah HUF vs. SEBI",

Appeal No. 97 of 2019 dated January 16, 2020.",

13. Reliance made by the respondents in the paragraph No. 44 of the case of Ajay Aggarwal vs. Union of India & Ors. (1993) 3 SCC 609 is,

misplaced. In the said decision, it was found that even if the link in the chain was broken, even then the party can be charged and found guilty where",

each party performs and act without knowledge of the other and the said act aids succeeding parties in accompanying the criminal objective of the,

conspiracy. The facts are totally distinguishable and is not applicable in the instant case as we have found categorically that the trades made by the,

appellants were miniscule and did not impact the price of the scrip.,

14. In view of the aforesaid, the impugned order cannot be sustained in so far as the appellants are concerned. The impugned order is quashed qua the",

appellants. The appeal is allowed with no order as to costs.,

15. 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.,