(2012) 04 SC CK 0045

In the Supreme Court Of India

Case No : Special Leave Petition to Appeal (Civil) No. 11738 of 2012

Securities and Exchange Board of India — APPELLANT

Vs

MCX Stock Exchange Ltd. and Others — RESPONDENT

Date of Decision : 11-04-2012

Acts Referred:

Manner of Increasing and Maintaining Public Shareholding in Recognized Stock Exchanges Regulations, 2006 — Regulation 8
Securities Contracts (Regulation) Act, 1956 — Section 16(1), 18A

Citation : (2012) 2 CompLJ 597

Hon'ble Judges : Chandramauli Kumar Prasad, J;Aftab Alam, J

Bench : Division Bench

Advocate : Ghulam E. Vahanvati, A.G., Dilip Annasaheb Taur, Dinesh G. Mishra, Kapil Joshi and Jayesh Kanaksinh Ashar, for the Appellant; H.N. Salve, J.J. Bhat, Mukul Rohatgi and Ranjit Kumar, Sr. Advs. Mahesh Agarwal, E.C. Agrawala, Radhika Gautam, Nitin Potdar, Senthil Jagdeesan, Amit Mishra, Ameet Naik and M.P. Jha, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard.

2. Taken on Board.

3. Heard Mr. Ghulam E. Vahanvati, learned Attorney General, appearing for the Petitioner, and Mr. Harish N. Salve, Mr. Mukul Rohtagi, and Mr. Ranjit Kumar, learned senior counsel appearing for Respondent Nos. 1, 3 and 2 respectively. As agreed by all the parties, this SLP is disposed of in the following consent terms:

(1) The Petitioner, the Securities and Exchange Board of India, shall amend its Securities Contracts (Regulation) (Manner of Increasing and Maintaining Public Shareholding in Recognized Stock Exchanges) Regulations, 2006 (2006) 6 Comp LJ 105 (St.). and examine the application filed by Respondent No. 1 in light of the amended Regulations but not being bound by the findings of the High Court recorded in the impugned judgment in regard to:

(i) the illegality of the buyback agreements u/s 18A, read with Section 16(1) of the Securities Contracts (Regulations) Act, 1956, and the notification dated 1 March, 2000, and

(ii) Respondents 2 and 3 not being 'persons acting in concert' within the meaning of Regulation 8 of the Regulations.

(2) The Petitioner shall pass a final order on the application filed by Respondent No. 1 within three months from today.

(3) It is needless to say, in making amendments in the Regulation, the Petitioner shall not be bound by any observations or comments made by the High Court in the impugned judgment.

