BEFORE THE SECURITIES APPELLATE TRIBUNAL MUMBAI

Appeal No. 227 of 2012

Date of Decision : 26.06.2013

Crystal Finstock Pvt. Ltd.
193/1, New Cloth Market,
Ahmedabad – 380 002.

…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. J.J. Bhatt, Advocate with Ms. Rinku S. Valanju and Mr. Pratham Masurekar, Advocates for the Appellant.

Mr. Mihir Mody, Advocate for the Respondent.

CORAM : Jog Singh, Member & Presiding Officer (*Offg.*)
A.S. Lamba, Member

Per : Jog Singh (Oral)

1. The present appeal is directed against the impugned order dated October 25, 2012 by which a total penalty of Rs. 2 lac has been imposed on the appellant under Section 15HA of the Securities and Exchange Board of India Act, 1992 for the violation of Regulations 4(2)(a) and 4(2)(b) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (FUTP Regulations). Out of this Rs. 2 lac penalty, Rs. 1 lac has been imposed under Section 15HB of the SEBI Act, 1992 for violation of Clause A(1) of the Code of Conduct for Sub-brokers as mentioned in Schedule in Schedule II of Regulation 15 of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 (Broker Regulations).

2. The appellant is sub-broker and main allegation against him is that he along with certain other entities mentioned in para 3 of the impugned order aided and abetted in creating artificial volume in the scrip of Popular Estate Management Ltd., hereinafter referred to as “PEML”. Further allegation is that the Appellant was a party in manipulating the price of the scrip by executing synchronized, cross and reversal trades on behalf of clients in question. A show cause notice was accordingly issued on June 21, 2011 under Rule of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995. Appellant replied to the same but it was not found satisfactory as such Adjudicating Officer was appointed by the Respondent under Section 15 I of the SEBI Act read with Rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995. After considering the defence of the Appellant and after affording an opportunity of hearing, the learned Adjudicating Officer came to the conclusion that the Appellant was guilty of violating the said FUTP Regulations and also Clause A(1) of the Code of Conduct meant for Sub-brokers for violations of said Broker Regulations. This is how a consolidated penalty of Rs. 2 lac came to be imposed on the Appellant by the impugned order dated October 25, 2012.

3. We have heard both the learned counsel for the parties and have perused the appeal and documents annexed therewith. Mr. J.J. Bhatt, learned counsel for the Appellant submits that despite the allegations against the Appellant regarding the price manipulation, the price of the scrip remained stable. It is stated that the price was about Rs. 30 prior to the dates in question i.e. 11, 12 and 13 February, 2009 and thereafter. Similarly, the learned counsel for the Appellant submits that even the alert system of the stock exchange was not in

place at that time and the same has been introduced in the recent past. Lastly, it is submitted by the appellant that the violation in question was committed by the Appellant merely due to inadvertence and without any intention of manipulating the price of the scrip in question.

4. On the other hand, learned counsel for the Respondent Mr. Mihir Mody submits that the Appellant's sub-broker is a family concern and they have traded among themselves in manipulating the price in question. They should have acted more responsibly in the matter. It is, therefore, contended by Mr. Mihir Mody that there is a proved violation on the part of the Appellant not only in the matter of the FUTP Regulations but also Broker Regulations.

5. After hearing both the learned counsel for the parties, we do not find any good ground to interfere with the impugned order and the same is hereby upheld. However, keeping in view the totality of the facts and circumstances of the case we are inclined to reduce the penalty to Rs. 1 lac.

6. With the above said modification of the impugned order, the appeal stands dismissed. The said amount of penalty shall be paid by the Appellant within a period of two months from the date of receipt of a copy of this order.

Sd/-
Jog Singh
Member &
Presiding Officer (*Offg.*)

Sd/-
A.S. Lamba
Member

26.06.2013
Prepared and compared by:
msb