BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision: 30.07.2014

Appeal No. 166 of 2014

1. Polsani Ravinder Rao
   H. No. 8-7-177/23, Plot No. 2,
   Satyam Status Enclave,
   Swarnadhama Nagar,
   Old Bowenpally,
   Hyderabad- 500 011 …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

WITH
Appeal No. 167 of 2014

2. PV Ravi Kumar
   H. No. 8-7-177/22,
   Plot No. 4,
   Satyam Status Enclave,
   Swarnadhama Nagar,
   Secunderabad- 500 011 …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

WITH
Appeal No. 168 of 2014

3. Ramana Boina Shankar
   Plot No. 32,
   Madhura Nagar Colony,
   Nagaram Village,
   Ranga Reddy,
   Andhra Pradesh- 500 015 …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

WITH
Appeal No. 169 of 2014

4. Lakshmi Rajan
Plot No. 26,
SP Colony Street No. 1,
Tirumalgiri,
Secunderabad- 500 015 …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

WITH
Appeal No. 170 of 2014

5. P Leela Madhuri Devi
H. No, 8-7-177/22,
Plot No. 4,
Satyam Status Enclave,
Swarnadhama Nagar,
Secunderabad- 500 011 …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

WITH
Appeal No. 171 of 2014

6. Sreeram V Mangalapalli
102 Ratnaravira Apartments,
59 Kiralampudi Layout,
Vishakapatanam- 530 013 …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

WITH
Appeal No. 172 of 2014

7. Ramana Bharati
Plot No. 32,
Madhura Nagar Colony,
Nagaram Village,
Ranga Reddy,
Andhra Pradesh- 500 015 …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

WITH
Appeal No. 173 of 2014

8. A R S Rajan
Plot No. 26,
SP Colony Street No. 1,
Tirumalgiri,
Secunderabad- 500 015 …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

AND
Appeal No. 174 of 2014

9. P Suresh Gandhi
H. No. 10-88-1,
Penuganchiprolu,
Main Village, Krishna Dist,
Andhra Pradesh- 520 010 …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. Vinay Chauhan, Advocate with Mr. K.C. Jacob, Advocate for Appellants.

Mr. Tomu Francis, Advocate for the Respondent.

CORAM: Justice J.P. Devadhar, Presiding Officer
Jog Singh, Member
A.S. Lamba, Member

Per: Jog Singh (Oral)

1. These 9 appeals arise out of a common impugned order dated March 28, 2014 passed by the Securities and Exchange Board of India ("SEBI" for short) against the 9 appellants in question.

2. Since a common question of law and fact has been involved in all these 9 appeals, with the consent of parties, they have been heard together and are being disposed of by this common order. Penalty of ₹ 10 lac has been imposed on Shri Polsani Ravinder Rao, appellant in **Appeal No. 166 of 2014** for violation of Regulation 13(4) read with 13(5) of Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 ("PIT Regulations, 1992" for short). Shri Polsani Ravinder Rao, happens to be a Promoter, Director and Compliance Officer of the company namely, Arunjoyti Enterprises Limited which is a public limited company and listed on Bombay Stock Exchange and the Calcutta Stock Exchange.

3. Similarly, appellants in **Appeal Nos. 173 of 2014,** namely, (Mr. ARS Rajan), **Appeal No. 169 of 2014** (Ms. Lakshmi Rajan), **Appeal No. 172 of 2014** (Ms. Ramana Bharati), **Appeal No. 168 of**

2014 (Mr. Ramana Boina Shankar) and **Appeal No. 171 of 2014** (Mr. Sreeram V. Mangalapalli), who are all promoters of the said company have been charged of violation of Regulation 13(4A) read with Regulation 13(5) of PIT Regulations and each one of them has been imposed penalty of ₹ 5 lac for said violation. Appellants in **Appeal No. 167 of 2014, 170 of 2014** and **Appeal No. 174 of 2014** are public shareholders and are charged of violating Regulation 7(1) read with 7(2) of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeover) Regulations, 1997 ("SAST Regulations, 1997" for short) and 13(1) read with 13(5) of PIT Regulation respectively and have been imposed a penalty of ₹ 4 lac on appellants in **Appeal No. 167 of 2014** (Mr. P V Ravi Kumar) and **Appeal No. 170 of 2014** (P Leela Madhuri Devi) and ₹ 3 lac on appellant in **Appeal No. 174 of 2014** (P Suresh Gandhi).

4. The main allegation of SEBI against all these appellants is regarding non-disclosure of acquisition and/or sale of shares ranging between 64,120 shares and 4,51,750 shares and hence the charge pertains mainly to the violation of PIT Regulations except in case of P.V. Ravi kumar, appellant in **Appeal No. 167 of 2014** who has been also charged of violation of Regulations 7(1) and 7(2) of SAST Regulations, 1997.

5. After finding a prima facie case of violation against the appellants in a preliminary investigation conducted by SEBI, a common show cause notice dated September 12, 2013 was issued to the appellants

under rule 4 of Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 and after conducting inquiry in accordance with the principles of natural justice and after considering reply of the appellants in regard the learned Adjudicating Officer ("AO" for short) of SEBI has imposed the above said penalties on the appellants under 15A(b) of Securities and exchange Board of India Act, 1992 ("SEBI Act, 1992" for short) by impugned order dated March 28, 2014.

6. We have heard both the learned counsel for the parties and have perused the pleadings. The case, as advance by Shri Vinay Chauhan, learned counsel for the appellants is that the violations in question have occurred due to total ignorance of law and this fact has been admitted before the learned AO. Therefore, respondent should not have imposed such high penalties for the said admitted violations which occasioned only due to inadvertence.

7. Secondly, Shri Vinay Chauhan, leaned counsel for the appellants has submitted that no common yardstick has been adopted by the learned AO in imposing the punishment. It is further submitted that after the violation has been committed, all the appellants including Promoter, Director, Compliance Officer and Public Shareholder should be treated at par in the matter of imposition of penalty and there should be no discrimination in this regard.

8. On the other hand, Shri Tomu Francis, learned counsel for the respondent has submitted that the various penalties in question have been imposed on the appellants duly taking into consideration degree and nature of violation committed by them as also their respective position in the company. Similarly, an appellant who has committed violation twice has been imposed slightly more monetary penalty as compared to the others.

9. We may now deal with the first submission of the appellants on the question regarding imposition of penalty on each of them. We note that appellant in **Appeal No. 166 of 2014,** namely, Shri Polsani Ravinder Rao, is a Promoter, Director and even the Compliance Officer of the company i.e., three in one. He has committed violation on two occasions, first in regard to quarter ending March 31, 2011 and second in respect of quarter ending December 31, 2010. On each such occasion, he did not disclose about acquisition and sale of 1 lac shares of the company. Therefore, he has been rightly imposed a penalty of ₹ 10 lac against maximum penalty of ₹ 2 crore prescribed by Section 15A(b) of the SEBI Act, 1992 i.e., 1 crore for each violation understandably ₹ 5 lac for each violation. Therefore, this penalty cannot be considered unreasonable in the facts and circumstances of the present case. The principle of proportionality would come to the rescue of an appellant only when the penalty sought to be imposed by SEBI is highly, and rather shockingly, disproportionate to the gravity, nature and extent of the violation involved in a given case, including any illegal profits

which might have been earned by a person as a result of such violation or any loss which might have been caused to the innocent investors directly due to such violation.

10. Similarly, penalty of ₹ 5 lac each on the 5 promoters is justified and not unreasonable considering the nature of violation and maximum penalty of ₹ 1 crore imposable under law on each of them. Appellants in **Appeal No. 167 of 2014,** and **Appeal No. 170 of 2014,** namely, Mr. P V Ravi Kumar and P Leela Madhuri Devi are husband and wife and they undertook sale and purchase of 4,51,750 shares between themselves. None of them made any disclosure as required by Regulation 13(1) read with 13(5) of PIT Regulations as also under Regulation 7(1) and 7(2) of SAST Regulations, 1997 in as much it led to change in their shareholding pattern by 2%. In these circumstances, penalty of ₹ 4 lac each imposed on both the appellants cannot be treated as highly disproportionate to the violation committed by them.

11. Even in case of appellant in **Appeal No. 174 of 2014,** namely, Mr. P Suresh Gandhi, he did not make any disclosure in respect of sale of 2,83,500 shares of the company in violation of PIT Regulations in question. He being a public investor, the learned AO has imposed a penalty of ₹ 3 lac only as against ₹1 crore imposable under law. Therefore, the imposition of above said penalties can neither to be termed as discriminatory nor disproportionate to the admitted violation,

particularly in the facts and circumstances of the case as enumerated above.

12. All the appeals, accordingly, stand dismissed with no order as to costs.

Sd/-
Justice J.P. Devadhar
Presiding Officer

Sd/-
Jog Singh
Member

Sd/-
A S Lamba
Member

30.07.2014
Prepared & Compared By: PK