

BEFORE THE SECURITIES APPELLATE TRIBUNAL  
MUMBAI

**Appeal No. 138 of 2010**

**Date of decision: 10.1.2011**

Jitendra Harjivandas Securities Pvt. Ltd.  
416, Stock Exchange Towers, 4<sup>th</sup> Floor,  
Dalal Street, Fort, Mumbai – 400 001.

.....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. A. S. Doctor, Advocate for the Appellant.

Dr. Poornima Advani, Advocate for the Respondent.

CORAM : Justice N. K. Sodhi, Presiding Officer  
Samar Ray, Member  
P. K. Malhotra, Member

Per : Justice N. K. Sodhi, Presiding Officer (Oral)

Challenge in this appeal is to the order dated June 3, 2010 passed by the adjudicating officer imposing a monetary penalty of ₹ 25 lacs on the appellant for violating the provisions of Regulation 4(2) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 and also the code of conduct prescribed for stockbrokers in schedule II read with Regulation 7 of the Securities and Exchange Board of India (Stockbrokers and Sub-brokers) Regulations, 1992.

2. The appellant before us is a stockbroker registered with the Securities and Exchange Board of India (for short the Board). Adjudication proceedings were initiated against the appellant for the aforesaid violations. The primary grievance of the appellant is that the data that was furnished to it alongwith the show cause notice suffered from material discrepancies and on the basis of that data the adjudicating officer could not hold the appellant guilty of the charges levelled. The learned counsel for the respondent Board very fairly states that the data

furnished to the appellant, indeed, had been wrongly collated as a result whereof the buy member code was again pasted on the sell side in place of the sell member code. She further states that this error could not be detected during the course of the proceedings before the adjudicating officer and the same has come to light only after the appellant filed the present appeal. Since the appellant was not furnished with the correct data, the findings recorded by the adjudicating officer in the impugned order based, as they are, on the erroneous data cannot be sustained. We, therefore, allow the appeal, set aside the impugned order and remand the case to the adjudicating officer to proceed afresh in accordance with law. No costs.

Sd/-  
Justice N. K. Sodhi  
Presiding Officer

Sd/-  
Samar Ray  
Member

Sd/-  
P. K. Malhotra  
Member

10.1.2011  
ptm

Prepared & Compared by  
PTM