

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Appeal No. 25 of 2011

Date of Decision: 10.6.2011

Shreehari Hira Stock Broking (P) Ltd.
R-638, Rotunda Bldg., 6th Floor,
B.S. Marg, Fort, Mumbai.

..... Appellant

Versus

Securities and Exchange Board of India
SEBI Bhavan, Plot No. C-4A, G Block,
Bandra Kurla Complex, Bandra (East),
Mumbai.

..... Respondent

Mr. Prakash Shah, Advocate for the Appellant.

Mr. Kumar Desai, Advocate with Mr. Kersi Dastoor, Advocate for the Respondent.

CORAM : Justice N. K. Sodhi, Presiding Officer
S. S. N. Moorthy, Member

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

This order can conveniently dispose of two Appeals no.25 and 56 of 2011 in which common questions of law and fact arise. Shreehari Hira Stock Broking (P) Ltd. is a stock broker and the appellant in Appeal no.25 of 2011. It executed trades on behalf of Vasant Bissa the appellant in the other appeal in the scrip of M/s. KRBL Ltd. The shares of this company are, among others, listed on the Bombay Stock Exchange Limited and the National Stock Exchange of India Ltd. Investigations carried out by the Securities and Exchange Board of India (for short the Board) revealed that a group of clients and brokers joined hands together and executed circular trades in the scrip of the aforesaid company. Adjudication proceedings were initiated against them and show cause notices were issued alleging that they had violated the provisions of Regulation 4 of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 2003 (for short the Regulations). The brokers were also charged with having violated the code of conduct prescribed by the Securities and Exchange Board of India (Stock Brokers and Sub-brokers) Regulations, 1992. The adjudicating officer by his orders dated November 23, 2010 and

January 25, 2011 imposed a monetary penalty of ` 6 lacs and ` 8 lacs respectively on both the appellants who have come up in appeal.

2. We have heard the learned counsel for the parties who have taken us through the record. The precise charge against the appellants is that in collusion with other clients and brokers they executed circular trades in the scrip of KRBL Ltd. The learned counsel appearing for the Board has placed before us a chart of the trades executed by the appellants. It is not necessary to examine each and every trade as the trades have not been disputed on behalf of the appellants. By way of a sample, we are referring to the trades executed by the two appellants on September 29, 2003. One Bhagwandas Shah, a stock broker, acting on his own behalf sold 1500 shares of the company to one Adolf Pinto, another stock broker, who was trading on behalf of his son Gillian Adolf Pinto. Adolf Pinto then sold the shares to Shreehari Hira Stock Broking (P) Ltd. which was then a sole proprietary concern of one Shivkumar Bissa who was trading in the name and style of M/s. Harikishan Hiralal. Shivkumar Bissa then sold the shares back to Bhagwandas Shah. The traded quantity was the same and the price at which the shares were traded was also the same and the trades between the 3 brokers on behalf of their respective clients were completed in less than 10 minutes. It is, thus, clear that the shares which started from Bagwandas Shah were received back by him through Adolf Pinto and Shivkumar Bissa. These trades are circular and the learned counsel appearing for the appellants have not been able to dispute this fact. This was not the only trade executed by the appellants. There were several other trades on other dates executed in a similar manner. It is obvious that all the brokers and the clients who had joined hands including the two appellants before us were playing mischief. In this view of the matter, we uphold the findings recorded by the adjudicating officer that the appellants are guilty of the charges levelled against them.

3. The learned counsel for the appellants contended that the penalty imposed on their clients was on the higher side and the same should be reduced. It was pointed out that the same adjudicating officer while dealing with the case of Adolf Pinto who was also a part of the chain referred to above imposed on him a penalty of ` 2 lacs only whereas the

appellants have been given a much higher dose. This appears to be so. It is urged that the penalty imposed on the appellants be also reduced to ` 2 lacs each. We are not inclined to accept this contention. The charges established against the appellants are indeed very serious and a penalty needs to be levied which should have a deterrent effect. It is admitted on both sides that the appellants before us are not first time offenders and have been found guilty of market manipulation on earlier occasions as well. Same is the case with the other brokers and clients who were involved in the circular trading. It must be remembered that the adjudicating officer while imposing penalties on the erring market intermediaries and other players should adopt a uniform standard and the quantum should not vary by an extent which would make it appear arbitrary. In the two cases before us, the same adjudicating officer has imposed a penalty of ` 2 lacs on Adolf Pinto whereas the appellants have been given a higher dose. There appears to be no apparent difference in the wrong doing of Adolf Pinto and the appellants. However, we are not inclined to reduce the penalty of the appellants to ` 2 lacs. Having regard to the facts and circumstances of the case and the gravity of the wrongdoing we are of the view that the ends of justice would be adequately met if the penalty imposed on the appellants is reduced to ` 4 lacs each. We order accordingly.

The appeals stand disposed as above with no order as to costs.

Sd/-
Justice N.K.Sodhi
Presiding Officer

Sd/-
S.S.N. Moorthy
Member

10.6.2011

Prepared and compared by
RHN