

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Appeal No. 142 of 2011

Date of decision: 9.9.2011

Mansukh Stock Brokers Ltd.
(formerly known as "Uttam Financial Services Ltd.)
Mansukh House, Plot No. 16,
Opp. Mother Dairy, Pandav Nagar,
New Delhi – 110092.

... Appellant

Versus

The Adjudicating Officer,
Securities and Exchange Board of India
SEBI Bhavan, Plot No. C-4A, G Block,
Bandra Kurla Complex, Bandra (East),
Mumbai - 400 051.

... Respondent

Mr. Prakash Shah, Advocate for the Appellant.

Mr. Kumar Desai, Advocate with Mr. Mihir Mody, Mr. Mobin Shaikh, Advocates for the Respondent.

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

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

Challenge in this appeal is to the order dated June 30, 2011 passed by the adjudicating officer holding the appellant guilty of indulging in fraudulent and unfair trade practices and imposing a monetary penalty of ₹ 5 lacs under Section 15HA of the Securities and Exchange Board of India Act, 1992 (for short the Act) and another sum of ₹ 2 lacs for violating the code of conduct since the appellant is a registered stock broker. The charge that has been established against the appellant is that it executed circular trades in the scrip of M/s. KRBL Limited which is a listed company. The learned counsel appearing for the respondent Board has placed before us the details of the trades executed by the appellant alongwith other brokers which clearly indicate that the trades were executed in circles. For instance, on August 20, 2003 the appellant in its own account sold 2000 shares of the aforesaid company to Adolf Pinto another stockbroker at 10:34:52 hrs. and Adolf Pinto then sells those shares to Bhagwandas Shah another stockbroker who was trading in his proprietary account. This sale was made at 10:54:36 hrs. on the same day and within two to three minutes Bhagwandas Shah sells the shares back to the

appellant at 10:57:49 hrs. It is, thus, clear that the shares which started from the appellant reached back to it in less than 30 minutes. It is the appellants own case that the scrip of KRBL Ltd. is highly liquid. If that is so, it is just not possible that the shares could go back to the appellant in less than half an hour. The manipulation is writ large and it is by now well settled that circular trades are not genuine trades as they do not transfer the beneficial interest in the traded scrip and that such trades only create artificial volumes which tend to lure the lay investors into trading. It is for this reason that such manipulative trades are prohibited by the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating of Securities Market) Regulations, 2003. The aforesaid circle of trading is not a solitary instance and there are several other instances as well where the appellant traded in circles with other brokers. We have perused those circles as well which include larger number of brokers. We are, therefore, satisfied that the appellant alongwith others has been indulging in the circular trading and the charge stands established.

2. What is urged by the learned counsel for the appellant is that in the case of Adolf Pinto who was a part of the circle, the adjudicating officer has imposed a penalty of ₹ 2 lacs only whereas in the case of the appellant the said amount is ₹ 7 lacs. This is so and we are of the view that the adjudicating officer was right because the penalty imposed on the wrong doers including the appellant is proportionate to the percentage of trades executed by them. The volumes traded by the appellant are much larger than the volumes traded by Adolf Pinto.

In the result, we find no merit in the appeal and the same stands dismissed.

No costs.

Sd/-
Justice N. K. Sodhi
Presiding Officer

Sd/-
P. K. Malhotra
Member

Sd/-
S. S. N. Moorthy
Member