

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision: 14.10.2019

Appeal No.59 of 2019

Mr. Dheeraj Shah
Mrs. Sheetal Dheeraj Shah
23-A, 12 Akash CHS.,
Zalawad Nagar, Ashok Nagar,
Kandivali (East), Mumbai – 400101. ... Appellant

Versus

The Securities and Exchange Board of India
SEBI Bhavan, Plot No.C-4A,
G Block, Bandra Kurla Complex,
Mumbai – 400 051. ... Respondent

Mr. Deepak Dhane, Advocate with Mr. Shantibhushan
Nirmal and Shama Khan, Advocates for the Appellant.

Mr. Abhiraj Arora, Advocate i/b. ELP for the Respondent.

CORAM: Justice Tarun Agarwala, Presiding Officer
Dr. C.K.G. Nair, Member
Justice M.T. Joshi, Judicial Member

Per : Justice Tarun Agarwala (Oral)

1. The present appeal has been filed against the order of debarment restraining the appellant from accessing the securities market for a period of five years.

2. Initially on the basis of the preliminary investigation in the trading and in dealing in the scrip, an ex-parte interim order dated 20th February, 2015 was passed restraining the appellant from accessing the securities market which was order was confirmed on 25th August, 2016. Thereafter on the basis of a show cause notice, the Whole Time Member of SEBI considered the reply and, after considering the evidence that was brought on record passed the impugned order restraining the appellant from accessing the securities market for a period of five years from the date of the ex-parte ad-interim order dated 20th February, 2015. The appellant has already undergone the debarment for more than four years and eight months.

3. After hearing the learned counsel for the parties and without going into the merit as to whether the appellant was involved in the huge rise in the price of the scrip, we are of the opinion that the present appeal can be disposed of in terms of the debarment already undergone.

4. We also find that the present controversy is also covered by the decision of this Tribunal dated 27th September, 2019 First Financial Services Ltd. & Anr. vs. SEBI in Appeal no.273 of 2018.

5. Thus, without going into the merits of the case and without considering the submissions of the counsel for the parties on merits, we dispose of the appeal holding that the restraint order restraining the appellants from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner, whatsoever will come to an end from today.

6. It was stated by the learned counsel that, for the same offence, adjudication proceedings have been initiated by the Adjudicating Officer of SEBI and submitted that the findings given in the impugned order of the WTM would be relied upon by the AO. It was urged that the finding given in the impugned order should not come in the way while considering the matter on merits by the Adjudicating Officer of SEBI.

7. We make it clear that the Adjudicating Officer of SEBI will consider the matter on merits without being influenced by the findings given by the WTM of SEBI.

8. In the light of the aforesaid, the appeal is disposed of.
In the circumstances of the case, the parties shall bear their own costs.

Sd/-
Justice Tarun Agarwala
Presiding Officer

Sd/-
Dr. C. K. G. Nair
Member

Sd/-
Justice M.T. Joshi
Judicial Member

14.10.2019
Prepared and compared by
RHN