

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date:24.12.2020

**Misc. Application No.542 of 2020
And
Appeal No.503 of 2020**

Anil N. Alwani ...Appellant

Versus

Securities and Exchange Board of India ...Respondent

Mr. Pesi Modi, Senior Advocate with Mr. Kunal Katariya, Advocate i/b. Ms. Sukanya Sehgal, Advocate for the Appellant.

Mr. Shiraj Rustomjee, Senior Advocate with Mr. Mihir Mody and Mr. Arnav Misra, Advocates i/b. K. Ashar & Co. for the Respondent.

Order:

1. Connect with appeal no.499 of 2020. The appellant is aggrieved by the order of the Whole Time Member ('WTM' for short) by which he has been restrained from accessing the securities market for a period of six

months. The appellant has also been directed to disgorge certain amounts and penalties on the charge of selling the shares of Kirloskar Brothers Limited to Kirloskar Industries Ltd. (hereinafter referred to as 'KIL') as a block deal on the stock exchange platform in the year 2010. The allegation is that the appellant has sold these shares while in possession of unpublished price sensitive information.

2. In pursuance to the impugned order the bank accounts and the demat accounts of the appellant has been frozen.
3. Having heard the learned senior counsel for the parties we find that a number of issues arises for consideration and some of them are whether there was an inordinate delay in the issuance of the show cause notice especially when the trades were done on the stock exchange platform. Further, whether the transfer of the shares is in violation of Securities and Exchange

Board of India (Prohibition of Insider Trading) Regulations, 1992 and whether the direction to pay interest from the date of the transfer was justified.

4. In the light of the aforesaid, we direct the respondent to file a reply within six weeks from today. Three weeks thereafter to the appellant to file rejoinder. The matter would be listed for admission and for final hearing on 2nd March, 2021.
5. It was urged that the impugned order should be stayed subject to the undertaking given by the appellant. On the other hand, the learned senior counsel for SEBI contended that the appellant should be put to terms and should be directed to deposit a certain amount in cash. Considering the fact that there appears to be a delay in the issuance of the show cause notice we are of the opinion that the undertaking given by the appellant would protect interest of the respondent.

6. We, consequently, stay the effect and operation of the impugned order provided that the appellant will ensure that 22,100 shares of Kirloskar Ferrous Industries Ltd. will not be sold or transferred during the pendency of the appeal. The undertaking given by the appellant before this Tribunal will also be given to the depository to ensure compliance. In case of any deviation it would be open to SEBI to move an application for modification or vacation of this order.
7. Parties are directed to contact the Registrar 48 hours before the date fixed to find out as to whether the hearing would take place through video conferencing or through physical hearing.
8. The present matter was heard through video conference due to Covid-19 pandemic. At this stage it is not possible to sign a copy of this order nor a certified copy of this order could be issued by the registry. In these circumstances, this order will be

digitally signed by the Private Secretary on behalf of the bench and all concerned parties are directed to act on the digitally signed copy of this order. Parties will act on production of a digitally signed copy sent by fax and/or email.

Justice Tarun Agarwala
Presiding Officer

Dr. C.K.G. Nair
Member

Justice M.T. Joshi
Judicial Member

24.12.2020
RHN