

IN THE SECURITIES APPELLATE TRIBUNAL
AT MUMBAI

Dated this the 4th day of March, 2025

**CORAM : Justice P.S. Dinesh Kumar, Presiding Officer
Dr. Dheeraj Bhatnagar, Technical Member**

Appeal No. 642 of 2024
[Along with Misc. Application No. 1116 of 2024 And
Misc. Application No. 47 of 2025]

BETWEEN:

Sandip Agrawal
9 & 9/1, Middleton Street,
Flat No. 10, Middleton Mansions,
Kolkata – 700 071.

..... Appellant

(By Mr. Shakeel Mohammed Akhter, Advocate for the
Appellant)

AND:

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

...Respondent

(By Mr. Manish Chhangani with Mr. Atul Agrawal,
Mr. Sumit Yadav and Mr. Abhay Chauhan, Advocates i/b The
Law Point for the Respondent – SEBI)

THIS APPEAL IS FILED UNDER SECTION 15T OF
THE SECURITIES AND EXCHANGE BOARD OF INDIA
ACT, 1992 TO QUASH AND SET ASIDE ORDER DATED
SEPTEMBER 6, 2023 PASSED BY THE ADJUDICATING
OFFICER, SEBI.

THIS APPEAL COMING ON FOR HEARING THIS DAY, THE TRIBUNAL MADE THE FOLLOWING:

ORDER

Per: Justice P.S. Dinesh Kumar, Presiding Officer (Oral)

This appeal is directed against the order dated September 6, 2023 passed by the AO¹, SEBI² imposing a penalty of Rs. 5 lakh for violation of Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of the PFUTP Regulations³.

2. We have heard Shri Shakeel Mohammed Akhter, learned Advocate for the appellant and Shri Manish Chhangani, learned Advocate for the Respondent.

3. There is a delay of 363 days in filing this appeal. We have heard the appeal both on delay and merits.

4. It was submitted by the learned Advocate for the appellant that the appellant has not indulged in any trading activities. Therefore, the allegation of placing a 'buy order' on

¹ Adjudicating Officer

² Securities and Exchange Board of India

³ SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003

March 9, 2015 and a 'sell order' on the same date is a false one.

5. Shri Manish Chhangani, learned Advocate for SEBI adverted to Annexure – 3⁴, the trade logs issued by BSE Limited and annexed by the appellant himself and pointed out that the appellant has traded through a stock broker, namely, Concord Vinimay Pvt. Ltd. He contended that this is a case of trading in the 'Illiquid Stock Options'. The appellant had placed the order to purchase 1,74,000 units at Rs. 0.2 per unit with the counter-party Kirti Seeds Biotech Limited under the contract named PFCL 15MAR320.00CE. Thereafter on the same date within seconds, noticee entered into a 'sell trade' with the same counter-party for the same number of units at Rs. 2.5 per unit. He submitted that appellant's authorized representative has appeared before the AO, SEBI on July 13, 2023 and denied the transactions. He was called upon to furnish any proof in support of his contention. Appellant had sought two days time to produce necessary proof to substantiate his case but failed to do so. Thereafter, a reminder was sent on August 2, 2023 but appellant failed to respond to the said e-mail also.

⁴ Page 64 of appeal paper book

6. Shri Chhangani further submitted that counter-party, namely, Kirti Seeds Biotech Limited has admitted the transactions and availed the settlement scheme with SEBI. With regard to the delay, he submitted that appellant's authorized representative has appeared before the AO on July 13, 2023 and, thus, appellant was aware of the proceedings. In paragraph 2 of the application for condonation of delay the reason stated is that, the appellant was staying with his mother in different premises since May 2023 and the impugned order was served on appellant's minor daughter and therefore the reason shown is wholly irrelevant.

7. We have carefully considered the rival contentions and perused the records.

8. We may record that the trade log of BSE at Annexure – 3 is produced by the appellant. It shows that appellant had traded with the counter-party, Kirti Seeds Biotech Limited. The PAN mentioned in the trade log matches with the PAN produced by the appellant at page 105 of the memorandum of appeal. The AO has furnished a list of dates in paragraph 11

and 12 of the impugned order and it shows that appellant's authorized representative had sought two days time to furnish the proof with regard to his defense. A reminder was also sent on August 2, 2023. It is recorded in the impugned order that the appellant had failed to justify his stand. Even before this Tribunal, except stating that appellant had not traded, no explanation is forthcoming as to how his PAN details are found in the trade log.

9. We may record that appellant himself has produced the trade logs of BSE. Except the self servicing statement that he has not entered into any transactions with Kirti Seeds Biotech Limited, appellant has not taken any action such as filing a police complaint etc., which an ordinary prudent man would do, if a false allegation is made against him.

10. So far as the delay is concerned, Shri Chhangani is right in his submission that reason stated in the application is that the appellant has shifted his premises to stay with his mother in May 2023 but appellant has appeared before the AO in July 2023. Further, the counter-party has admitted the transactions and availed the settlement scheme.

11. In view of the above, the application for condonation of delay does not merit consideration. In the result, the appeal is dismissed both on delay and merits with no order as to costs.

12. Interlocutory application(s), if any, stands disposed of.

Justice P.S. Dinesh Kumar
Presiding Officer

Dr. Dheeraj Bhatnagar
Technical Member

04.03.2025
msb