

IN THE SECURITIES APPELLATE TRIBUNAL  
AT MUMBAI

DATED THIS THE 3<sup>RD</sup> DAY OF JULY, 2025

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

**Appeal No.670 of 2024**  
**[Along with Misc. Application**  
**Nos.1239, 1169 and 1170 of 2024]**

Indra Pratap Singh  
C-45, 12<sup>th</sup> Floor, Sai Baba Enclave Tower,  
Building 3, S V Road, Goregoan West,  
Mumbai – 400 104. ....Appellant

(By Mr. Sankalp A. Sharma, Advocate with Mr. Ameya  
Vaidya, Advocate i/b. Mr. Rahul Singh, Advocate for  
the Appellant.)

Securities and Exchange Board of India  
("SEBI"), SEBI Headquarters, Plot No.C4-A,  
G Block, Bandra Kurla Complex,  
Bandra (East), Mumbai – 400 051. ...Respondent

(By Mr. Vishal Kanade, Advocate with Ms. Khushbu  
Chhajed, Mr. Nishit Dhruva, Ms. Rasika Ghate and Ms.  
Khushbu Trivedi, Advocates i/b. MDP Legal Advocates  
for the Respondent.)

THIS APPEAL IS FILED UNDER SECTION 15T OF  
SEBI ACT, 1992 TO SET ASIDE ORDER DATED  
AUGUST 02, 2019 PASSED BY AO, SEBI.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR ORDERS ON JUNE 19, 2025 COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE TRIBUNAL MADE THE FOLLOWING:

**ORDER**

**Per : Justice P. S. Dinesh Kumar, Presiding Officer**

This appeal is directed against order dated August 2, 2019 passed by the AO<sup>1</sup>, SEBI<sup>2</sup> imposing a monetary penalty of Rs.1 Crore on the appellant for violation of Regulations 3(a), (b), (c), (d), 4(1), 4(2)(a), (b), (d), (e), (g) of SEBI (PFUTP) Regulations, 2003<sup>3</sup>.

2. We have heard Shri Sankalp A. Sharma, learned Advocate for appellant and Shri Vishal Kanade, learned Advocate for SEBI.

3. Brief facts of the case are, SEBI conducted an investigation from January 02, 2009 to September 09, 2009 in the scrip of Octant Interactive Technologies

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<sup>1</sup> Adjudicating Officer

<sup>2</sup> Securities And Exchange Board Of India

<sup>3</sup> SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003.

Limited (OITL). Investigation revealed that promoter group entities colluded with connected entities and executed circular/reversal of trades on the exchange platform and also off-market to create false, misleading appearance of trading to fluctuate the share prices of OITL, thereby violated PFUTP Regulations. SEBI issued show cause notice (SCN) dated August 23, 2013 and supplementary show cause notice (SSCN) dated October 29, 2014 to 35 entities alleging circular/reversal trades and violation of PFUTP Regulations wherein appellant was listed as Noticee No.22. Appellant did not file any reply to SCN and SSCN and did not make any appearance before SEBI, and finally SEBI has passed the impugned order. SEBI has held that appellant, who was the proprietor of 'Amizara Securities and Finance' was involved in receiving shares in the off-market from Keystone Stock Finance Ltd (OITL Promoter entity) and also from VRP Financial Services Ltd in an illegal and fraudulent manner.

4. It is the case of the appellant is that he was an employee working as a field staff from 2004 to 2009 in M/s. Rathi K.K. & Co., a Chartered Accountant firm which belonged to Kamal Rathi. Kamal Rathi illegally forged the relevant IDs, documents and signatures of the appellant and opened a proprietorship firm in the name of 'Amizara Securities and Finance' showing the appellant is the proprietor. The registered address of the said proprietorship concern is 15B, 1<sup>st</sup> Floor, Hiren Shopping Centre, Goregaon (W), Mumbai-400062 and telephone number: 28781495. In the very same address, Kamal Rathi also had his CA firm.

5. Appellant was unaware of the proceedings initiated by the SEBI. He came to know about the impugned order only after initiation of recovery proceedings, when SEBI officers visited his residence on September 27, 2024 and later shared the impugned order. Immediately appellant took steps by replying to the recovery demands made by SEBI and also sent a legal notice to Kamal Rathi.

6. The appellant has approached this Tribunal with prayers *inter alia*, to set aside the impugned order; to direct SEBI not to take any steps or action in implementation or furtherance of the impugned order; to direct SEBI to re-consider the matter and provide an opportunity to the appellant.

7. Shri Sankalp A. Sharma, learned Advocate for appellant submitted that:

- Kamal Rathi illegally forged relevant IDs, documents and signatures of the appellant and opened a proprietorship and bank account in the name of 'Amizara Securities and Finance' without appellant's knowledge. Kamal Rathi opened a demat account in the name of appellant and also in the name of Amizara Securities and Finance through which Kamal Rathi indulged in unfair trade practices. All notices and impugned order were sent to the office premises of Kamal Rathi i.e. 15B, 1<sup>st</sup> Floor, Hiren Shopping Centre, Goregaon (W),

Mumbai -400062 due to which appellant was unaware and deprived of his right to defend against the proceedings and the same amounts to violation of principles of natural justice. These facts have been admitted by Kamal Rathi before Deputy Director of Income Tax in a statement recorded on oath.

- Appellant got issued a legal notice and initiated criminal action against Kamal Rathi as soon as he came to know about the fraudulent acts of Kamal Rathi against him.
- Kamal Rathi is a repeat offender for the offence of forgery. Income Tax Appellate Tribunal, Mumbai in Appeal Nos.7759 & 7760/Mum/2019 has held that Kamal Rathi forged the signatures of Mr. Ganesh Ghadge and operated two benami bank accounts in the name of one Mr. Ganesh Ghadge. Kamal Rathi has used the same *modus operandi* in the case of the appellant.

- Appellant became aware of the impugned order on October 23, 2024, when appellant's son personally visited the Recovery Department at SEBI Bhavan, SEBI officials informed the appellant's son to download the impugned order from SEBI website. The present appeal is filed within 45 days from the date of receipt of the impugned order.

8. Shri Vishal Kanade, learned Advocate for SEBI submitted that:

- The SCN dated August 23, 2023 was issued to the appellant as he is the proprietor of Amizara Securities and Finance. SEBI has received the acknowledgement card wherein SCN was sent through speed post with acknowledgement due. Several opportunities were given in which three hearing notices were affixed at his address and on two occasions hearing notices were returned with the remark '*Item delivery attempted door locked – intimation served.*' Thereafter, the

hearing notice was also sent to the appellant's proprietary email. The appellant did not turn up even though several opportunities were given and finally the impugned order has been passed. In support of his submissions, he has placed reliance on *Priyanka Kumari v. Shailendra Kumar*<sup>4</sup>, *Ajeet Seeds Limited v. K.Gopala Krishnaiah*<sup>5</sup>, *K. Bhaskaran v. Sankaran Vaidhyan Balan and Another*<sup>6</sup>.

- The intimation of passing the impugned order has also been published in Lokmat and Times of India, newspapers of Mumbai edition on October 13, 2020.
- The appellant is the proprietor of Amizara Securities and Finance, as evident by his letters dated October 3, 2024 and October 28, 2028 addressed to the Deputy General Manager & Recovery officer, SEBI, on which address of

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<sup>4</sup> Transfer Petition(s) Civil No.2090 of 2019.

<sup>5</sup> (2014) 12 SCC 685

<sup>6</sup> (1999) 7 Supreme Court Cases 510

Amizara Securities and Finance is seen. The notices have been served to the office address of the said firm. Therefore, the delay has to be calculated from the date of impugned order i.e., August 2, 2019, which comes to 1877 days. The appellant has taken a blanket plea of non-service of the SCN, hearing notices and impugned order. In support of this submission, he has placed reliance on *Basawaraj and Anr v. Special Land Acquisition Officer*<sup>7</sup>, *Mr. Ashwin P. Ruparel v. SEBI*<sup>8</sup>, *Zafar Younus Sareshwala and Anr v. SEBI*<sup>9</sup>. With these submissions, Shri Kanade prayed for dismissal of this appeal.

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

10. SEBI's allegation is that the 35 noticees had indulged in circular trading and reversal trades and

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<sup>7</sup> *Basawaraj and Anr. v. Special Land Acquisition Officer*, 2013 (14) SCC 81, decided on August 22, 2013 by Hon'ble Supreme Court of India.

<sup>8</sup> *Mr. Ashwin P. Ruparel v. SEBI*, decided on December 14, 2023 in Appeal No.956 of 2023 by Hon'ble Securities Appellate Tribunal, Mumbai.

<sup>9</sup> *Zafar Younus Sareshwala and Anr. v. SEBI*, decided on July 14, 2021 in Appeal No.431 of 2021 by Hon'ble Securities Appellate Tribunal, Mumbai.

manipulated the share price of OITL. Appellant is noticee No.22. He has approached this Tribunal challenging SEBI's common order against all noticees contending *inter alia* that he learnt about SEBI's proceedings in September 2024, when recovery proceedings were initiated. It was argued on behalf of the appellant that appellant was working as a field staff with M/s. Rathi K.K. & Co., a Chartered Accountant firm between 2004 and 2009. Admittedly, the impugned order is passed on August 2, 2019. It was urged on behalf of the appellant that appellant has studied upto class Xth and he has no knowledge about securities market. It was his employer Kamal Rathi who was transacting in appellant's name. The said Kamal Rathi has admitted that he was also operating bank accounts and demat accounts of various persons.

11. In substance, appellant's case is that he was working under Kamal Rathi who had misused his KYC

documents. Appellant has no knowledge about any transactions.

12. SEBI has strongly contested the matter and argued that appellant has replied to the demand notice from the very same address to which the SCN and adjudication notices were sent. We have perused the said letter dated October 28, 2024. It is true that the address mentioned there is of Hiren Shopping Center, Goregaon West, Mumbai. Annexure 'D' dated October 28, 2024 is a legal notice issued on behalf of the appellant to M/s. Rathi K.K. & Co., Chartered Accountants. It is alleged therein that Kamal Rathi had opened benami bank account in appellant's name.

13. Learned Advocate for the appellant placed reliance on the statement of Kamal Kishore Rathi recorded under Section 131 of the Income Tax Act. Question No.5, 6, 7, 8 and 15 of his statements are relevant and they read as follows:

*“5. A Survey u/s 133 A of the Income Tax Act was conducted on your premise at 15B, Hiren*

*Shopping Centre, S.V.ROAD, Goregaon (W), Mumbai & R.No. 12/D, 26/28, Nirnay sagar Buliding, 1<sup>st</sup> floor, M.B.Velkar Road, Kalbadevi on 26/08/2010. Please confirm the same.*

*Ans: Yes, Sir I confirm that. I also confirm whatever has been stated in two statements recorded u/s 133A during the course of survey proceedings at my office premises on 26/08/2010 and statement recorded at my Kalbadevi premises.*

*6. Please give the details of the nature of business carried out by you?*

*Ans: Sir, I am engaged in the business of providing accommodation entries in the nature of Long Term and Short Term Capital Gains to various clients and for this purpose I take back dated bills for purchase of shares from various companies of Shri Mukesh M Choksi viz Alliance Intermediaries and Networks Private Limited, Mahasagar Securities Private Limited, Goldstar Finvest Private Limited etc.*

*I am engaged in providing following types of accommodation entries:*

- 1. Long Term Capital Gain,*
- 2. Short Term Capital Gain,*
- 3. Speculation profit/loss,*
- 4. Bogus Share Capital introduction,*
- 5. Bogus Commission entries,*
- 6. Bogus Donation,*
- 7. Bogus loan entries,*
- 8. Bogus Billing*

7. Please state the addresses from where you operate?

*Ans: I operate my above referral business from 15B, Hiren Shopping Centre, S.V.Road, Goregaon (W), Mumbai and I have a branch at R.No. 12/D, 26/28, Nirnay sagar Building, floor, M.B.Velkar Road, Kalbadevi, from where my employee Mr Jitendra Chandrabhan Singh operates who does the basic work of cash collection & cash disbursal.*

8. Please elaborate your occupation and the modus of your operations.

*Ans. For the purpose of my occupation, I have opened various concerns such as*

- 1. Koyal Commercial Pvt. Ltd.*
- 2. Luxer properties Pvt. Ltd.*
- 3. Elderado properties Pvt. Ltd.*
- 4. Winfotech Systems Pvt. Ltd.*
- 5. Suresh Rathod Consultants Pvt. Ltd.*
- 6. Mature Holdings Pvt. Ltd.*
- 7. Shree Nakod Terry towels Private Limited*
- 8. Ecro Artisans Pvt. Ltd*
- 9. Durga Prasad and Company*
- 10. Govind Sharda and Company*
- 11. Vijay Bhagwandas and Company*
- 12. Adventure India.*
- 13. Altra Clean Operat ons*
- 14. Amizara Securities and Finance*
- 15. Amizara Securities and Finance Pvt. Ltd*

*And several bank accounts in the names of the above mentioned concerns.*

*Persons, who want entries such as long term capital gains, short term capital gain/loss, share capital and commission etc, approach us through middlemen. The middlemen give cash to us which we give to cash handlers in the market who in turn will transfer funds in our accounts, which we will utilize for giving entries. Our income in the whole transactions is the commission which we charge on fixed rates for each service. ....”*

*15. Please provide the list of demat accounts used by you for the purposes of giving such bogus entries?*

*Ans: Sir, following is the list of demat accounts which have been used by me for providing bogus LTCG entries. All these persons in whose names the demat accounts have been opened are my employees and I have used their demat accounts as benami accounts for giving LTCG entries.*

Sr No	Name of the demat account holder	Demat Account No	Name of the DP
1	INDRAPRATAP GAJRAJ SINGH	1205280000001142	SIC STOCK & SERVICES PVT LTD
2	JITENDRA CHANDRABHAN SINGH	1205280000002171	SIC STOCK & SERVICES PVT LTD
3	MANISH DEVENDRA RATHI	1205030000046552	AJMERA ASSOCIATES LTD
4	MANISH DEVENDRA RATHI	IN301983-10511795	ARIHANT CAPITAL MARKETS LTD
5	RAVINDRA MAHADEO MATAL	120:280000003422	SIC STOCK & SERVICES PVT LTD

14. The appellant has also produced order dated October 27, 2022 filed by Kamal Kishore Rathi<sup>10</sup>. It is noted in the said appeal that the assessee Kamal Rathi has claimed

<sup>10</sup> ITA Nos.7759 and 7760/MUM/2019 (A.Y. 2011-12) (Annexure ‘D’ to the written arguments filed by the appellant.)

to have paid a sum of Rs.3 Lakh as salary to the appellant and appellant had admitted salary of Rs.1,18,000 i.e. Rs.15,000 per month. It is also noted therein that Kamal Rathi was also paying one Ganesh Ghadge a sum of Rs.50,000 to Rs.60,000 as commission to sign some documents.

15. Thus a combined reading of statement recorded by the Income Tax Department and the order passed by the ITAT, Mumbai prima facie show that Kamal Rathi was making available accommodation entries; he had opened demat account in appellant's name and in the name of several others.

16. Appellant along with his rejoinder has placed on record a copy of agreement of sale agreeing to purchase property bearing no.15, 1<sup>st</sup> Floor, Hiren Shopping Centre, Co-op. Housing Society Ltd., Goregaon (W), Mumbai - 400 062.

17. SEBI has filed the speed post acknowledgments to support its assertion with regard to service of notices to

the appellant. The postal acknowledgments and affixture certificates produced as Annexure 'A' and Annexure 'F' show the address of the appellant as 15B, 1<sup>st</sup> Floor, Hiren Shopping Centre, Goregaon (W), Mumbai, Maharashtra, 400 062. A careful perusal of the address shown in the acknowledgements, the agreement to purchase the said property by Kamal Rathi, his statement recorded by the Income Tax Department and the order in ITA No. 7759 and 7760/MUM/2019 (A.Y. 2011-12) also lead to prima facie inference that appellant was an employee under Kamal Rathi on a monthly salary of Rs.15,000 and Kamal Rathi was operating his bank and demat accounts.

18. Prayer clause 7(c) is for a direction against the SEBI to reconsider the matter after providing appellant an opportunity of hearing.

19. In view of the facts recorded hereinabove, we are of the considered view that appellant was not served in accordance with law. Therefore, the impugned order is in

violation of principles of natural justice. Hence, the following:

**ORDER**

1. Appeal is *allowed*. Order dated August 2, 2019 is set aside qua the appellant with a direction to the SEBI to reconsider appellant's case in accordance with law after granting an opportunity to the appellant to defend himself.
2. Appellant shall appear before SEBI on August 1, 2025 without any further notice from SEBI.
3. Pending interlocutory application(s), if any, stand disposed of.
4. No costs.

Justice P.S. Dinesh Kumar  
Presiding Officer

Ms. Meera Swarup  
Technical Member

Dr. Dheeraj Bhatnagar  
Technical Member

03.07.2025  
RHN