

IN THE SECURITIES APPELLATE TRIBUNAL
AT MUMBAI

Dated this the 10th day of December, 2024

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

Appeal No. 698 of 2024
[Along with Misc. Application No. 1285 of 2024]

BETWEEN:

Anand Rathi Share and Stock Brokers Limited
10th floor, Express Zone, A Wing,
Diagonally Opposite Oberoi Mall,
Western Express Highway,
Goregaon (East),
Mumbai – 400 063.

..... Appellant

(By Mr. Kunal Katariya with Mr. Harsh Kesharia and
Ms. Ashmita Goradia, Advocates for the Appellant)

AND:

Multi Commodity Exchange of India Limited
Exchange Square, Suren Road,
Andheri (East),
Mumbai – 400 093.

...Respondent

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

THIS APPEAL IS FILED UNDER SECTION 23L OF
THE SECURITIES CONTRACT (REGULATION) ACT,
1956 PASSED BY THE MULTI COMMODITY
EXCHANGE OF INDIA LIMITED.

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 e-mail communication dated December 5, 2024 passed by the MCX¹ restraining the appellant from taking up / on-boarding any new client for a period of 15 days as a stock broker with immediate effect on the ground that the appellant has incurred a 6th technical glitch.

2. We have heard Shri Kunal Katariya, learned Advocate for the appellant and Shri Manish Chhangani, learned Advocate for the respondent.

3. Briefly stated the facts of the case are, during the current financial year, as on date, appellant has reported 7 technical glitches. According to the learned Advocates on both sides, if glitches are reported, as per circular dated December 16, 2022, the appellant becomes liable for disciplinary action.

¹ Multi Commodity Exchange of India Limited

4. Shri Kunal Katariya, for the appellant submitted that in the previous financial year, the respondent, after conducting an inspection, had alleged 10 technical glitches out of which 9 were not found to be ‘technical glitches’ as per MCSGFC². He submitted that the instances in the present reporting also do not fall within the strict definition of ‘technical glitch’. However, appellant was reporting all glitches no matter whether they strictly fell within the definition of a ‘technical glitch’ or not. Appellant has also approached the respondent with a request to examine whether the current reporting by the appellant falls within the strict definition of a ‘technical glitch’.

5. Shri Katariya further submitted that circular provides for stepwise disciplinary action. The respondent without correctly following the circular has issued the communication Exhibit – A, and therefore, the same is not sustainable in law. He prayed that the impugned communication may be set aside and the matter may be remanded to the MCSGFC for determination whether the reported instances fall within the strict definition of ‘technical glitch’ or not.

² Member and Core Settlement Guarantee Fund Committee

6. Opposing the appeal, Shri Manish Chhangani, learned Advocate for the respondent submitted that the restraint order from taking up / on-boarding any new clients for a period of 15 days is passed to ensure that the Exchange shall have some time to examine the reported technical glitches. According to him, respondent has taken action as per the circular and there is no error in the impugned direction.

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

8. The Annexure – C to the circular referred by Shri Kunal Katariya shows that for the first reporting, an observation letter is required to be issued. For the second reporting, an Administrative warning has to be issued. From third reporting onwards, a penalty of Rs. 50,000/- can be imposed. An order similar to Annexure – A can be issued if there are more than 5 glitches.

9. The appellant has reported 7 instances on different dates. Without following the procedure laid down in Annexure – C, the respondent has directly issued the e-mail communication as Exhibit – A restraining the appellant from

on-boarding any new client. Therefore, there is clear violation of the circular.

10. Hence, we are of the considered opinion that ends of justice would be met by setting aside the communication at Exhibit – A, and directing the respondent to refer the matter to MCSGFC to examine the matter in accordance with law. Ordered accordingly.

11. All contentions of both the parties are kept open.

12. We request Shri Manish Chhangani, learned Advocate for the respondent to communicate this order to all concerned.

13. Interlocutory application(s), if any, stand disposed of.

No costs.

No

Justice P.S. Dinesh Kumar
Presiding Officer

Ms. Meera Swarup
Technical Member

Dr. Dheeraj Bhatnagar
Technical Member

10.12.2024
msb