

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.9440 OF 2019

SECURITIES AND EXCHANGE BOARD OF INDIA APPELLANT(S)

VERSUS

AMISH RAMESHCHANDRA DESAI & ORS. RESPONDENT(S)

O R D E R

1. Heard learned senior counsel/counsel for the parties.
2. The appellant - Securities & Exchange Board of India (SEBI) has challenged the impugned order dated 04.09.2019 passed by the Securities Appellate Tribunal, Mumbai (hereinafter referred to as "SAT") in Appeal No.112 of 2018, whereby the SAT has set aside the impugned order dated 31.01.2018 passed by the Adjudicating Officer (hereinafter referred to as "AO") and remitted the matter to the AO to decide the matter afresh.
3. The learned senior counsel for the appellant - SEBI has drawn the attention of the Court to the order passed by AO and submitted that the AO having considered the entire matter in right perspective and imposed penalty upon the respondents for the violation of Sections 11C(2) and 11C(3) of the SEBI Act, 1992 as also violation of Regulation 13(3) of the PIT Regulations,

1992, there was no need to remand the matter to the AO for deciding it afresh.

4. However, the learned counsel appearing for the respondents has drawn the attention of the Court to the subsequent order dated 23.06.2020 passed by the Whole Time Member, SEBI (hereinafter referred to as "WTM") to submit that WTM has not considered the matter afresh and found that there was no violation of the alleged provisions of the SEBI Act or the Regulations, and hence the entire matter has come to rest.

5. Having regard to the submissions and the impugned order passed by the SAT, we are of the opinion that the SAT instead of deciding the Appeal on merits, has remanded the matter back to the AO without assigning any cogent reasons, though the AO had passed the order dated 31.01.2018 considering all the aspects of the matter while imposing the penalty upon the respondents. In absence of any cogent reasons, we are of the opinion that the SAT should not have remitted the matter to the AO. The order of WTM relied upon by the respondents has been passed subsequent to the impugned order passed by the SAT. We do not propose to deal with the said order of WTM, which was not considered by the SAT while passing the impugned order.

6. In that view of the matter, the impugned order passed by the SAT deserves to be set aside and is accordingly set aside. The SAT is directed to decide the matter

afresh on merits, having regard to the material on record.

7. The Appeal stands allowed accordingly.
8. Pending applications, if any, shall stand disposed of.
9. It is clarified that both the parties shall be at liberty to raise all the contentions as may be legally permissible before the SAT.

.....J.
(BELA M. TRIVEDI)

.....J.
(PANKAJ MITHAL)

NEW DELHI;
13TH FEBRUARY, 2024.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G SCivil Appeal No(s).9440/2019

SECURITIES AND EXCHANGE BOARD OF INDIA

Appellant(s)

VERSUS

AMISH RAMESHCHANDRA DESAI & ORS.

Respondent(s)

(IA No. 193446/2019 - EX-PARTE STAY)

Date : 13-02-2024 This matter was called on for hearing today.

CORAM : HON'BLE MS. JUSTICE BELA M. TRIVEDI
HON'BLE MR. JUSTICE PANKAJ MITHAL

For Appellant(s) Mr. Chander Uday Singh, Sr. Adv.
Mr. Bhargava V. Desai, AOR
Ms. Viddushi Shandilya, Adv.
Mr. Amjid, Adv.
Ms. Bidya Mohanty, Adv.
Ms. Katyayini Suhrud, Adv.
Mr. Shivam Sharma, Adv.
Mr. Deepanshu, Adv.
Ms. Devina Bhandari, Adv.

For Respondent(s) Ms. Sharmila Upadhyay, AOR
Mr. Pawan R Upadhyay, Adv.
Mr. J.J. Bhatt, Adv.
Mr. Sarvjit Pratap Singh, Adv.
Mr. Rishab Khare, Adv.
Ms. Supriya R Pandey, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. In terms of the signed order, the Civil Appeal stands allowed.
2. Pending applications, if any, shall stand disposed of.

(RAVI ARORA)
COURT MASTER (SH)(MAMTA RAWAT)
COURT MASTER (NSH)

(signed order is placed on the file)