

ITEM NO.20 Court 5 (Video Conferencing) SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s).3596-3597/2020

SECURITIES AND EXCHANGE BOARD OF INDIA Appellant(s)

VERSUS

BHARTI GOYAL ETC. Respondent(s)

**(WITH I.R. and IA No.112656/2020-EXEMPTION FROM FILING C/C OF THE
IMPUGNED JUDGMENT and IA No.112655/2020-STAY APPLICATION)**

Date : 05-01-2021 These appeals were called on for hearing today.

CORAM :

**HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE INDIRA BANERJEE
HON'BLE MR. JUSTICE SANJIV KHANNA**

**For Appellant(s) Mr. K.K.Venugopal, Attorney General for India
Mr. Pratap Venugopal, Advocate,
Ms. Surekha Raman, Advocate,
Mr. Siddhant Kohli, Advocate,
Mr. Akhil Abraham Roy, Advocate,
Mr. Vijay Valsa, Advocate.
for M/S. K J John And Co, AOR**

For Respondent(s)

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

- 1 The Securities' Appellate Tribunal, having held in paragraphs 10 and 11 of its impugned order dated 25 August 2020, that the nature and pattern of trading of the respondents was violative of the provisions of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations 2003 substituted the penalty of Rs 5,00,000 imposed by the adjudicating authority with a warning.

- 2 Mr K K Venugopal, learned Attorney General for India, submitted that Section 15HA of the Securities and Exchange Board of India Act 1992, as amended on 8 September 2014, provides for a minimum penalty of Rs 5,00,000 which can go up to Rs 25 crores. Hence, the imposition of a warning which is not a penalty contemplated by section 15 HA is beyond jurisdiction. It has been submitted that similar orders have been passed by SAT in many other cases, leading to several appeals being filed before this Court by SEBI.
- 3 Issue notice, returnable in eight weeks.
- 4 *Prima facie*, the direction for substituting the penalty which has been imposed under Section 15HA with a warning is contrary to the statutory provisions. The SAT is not exercising the jurisdiction under Article 226 of the Constitution and is a creature of the statute. Even the jurisdiction under Article 226 has to be exercised in a manner consistent with law. Hence, there shall be a stay of the operation of the impugned judgment and order of the SAT dated 25 August 2020 in Appeal Nos 159 and 160 of 2020.
- 5 Tag with Civil Appeal No 3364 of 2020.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER