

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision : 16.8.2017

Appeal No.188 of 2017

Joseph Massey
Flat No.702, C1, Trans Residency
Apartment, SEEPZ MIDC Road, Near
Subhash Nagar, Andheri East,
Mumbai 400093.

..... Appellant

Versus

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

..... Respondent

Mr. Vinay Chauhan, Advocate with Mr. K.C. Jacob, Advocate i/b.
Corporate Law Chambers India for the Appellant.

Mr. Darius Khambata, Senior Advocate with Mr. Mihir Mody and Mr.
Nishant Upadhyay, Advocates i/b. K. Ashar & Co. for the Respondent.

CORAM : Justice J.P. Devadhar, Presiding Officer

Per : Justice J.P. Devadhar (Oral)

1. The appellant is aggrieved by the ad-interim ex-parte order passed by the Whole Time Member (“WTM” for short) of the Securities and Exchange Board of India (“SEBI” for short) on August 2, 2017. By the said order it is, inter alia, held that the appellant was an insider under the SEBI (Prohibition of Insider Trading) Regulations, 1992 (“PIT Regulations” for short) and while in possession of unpublished price sensitive information (“UPSI” for short), the appellant had sold shares of Multi-Commodity Exchange of India Ltd. (“MCX” for short) and averted loss to the tune of Rs.58.81 lakhs and with a view to impound the loss averted, the WTM of

SEBI has directed the appellant not to dispose of or alienate any of his assets/properties/securities till the amount of loss averted is credited to an escrow account. By the said order, the WTM of SEBI has directed the banks not to debit any amount from bank accounts of the appellant except for the purpose of transfer of funds to the escrow account.

2. Although the prima facie view of the WTM of SEBI that the appellant was an insider and had traded in the securities while in possession of UPSI is seriously disputed by the appellant, basic grievance of the appellant is that the WTM of SEBI is not justified in freezing the various bank accounts of the appellant and the entities connected with the appellant without giving any opportunity of personal hearing to the appellant.

3. Counsel for SEBI, on instruction, states that SEBI would immediately de-freeze bank account of the appellant with ICICI Bank, Vishal Shopping Centre Branch, Andheri East bearing A/c No. 69770500698 having balance of Rs.9,62,130.72/-. It is made clear that the appellant is permitted to utilize the aforesaid balance amount held lying in the aforesaid salary account and the salary amount that may hereafter be deposited in the said salary account.

4. Statement made by Counsel for SEBI is accepted.

5. Counsel for the appellant further states that objection to the ex-parte order would be filed by the appellant within a period of one week from today and the appellant would also furnish to SEBI list of his assets/securities as per the impugned order within a period of one week from today.

6. If appellant files objection to the ex-parte order, then SEBI shall pass an order after considering the objections, if any, as expeditiously as

possible and in any event within a period of three months from the date of receiving the objections from the appellant.

7. All contentions of both parties are kept open.

8. Appeal is disposed of in the aforesaid terms with no order as to costs.

Sd/-
Justice J. P. Devadhar
Presiding Officer

16.8.2017
Prepared and compared by
RHN