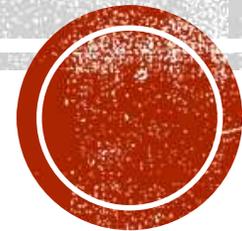


**SECURITIES APPELLATE TRIBUNAL -
NEW AVENUES FOR PCS**



**Presentation by
Dr. S. K. Jain
Practising Company secretary**

RIGHT TO LEGAL REPRESENTATION.

SECTION 15V OF SEBI ACT, 1992 AND SECTION 22C OF SECURITIES CONTRACT (REGULATION) ACT, 1956

- The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.



DRESS CODE FOR A CS APPEARING BEFORE JUDICIAL/ QUASI JUDICIAL BODIES AND TRIBUNALS

- For Male Members

- a) Navy Blue Suit (Coat and Trouser), with CS logo, Insignia OR
Navy Blue Blazer over a sober colored Trouser
- b) Neck Tie (ICSI)
- c) White full sleeve Shirt
- d) Formal Black Leather Shoes (Shined)

- For Female Members

- a) Navy Blue corporate suit (Coat and Trouser), could be with a neck tie/ Insignia OR
- b) Saree/ any other dress of sober colour with Navy Blue Blazer with CS logo
- c) A sober footwear like Shoes/ Bellies/ Wedges, etc (shined)

- Members in employment- Same as prescribed above



SEBI REGULATIONS

Sr. No	Name of the Regulation
1.	SEBI (Prohibition of Insider Trading) Regulations, 2015
2.	SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011
3.	SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003
4.	SEBI (Stock Broker) Regulations, 1992
5.	SEBI (Registrar to Issue and Share Transfer Agents) Regulations, 1993
6.	SEBI (Merchant Banker) Regulations, 1992
7.	SEBI (Mutual Funds) Regulations, 1996
8.	SEBI (Portfolio Managers) Regulations, 2020
9.	SEBI (Investments Advisors) Regulations, 2008

SEBI REGULATIONS

Sr. No	Name of the Regulation
10.	SEBI (Intermediaries) Regulations, 2008
11.	SEBI (Depositories and Participants) Regulations, 2018
12.	SEBI (Buy- Back of Securities) Regulations, 2018
13.	SEBI (Banker to an Issue) Regulations, 1994
14.	SEBI (Listing Obligations and Disclosure requirements) Regulations, 2015
15.	SEBI (Issue of Capital and Disclosure requirements) Regulations, 2015
16.	SEBI (Custodian) Regulations, 1996
17.	SEBI (Debenture Trustee) Regulations, 1993
18.	SEBI (Collective Investment Scheme) Regulations, 1999
19.	SEBI (Delisting of Equity Shares) Regulations, 2009

SECTION 15T- APPEAL TO THE SECURITIES APPELLATE TRIBUNAL.

1) Save as provided in sub-section (2)*, any person aggrieved,—

(a) by an order of the Board made, on and after the commencement of the Securities Laws (Second Amendment) Act, 1999, under this Act, or the rules or regulations made thereunder; or

(b) by an order made by an adjudicating officer under this Act; or,

(c) by an order of the Insurance Regulatory and Development Authority or the Pension Fund Regulatory and Development Authority,

may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

***Omitted by the Securities Laws (Amendment) Act, 2014, w.r.e.f. 18-07-2013.**



SECTION 15T – APPEAL TO THE SECURITIES APPELLATE TRIBUNAL.

- 3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Board or the Adjudicating Officer or the Insurance Regulatory and Development Authority or the Pension Fund Regulatory and Development Authority, as the case may be, is received by him and it shall be in such form and be accompanied by such fee as may be prescribed :

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

- 4) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.



SECTION 15T – APPEAL TO THE SECURITIES APPELLATE TRIBUNAL.

- 5) The Securities Appellate Tribunal shall send a copy of every order made by it to the Board, or the Insurance Regulatory and Development Authority or the Pension Fund Regulatory and Development Authority, as the case may be the parties to the appeal and to the concerned Adjudicating Officer.
- 6) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavor shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.



SECTION 22A - RIGHT OF APPEAL TO SECURITIES APPELLATE TRIBUNAL AGAINST REFUSAL OF STOCK EXCHANGE TO LIST SECURITIES OF PUBLIC COMPANIES.

(1) Where a recognised stock exchange, acting in pursuance of any power given to it by its bye-laws, refuses to list the securities of any company, the company shall be entitled to be furnished with reasons for such refusal, and may,—

(a) within fifteen days from the date on which the reasons for such refusal are furnished to it, or

(b) where the stock exchange has omitted or failed to dispose of, within the time specified in subsection (1A) of section 73 of the Companies Act, 1956 (1 of 1956), (hereafter in this section referred to as the “specified time”), the application for permission or for the shares or debentures to be dealt with on the stock exchange, within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Securities Appellate Tribunal may, on sufficient cause being shown, allow,

appeal to the Securities Appellate Tribunal having jurisdiction in the matter against such refusal, omission or failure, as the case may be, and thereupon the Securities Appellate Tribunal may, after giving the stock exchange, an opportunity of being heard,—

(i) vary or set aside the decision of the stock exchange; or

(ii) where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission,

and where the Securities Appellate Tribunal sets aside the decision of the recognised stock exchange or grants the permission, the stock exchange shall act in conformity with the orders of the Securities Appellate Tribunal.

SECTION 22A - RIGHT OF APPEAL TO SECURITIES APPELLATE TRIBUNAL AGAINST REFUSAL OF STOCK EXCHANGE TO LIST SECURITIES OF PUBLIC COMPANIES.

- (2)** Every appeal under sub-section (1) shall be in such form and be accompanied by such fee as may be prescribed.
- (3)** The Securities Appellate Tribunal shall send a copy of every order made by it to the Board and parties to the appeal.
- (4)** The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.



SECTION 23L - APPEAL TO SECURITIES APPELLATE TRIBUNAL.

- (1) Any person aggrieved, by the order or decision of the recognized stock exchange or the adjudicating officer or any order made by the Securities and Exchange Board of India under Section 4B or sub-section (3) of section 23-I , may prefer an appeal before the Securities Appellate Tribunal and the provisions of sections 22B, 22C, 22D and 22E of this Act, shall apply, as far as may be, to such appeals.
- (2) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order or decision is received by the appellant and it shall be in such form and be accompanied by such fee as may be prescribed:

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.



SECTION 23L - APPEAL TO SECURITIES APPELLATE TRIBUNAL.

- (3)** On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.
- (4)** The Securities Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned adjudicating officer.
- (5)** The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.



SECURITIES APPELLATE TRIBUNAL (PROCEDURE) RULES, 2000

Rule 4 – Form and Procedure of Appeal

- Memorandum of Appeal shall be in the Form Specified and shall be presented before the registry of Appellate Tribunal within whose jurisdiction his case falls or shall be sent by the registered post address to the Registrar.
- A memorandum of Appeal sent by post shall be deemed to have been presented in the registry on the day it was received in the registry.

Rule 7- Appeal to be in writing

- Every Appeal, Application, Representation, Reply or any document shall be typewritten and printed neatly and legibly on one foolscap paper and separate sheets shall be stitched together and every page shall be consecutively numbered.
- Appeal shall be presented in five sets in a paper book along with an empty file size envelope bearing the full address of the Respondent, if there are more than one respondents then sufficient number of extra paper books together with empty file size envelope bearing full address of each of the respondent shall be furnished by the Appellant

FORM
(SEE RULE 4)
MEMORANDUM OF APPEAL

For use in Appellate Tribunal's Office

Date of presentation in the Registry

Date of receipt by post

Registration Number

Signature

Registrar

Before the Securities Appellate Tribunal

In the matter of the Securities and Exchange Board of India Act, 1992 (15 of 1992)

and

In the matter of appeal against the order made on by

A.B. Appellant

C.D. and other- Respondent(s)



Details of appeal:

1. Particulars of the appellant:

- i) Name of the appellant
- ii) Address of registered office of the appellant
- iii) Address of service of all notices
- iv) Telephone/Fax Number and e-mail address, if any

2. Particulars of the respondent(s)

- i) Name of the respondent(s)
- ii) Office address of the respondent(s):
- iii) Address of respondent(s) for service of all notices:
- iv) Telephone/Fax Number and e-mail address, if any:

Jurisdiction of the Appellate Tribunal.

3 . The appellant declares that the matter of appeal falls within the jurisdiction of the Appellate Tribunal.

Limitation.

4. The appellant further declares that the appeal is within the limitation as prescribed in section 15W of the Securities and Exchange Board of India Act, 1992

5. Facts of the case and the details of the order against which appeal is filed:

The facts of the case are given below:

(Give here a concise statement of facts and grounds of appeal against the specified order in a chronological order, each paragraph containing as neatly as possible as separate issue, fact or otherwise.)



Relief(s) sought.

6. In view of the facts mentioned in Paragraph 5 above, the appellant prays for the following relief(s) [Specify below the relief(s) sought explained the grounds for relief(s) and the legal provisions, if any, relied upon].

Interim order, if prayed for

7. Pending final decision of the appeal the appellant seeks issue of the following interim order: (Give here the nature of the interim order prayed for with reasons.)

Matter not pending with any other court etc.

8. The appellant further declares that the matter regarding with this appeal has been made is not pending before any court of law or any other authority or any other Tribunal.

9. Particulars in respect of the fee paid in terms of Rule 9 of these rules.—

- i) Amount of fees
- ii) Name of the Bank on which Demand Draft is drawn
- iii) Demand Draft number

Details of Index.

10. An index containing of details of the documents to be relied upon is enclosed.



11. List of enclosures.—

(Signature of the appellant/ Authorised Representative)

Verification

I,(Name in block letters) son/ daughter/ wife of..... Shri..... being the appellant/ Authorised Representative of (Name of the appellant) do hereby verify that the contents of Paras 1 to 11 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Signature of the appellant/ Authorised Representative

Place:

Date:



Rule 9- Fees

- Every memorandum of Appeal shall be accompanied with a fee provided under Rule 9(2) of Securities Appellate Tribunal (Procedure) Rules, 2000.
- The amount of fee payable in respect of appeal against adjudication orders made under Chapter VIA of the SEBI Act, 1992 shall be as follows.

Amount of Penalty Imposed	Amount of fees payable
Less than rupees ten thousand	Rs.500
Rupees the thousand or more	Rs.1200 but less than one lakh
Rupees one lakh or more	Rs.1200 plus Rs.500 for every additional one lakh of penalty or fraction thereof, subject to maximum of Rs.1,50,000

- Amount of fee payable in respect of any other appeal against an order of the Board under the Act shall be rupees five thousand only.



Rule 10 - Contents of Memorandum of Appeal.

- Every Memorandum of Appeal shall contain precisely the Grounds of the Appeal without any argument or narrative and such ground shall be numbered consecutively.
- It shall not be necessary to present separate memorandum of Appeal to seek interim order or direction if in the memorandum of appeal, the same is prayed for.

Rule 11 – Documents to accompany Memorandum of Appeal:

- Every memorandum of appeal shall be in five copies and shall be accompanied with the copies of the order, at least one of which shall be a certified copy against which the appeal is filed.
- Where a party is represented by an Authorised Representative, a copy of the Authorisation to act as the Authorised Representative and the written consent thereto by the Authorised Representative shall be appended to the appeal

Rule 13- Notice of appeal to the Respondent

- A copy of the memorandum of Appeal and paper book shall be served by the Registrar on the Respondent as soon as they are registered in the registry, by hand delivery or by Registered post or Speed post.



PENALTIES UNDER SECTION 15A-15HAA AS AMENDED OVER TIME

<u>Section</u>	Before amendment dated 29/10/2002	Between 29/10/2002 and 08/09/2014	After amendment dated 08/09/2014
<u>Section 15A</u>			
(a) Failure to furnish any document, return or report to the SEBI.	One lakh fifty thousand for each such failure	One lakh rupees for each day during which such failure continues or one crore rupees whichever is less	Not less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to maximum of rupees one crore.
(b) Failure to file any return or furnish any information, books, or other documents within the time prescribed	Not exceeding five thousand rupees for every day during which such failure continues	One lakh rupees for each day during which such failure continues or one crore rupees whichever is less	Not less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to maximum of rupees one crore
(c) Failure to maintain books of accounts or records	Not exceeding ten thousand rupees for for every day during which such failure continues	One lakh rupees for each day during which such failure continues or one crore rupees whichever is less	Not less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to maximum of rupees one crore

<u>Section</u>	Before amendment dated 29/10/2002	Between 29/10/2002 and 08/09/2014	After amendment dated 08/09/2014
<u>Section 15B</u>			
Penalty for failure by any person to enter into agreement with clients.	Not exceeding five lakhs rupees for every such failure.	One lakh rupees for each day during which such failure continues or one crore rupees whichever is less	Not less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to maximum of rupees one crore.
<u>Section 15C</u>			
Penalty for failure to redress investors' grievances	Not exceeding ten thousand rupees for every such failure	One lakh rupees for each day during which such failure continues or one crore rupees whichever is less	Not less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to maximum of rupees one crore
<u>Section 15D</u>			
<u>(a)</u> Failure to obtain from SEBI a certificate of registration for sponsoring or carrying on any Collective Investment Scheme including Mutual Fund	Not exceeding ten thousand rupees for each day during which such failure continues or ten lakh rupees, whichever is higher	One lakh rupees for each day during which such failure continues or one crore rupees whichever is less	Not less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to maximum of rupees one crore.
<u>(b)</u> Failure to comply with the terms and conditions of registration for Collective Investment Scheme including Mutual Funds	Not exceeding ten thousand rupees for each day during which such failure continues or ten lakh rupees, whichever is higher	One lakh rupees for each day during which such failure continues or one crore rupees whichever is less	Not less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to maximum of rupees one crore

<u>Section</u>	Before amendment dated 29/10/2002	Between 29/10/2002 and 08/09/2014	After amendment dated 08/09/2014
<u>(c)</u> Failure to make an application for listing of a Collective Investment Scheme	Not exceeding five thousand rupees for each day during which such failure continues or five lakh rupees, whichever is higher	One lakh rupees for each day during which such failure continues or one crore rupees whichever is less	Not less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to maximum of rupees one crore
<u>(d)</u> Failure to despatch unit certificate to the holders of the units under any Collective Investment Scheme including Mutual Funds	Not exceeding one thousand rupees for each day during which such failure continues	One lakh rupees for each day during which such failure continues or one crore rupees whichever is less	Not less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to maximum of rupees one crore.
<u>(e)</u> Failure to refund application monies to the investors within the prescribed period	Not exceeding one thousand rupees for each day during which such failure continues	One lakh rupees for each day during which such failure continues or one crore rupees whichever is less	Not less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to maximum of rupees one crore
<u>(f)</u> Failure to invest money collected in the manner or within the period prescribed	Not exceeding five lakh rupees for each such failure	One lakh rupees for each day during which such failure continues or one crore rupees whichever is less	Not less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to maximum of rupees one crore

<u>Section</u>	Before amendment dated 29/10/2002	Between 29/10/2002 and 08/09/2014	After amendment dated 08/09/2014
<u>SECTION 15E</u>			
Penalty for failure to observe rules and regulations by an asset management company	Not exceeding five lakh rupees for each such failure	One lakh rupees for each day during which such failure continues or one crore rupees whichever is less	Not less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to maximum of rupees one crore.
<u>Section 15EA</u>			
Penalty for default in case of alternative investment funds, infrastructure investment trusts and real estate investment trusts. Inserted by the Finance Act, 2018 w.e.f. 08-03-2019.	_____	_____	Not less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to maximum of rupees one crore or three times the amount of gains made out of such failure, whichever is higher.
<u>Section 15EB</u>			
Penalty for default in case of investment adviser and research analyst. Inserted by the Finance Act, 2018 w.e.f. 08-03-2019.	_____	_____	Not less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to maximum of rupees one crore.

<u>Section</u>	Before amendment dated 29/10/2002	Between 29/10/2002 and 08/09/2014	After amendment dated 08/09/2014
<u>SECTION 15F</u>			
(a) Failure by a register stock broker to issue contract notes in the form and manner specified by the stock exchange	Not exceeding five times the amount for which the contract note was required to be issued by that broker	Not exceeding five times the amount for which the contract note was required to be issued by that broker	Not less than one lakh rupees but which may extend to for which the contract note was required to be issued by broker
(b) Failure by any registered stock broker to deliver to the investor any security or make payment of the amount due to him	Not exceeding five thousand rupees for each day during which such failure continues	One lakh rupees for each day during which such failure continues or one crore rupees whichever is less	Not less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to maximum of rupees one crore.
(c) Charging by any registered stock broker, brokerage in excess of the return prescribed by the regulations	Not exceeding five thousand rupees or five times the amount of brokerage charged in excess of the specified brokerage, whichever is higher.	One lakh rupees or five times the amount of brokerage charged in excess of the specified brokerage, whichever is higher.	Not less than one lakh rupees but which may extent to five times the amount of brokerage charged in excess of the specified brokerage, whichever is higher

<u>Section</u>	Before amendment dated 29/10/2002	Between 29/10/2002 and 08/09/2014	After amendment dated 08/09/2014
<u>Section 15G</u>			
<u>(i)</u> Dealing by an insider either on his own behalf or on behalf of any other person in securities of a body corporate on any stock exchange on the basis of any unpublished information.	Not exceeding five lakh rupees	Twenty-five crore rupees or three times the amount of profit made out of insider trading, whichever is higher	Not less than ten lakh rupees but which may extend to Twenty-five crore rupees or three times the amount of profit made out of insider trading, whichever is higher
<u>(ii)</u> Communication by an insider, any unpublished price sensitive information to any person with or without his request for such information except as required in the ordinary course of business or as required by law	Not exceeding five lakh rupees	Twenty-five crore rupees or three times the amount of profit made out of insider trading, whichever is higher	Not less than ten lakh rupees but which may extend to Twenty-five crore rupees or three times the amount of profit made out of insider trading, whichever is higher
<u>(iii)</u> Counselling or procuring by an insider, any other person to deal in securities of any body corporate on the basis of any unpublished price-sensitive information	Not exceeding five lakh rupees	Twenty-five crore rupees or three times the amount of profit made out of insider trading, whichever is higher	Not less than ten lakh rupees but which may extend to Twenty-five crore rupees or three times the amount of profit made out of insider trading, whichever is higher

<u>Section</u>	Before amendment dated 29/10/2002	Between 29/10/2002 and 08/09/2014	After amendment dated 08/09/2014
<u>Section 15H</u>			
(i) Failure to disclose the aggregate of shareholding in a body corporate before he acquires any share in the body corporate	Not exceeding five lakh rupees	Twenty-five crore rupees or three times the amount of profit made out of such failure, whichever is higher	Not less than ten lakh rupees but which may extend to Twenty-five crore rupees or three times the amount of profit made out of such failure, whichever is higher
(ii) Failure to make a public announcement to acquire shares at a minimum price	Not exceeding five lakh rupees	Twenty-five crore rupees or three times the amount of profit made out of such failure, whichever is higher	Not less than ten lakh rupees but which may extend to Twenty-five crore rupees or three times the amount of profit made out of such failure, whichever is higher
(iii) Fails to make a public offer by sending letter of offer to shareholders of the concerned company. WAS INSERTED IN SEBI (AMENDMENT) ACT, 2002 W.E.F 29-10-2002	_____	Twenty-five crore rupees or three times the amount of profit made out of such failure, whichever is higher	Not less than ten lakh rupees but which may extend to Twenty-five crore rupees or three times the amount of profit made out of such failure, whichever is higher
(iv) Fails to make payment of consideration to the shareholders who sold their shares pursuant to letter of offer. WAS INSERTED IN SEBI (AMENDMENT) ACT, 2002 W.E.F 29-10-2002	_____	Twenty-five crore rupees or three times the amount of profit made out of such failure, whichever is higher	Not less than ten lakh rupees but which may extend to Twenty-five crore rupees or three times the amount of profit made out of such failure, whichever is higher

<u>Section</u>	Before amendment dated 29/10/2002	Between 29/10/2002 and 08/09/2014	After amendment dated 08/09/2014
<u>Section 15HA</u>			
Penalty for fraudulent and unfair trade practices WAS INSERTED IN SEBI (AMENDMENT) ACT, 2002 W.E.F 29-10-2002	_____	Twenty-five crore rupees or three times the amount of profit made out of such practices, whichever is higher	Not less than five lakh rupees but which may extend to Twenty-five crore rupees or three times the amount of profit made out of such practices, whichever is higher
<u>Section 15HAA</u>			
Penalty for alteration, destruction, etc. , of records and failure to protect the electronic database of Board. INSERTED BY THE FINANCE (NO. 2) ACT, 2019 W.E.F. 20-01-2020.	_____	_____	Not less than one lakh rupees but which may extend to Ten crore rupees or three times the amount of profit made out of such act, whichever is higher

SECTION 15HB- PENALTY FOR CONTRAVENTION WHERE NO SPECIFIC PENALTY HAS BEEN PROVIDED

- This Section was inserted in SEBI (AMENDMENT) ACT, 2002 W.E.F 29-10-2002 which stated a penalty which may extend to rupees one crore.
- This Section was further amended in the year 2014 by Securities Laws (Amendment) Act, 2014 in which the words “penalty which may extend to rupees one crore” were substituted by the words “Penalty which shall not be less than one lakh rupees but which may extend to one crore rupees”



SECTION 15I- POWER TO ADJUDICATE

- (1)** For the purpose of adjudging under sections 15A to 15HA and 15HB, the Board may appoint any officer not below the rank of a Division Chief to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.
- (2)** While holding an inquiry the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in subsection(1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.
- (3)** The Board may call for and examine the record of any proceedings under this section and if it considers that the order passed by the adjudicating officer is erroneous to the extent it is not in the interests of the securities market, it may, after making or causing to be made such inquiry as it deems necessary, pass an order enhancing the quantum of penalty, if the circumstances of the case so justify:

Provided that no such order shall be passed unless the person concerned has been given an opportunity of being heard in the matter:

Provided further that nothing contained in this sub-section shall be applicable after an expiry of a period of three months from the date of the order passed by the adjudicating officer or disposal of the appeal under section 15T, whichever is earlier.



SECTION 23I - POWER TO ADJUDICATE.

- (1) For the purpose of adjudging under sections 23A, 23B, 23C, 23D, 23E, 23F, 23G and 23H, the Securities and Exchange Board of India may appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.**

- (2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in subsection(1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.**



SECTION 23I - POWER TO ADJUDICATE.

(3) The Board may call for and examine the record of any proceedings under this section and if it considers that the order passed by the adjudicating officer is erroneous to the extent it is not in the interests of the securities market, it may, after making or causing to be made such inquiry as it deems necessary, pass an order enhancing the quantum of penalty, if the circumstances of the case so justify:

Provided that no such order shall be passed unless the person concerned has been given an opportunity of being heard in the matter:

Provided further that nothing contained in this sub-section shall be applicable after an expiry of a period of three months from the date of the order passed by the adjudicating officer or disposal of the appeal under section 23L, whichever is earlier.



SECTION 15J – FACTORS TO BE TAKEN INTO ACCOUNT WHILE ADJUDGING QUANTUM OF PENALTY.

While adjudging quantum of penalty under section 15-I or section 11 or section 11B, the Board or the adjudicating officer shall have due regard to the following factors, namely :—

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused to an investor or group of investors as a result of the default;
- (c) the repetitive nature of the default.

Explanation —For the removal of doubts, it is clarified that the power to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.



SECTION 23J - FACTORS TO BE TAKEN INTO ACCOUNT WHILE ADJUDGING QUANTUM OF PENALTY.

While adjudging the quantum of penalty under section 12A or section 23-I, the Securities and Exchange Board of India or the adjudicating officer shall have due regard to the following factors, namely:—

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused to an investor or group of investors as a result of the default;
- (c) the repetitive nature of the default.

Explanation.— For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 23A to 23C shall be and shall always be deemed to have exercised under the provisions of this section.



SYNCHRONIZED TRADING

SEBI suspected manipulation in the trading of Futures & Options segment (F&O), and found that the company and some other firms had undertaken fictitious trades.

▪ Order of Adjudicating Officer

According to the A.O., a manipulative/deceptive device had been used for synchronization and reversal of trades and the trades were essentially fraudulent/fictitious in nature and resulted in creating a misleading appearance of active trading in those securities.

▪ Judgement of SAT

However, the Order was struck down by the Securities Appellate Tribunal (SAT) in 2011 on grounds that synchronization and reversal of trades effected by the parties with a significant price difference, some in a few seconds and majority, in any case, on the same day had no impact on the market, had not affected the NIFTY index in any manner nor induced investors. SAT held that such trades are illegal only when they manipulate the market in any manner and induce investors.



SYNCHRONIZED TRADING

▪ Judgement of Supreme Court

It was held that the trade reversals in the instant case amply demonstrated that the parties did not intend to transfer beneficial ownership through these transactions. Rather, the repeated reversals adversely affected the price discovery system, deprived other market players from participating in the trades, were a misuse of market mechanism and therefore violative of transparent norms of trading in securities.

Considering the perfect matching of quantity, price and time and sale in the impugned transactions, parties being persistent in the number of such trade transactions with huge price variations (without any major variation in the price of the underlying securities) wherein one party repeatedly booked profits whilst the other repeatedly incurred losses, the Supreme Court noted that it would be too naïve to hold that such transactions were by mere coincidence.



SELF-TRADES

Self-trades are trades executed on the stock market in which the same entity is both buyer and seller. These trades do not represent a real change in beneficial ownership of the security. Hence, they are per se illegal, wrongful and in violation of securities laws. The same can be observed from plethora of judgments, such as in *Balwinder Singh v. SEBI* (2013), where the Securities Appellate Tribunal (“SAT”) observed that self-trades(or wash-trades) are per se not allowed under Securities and Exchange Board of India Act, 1992 (the “SEBI Act”) and regulations made thereunder. In *Chirag Tanna v. The Adjudicating Officer* (2013),the SAT held that self-trades are, admittedly, fictitious and create artificial volumes in the traded scrip. In *Triumph International Finance Ltd v. SEBI* (2007), the SAT observed that self-trades were fictitious because the buyer and the seller were the same. Further, in *Systematix Shares & Stocks (India Limited v. SEBI* (2012), the SAT observed that trades, “where beneficial ownership is not transferred, are admittedly manipulative in nature.” In *HJ Securities Pvt Ltd v. SEBI* (2012), the SAT even made the observation that simply because the number of such self-trades is not large by itself cannot justify execution of self-trades.



SELF-TRADES

▪ Policy of SEBI

In *Crosseas Capital Services Pvt. Ltd. v. SEBI*, in which SAT clubbed 11 appeals, SEBI's representative stated that SEBI has decided to have a fresh look into these matters, due to which the cases were restored to the file of Whole Time Member, SEBI. Pursuant to these developments, SEBI came out with its new policy dated May 16, 2017 (the "Policy") by which it was observed that intention is a *sine qua non* for establishing manipulation in case of self-trades, and that accidental or unintentional self-trades are not covered under the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Markets) Regulations, 2003 (the "PFUTP Regulations"). Further, it was observed that in all matters of self-trade, an assessment has to be made regarding whether the said trade was intentional or unintentional on the basis of supporting evidence, and that the manipulation caused by indulging in self-trades should be clearly brought out.



SELF-TRADES

■ Cases after the Policy

SEBI has passed certain orders after it came out with the Policy, and in which the Policy has been considered and applied. These are in the matters of *Aster Silicates Ltd.* and *Unitech Limited* in which the Adjudicating Officer quoted the Policy and, while observing that the volume of self-trades is less than 1% of the total volume and the impact of self-trades on LTP is not significant on daily basis, dropped the proceeding against the notices.



SEBI (SETTLEMENT PROCEEDINGS) REGULATIONS, 2018

The Capital Market Regulator- Securities and Exchange Board of India (SEBI) observed that out of 21,652 entities that executed trades on BSE Stock Options Segment, a total of 14,720 entities were involved in generation of artificial volume by executing non-genuine/ reversal trades on the same day and out of the 14,720 entities involved in generation of artificial volumes by executing non-genuine/ reversal trades.

An analysis of the stock options segment of Bombay Stock Exchange (BSE) for the period April 1, 2014 to September 30, 2015 was carried out. It was observed that there were several entities who consistently made significant losses, whereas there were others who consistently made significant profit by executing reversal trades in stock options on the BSE. Meanwhile, the Hon'ble SAT vide its Order dated October 14, 2019 in the matter of RS Ispat Ltd Vs SEBI, has *inter alia* directed as follows: “...We are adjourning this matter today, so that SEBI may consider holding a Lok Adalat or adopting any other alternative dispute resolution process with regard to the Illiquid Stock Options.”



SEBI (SETTLEMENT PROCEEDINGS) REGULATIONS, 2018

With the aforesaid background, the SEBI has decided to introduce a Settlement Scheme (“the Scheme”) in terms of Regulation 26 of SEBI (Settlement Proceedings) Regulations 2018. The Scheme proposes to provide a onetime settlement opportunity to the entities that have executed trade reversals in the stock options segment of BSE during the period from April 1, 2014 to September 30, 2015 against whom any proceedings are pending.

▪ **Validity of the Scheme:**

Onetime settlement period commenced on **August 01, 2020 and ended on October 31, 2020** (both days inclusive) which was further extended till **December 31, 2020** vide notice dated **October 31, 2020**



CHAPTER IV

POWERS AND FUNCTIONS OF THE BOARD

- **Section 11-** Functions of Board
- **Section 11A-** Board to regulate or prohibit issue of prospectus, other document or advertisement soliciting money for issue of securities.
- **Section 11B-** Power to issue Directions.
- **Section 11C-** Investigation



THE CHAIRMAN, SEBI VS SHRIRAM MUTUAL FUND & ANR APPEAL (CIVIL) 9523-9524 OF 2003

Para 7

“A breach of civil obligation which attracts penalty in the nature of fine under the provisions of the Act and the Regulations would immediately attract the levy of penalty irrespective of the fact whether contravention must made by the defaulter with guilty intention or not. We also further held that unless the language of the statute indicates the need to establish the presence of mens rea, it is wholly unnecessary to ascertain whether such a violation was intentional or not. On a careful perusal of Section 15(D)(b) and Section 15-E of the Act, there is nothing which requires that mens rea must be proved before penalty can be imposed under these provisions. Hence once the contravention is established then the penalty is to follow.”



THE CHAIRMAN, SEBI VS. ROOFIT INDUSTRIES LTD. APPEAL NO 1364-1379 OF 2005

The Adjudicating Officer, SEBI had imposed a penalty of Rs 1,00,00,000/- & Rs. 75,00,000 in connected matter under Section 15A of Securities and Exchange Board of India Act, 1992 on Roofit Industries Limited.

The Hon'ble SAT on Appeal reduced penalty of Rs 1,00,00,000/ to Rs. 60,000 in 1 cases and from Rs 75,00,000/to Rs. 15,000/- in 5 cases.

SEBI filed an Appeal before Hon'ble Supreme Court. The Hon'ble SAT while reducing the penalty also considered impecuniosity an additional factor to those listed under Section 15J while adjudicating the quantum of penalty.

Section 15A was amended with effect from 29/10/2002 and remained in force until 08/09/2014. The Hon'ble Supreme Court has held as under:

Para 5

“Once the discretionary power of the adjudicating officer was withdrawn, the scope of Section 15J was drastically reduced and it became relevant only to the Sections where the Adjudicating Officer retained his prior discretion, such as in Section 15F(a) and Section 15HB.”

Para 11

“As the failure herein was complete on 16.09.2002, the penalty to be imposed on the Respondent in C.A.No. 1364-65 of 2015 and on each of the Respondents in the connected Appeal is Rs.1.5 lakhs”



SIDDHARTH CHATURVEDI VS SECURITIES AND EXCHANGE BOARD OF INDIA

APPEAL NO. 14730 OF 2015

The Hon'ble Supreme Court in this case observed that the appeals raised an interesting question of the interplay between Section 15A as amended in the year 2002 & Section 15J of Securities and Exchange Board of India Act, 1992.

The Learned counsel appearing on behalf of appellant had argued that Section 15A after its amendment in 2002 would undoubtedly apply to the present facts of the case. However, it was submitted that Section 15A would at all times have to be read with Section 15J of SEBI Act, 1992.

It was further argued that there would be no purpose to Section 15J if the Adjudicating Officer's discretion to fix the quantum of penalty did not exist.

The Honourable Supreme Court after taking Judgement of Concurrent Bench in Roofit Industries Limited reached to conclusion that this matter deserve consideration at the hands of larger bench.



ASHOK SHIVLAL RUPANI VS SEBI

APPEAL NO. 417 OF 2018

Para 6

“Having considering the matter, we are of the view that there has been an inordinate delay on the part of the respondent in initiating proceedings against the appellants for alleged violations. Much water has flown since the alleged violations and at this belated stage the appellants cannot be penalized.”



MR. RAKESH KATHOTIA & ORS. VS. SEBI

APPEAL NO. 07 OF 2016

Para 23.

*“It is no doubt true that no period of limitation is prescribed in the Act or the Regulations for issuance of a show cause notice or for completion of the adjudication proceedings. **The Supreme Court in Government of India vs, Citedal Fine Pharmaceuticals, Madras and Others, [AIR(1989) SC 1771] held that in the absence of any period of limitation, the authority is required to exercise its powers within a reasonable period. What would be the reasonable period would depend on the facts of each case and that no hard and fast rule can be laid down in this regard as the determination of this question would depend on the facts of each case.**”*



ANILKUMAR NANDKUMAR HARCHANDANI VS ADJUDICATING OFFICER, SEBI APPEAL NO. 75 OF 2019

Para 7

“The time line of the events would show that the alleged violation had occurred between March, 2004 to June, 2004. The appellant had disclosed the transaction to the BSE at that time. The show cause notice however was issued in the present case dated 7th November, 2017. The investigation report itself would show that for non availability of the documentary evidences the investigating authority did not recommend taking drastic action to direct making of public announcement. Thus, there was inordinate delay in initiation of the proceedings.”



ADJUDICATING OFFICER, SEBI VS BHAVESH PABARI ON 28 FEBRUARY, 2019

CIVIL APPEAL NO(S).11311 OF 2013

Para 6

*“The explanation to Section 15 J of the SEBI Act added by Act No. 7 of 2017, quoted above, has clarified and vested in the Adjudicating Officer a discretion under Section 15 J on the quantum of penalty to be imposed while adjudicating defaults under Section 15 A to 15 HA. Explanation to Section 15 J was introduced/added in 2017 for the removal doubts created as a result of pronouncement in **M/s Roofit Industries Ltd** case. We are in agreement with the reasoning given in reference order dated 14th March, 2016 that **M/s Roofit Industries Ltd** had erroneously and wrongly held that Section 15 J would not be applicable after Section 15 A(a) of the SEBI Act was amended with effect from 29th October, 2002 till 7th September, 2014 when Section 15 A(a) of the SEBI Act was again amended.”*

Para 36

“There are judgments which hold that when the period of limitation is not prescribed, such power must be exercised within a reasonable time. What would be reasonable time, would depend upon the facts and circumstances of the case, nature of the default/statute, prejudice caused, whether the third-party rights had been created etc.”



M/S NISHITH M. SHAH HUF VS SEBI ON 8 JANUARY, 2020

APPEAL NO. 97 OF 2019

Para 4

“Since no direct evidence is forthcoming we have to see the indirect connection which is that the appellant was selling small quantities of scrips. Trading in small quantities in scrips is per se not impermissible as held in Ajmera's case. If trading in miniscule amount leads to an increase in the price of the scrips one can presume or infer that the trading is manipulative but such trading cannot happen unilaterally. There must be evidence to show collusion between the buyer and the seller. In the instant case there is none. The principle of preponderance of probability cannot be exercised in the absence of any connection between the seller and the buyer.”



KAUSHIK RAJNIKANT MEHTA VS SEBI

APPEAL NO.76 OF 2019

Para 10

“A perusal of the table shown in the para 5 of the impugned order shows that the connection has been established between 56 entities whereas the show cause notice was issued to 35 entities. In our opinion, a connection has to be drawn between the 35 entities only and not against the 56 entities in as much as the charge is one of synchronized trades and reversal trades and if one of the entities who is not charged in the show cause notice is a link for synchronized trading then that charge cannot be proved.”



VIPIN SHARMA VS SEBI

APPEAL NO. 487 OF 2020

Para 20

“we are of the opinion that in order to implicate a person, namely, a director of any fraudulent act it is necessary for the authority to further find any evidence which would show that the said person or director was involved in the fraud with regard to the GDR issue or that he was involved in the defalcation of the funds which was raised through GDR issue. In the instant case, we find that there is no such evidence against the appellant Vipin Sharma other than the fact that he was part of the Resolution dated August 13, 2010 which has been disputed by the appellant. We are of the opinion that the Resolution dated August 13, 2010 by itself does not create any suspicion nor create any fraudulent act. The Resolution by itself does not violate any provision of the SEBI Act or PFUTP Regulations. In view of the aforesaid, the order of the WTM giving a caution solely on the ground of being present when the Resolution dated August 13, 2010 was passed cannot be sustained. The finding of the WTM that he was aware of the objectives behind the passing of the Resolution dated August 13, 2010 is based on surmises and conjectures. The order of the AO imposing a penalty of Rs. 3,00,000 is also unwarranted in the facts of the present case. The orders of the WTM and the AO in this regard cannot be sustained.”



NORTH END FOODS AND MARKETING LTD VS SECURITIES AND EXCHANGE BOARD OF INDIA APPEAL NO 80 OF 2019

SEBI'S POWER TO PASS EX-PARTE ORDER UNDER SECTION 11(4) OF SEBI ACT, 1992

Para 13

“At times, an opportunity of hearing may not be pre-decisional and may necessarily have to be post-decisional especially where the act to be prevented is imminent or where the action to be taken brooks no delay. Thus pre-decisional hearing is not always necessary when ex-parte ad-interim orders are made pending investigation or enquiry unless provided by the statute. In such cases, rules of natural justice would be satisfied, if the affected party is given post-decisional hearing”

Para 15

“Thus ex-parte interim order may be made when there is an urgency. As held in Liberty Oil and Mills and Ors. Vs. Union of India & Ors. [AIR (1984) SC 1271] decided on May 1, 1984, the urgency must be infused by a host of circumstances, viz. large scale misuse and attempts to monopolise or corner the market. In the said decision, the Supreme Court further held that the regulatory agency must move quickly in order to curb further mischief and to take action immediately in order to instill and restore confidence in the capital market.”



KETAN PAREKH VS SECURITIES AND EXCHANGE BOARD OF INDIA

APPEAL NO 02 OF 2004

The Hon'ble SAT has explained the concept of synchronized trading as under:

Para 20

“A synchronized trade is one where the buyer and seller enter the quantity and price of the shares they wish to transact at substantially the same time. This could be done through the same broker (termed as cross deal) or through two different brokers. Every buy and sell order has to match before the deal can go through. This matching may take place through the stock exchange mechanism or off market. When it matches through the stock exchange, it may or may not be a synchronized deal depending on the time when the buy and sell orders are placed.”



KISHORE AJMERA VS SECURITIES AND EXCHANGE BOARD OF INDIA, APPEAL NO. 13 OF 2007

Hon'ble SAT has observed as under:

“Merely because two clients have executed matched trades, it does not follow that their brokers were necessarily a party to the game plan. On a screen based trading through the price order matching mechanism of the exchange, it is not possible for either of the brokers (or sub-brokers) to know who the counter party of his broker (or sub-broker) is and when the trade is executed, their names or codes does not appear on the screen. A unique feature of the stock exchange is that , unlike other moveable properties, securities are bought and sold among the unknowns who never get to meet and they are traded at prices determined by the forces of the demand and supply. If the Board is to hold the broker (or the sub-broker) responsible for a matching trade it has to be allege and establish that the broker (or the sub-broker) was aware of the counter party or his broker at the time when the trade was executed. There is no such allegation in this case”



SEBI VS RAKHI TRADING PRIVATE LIMITED

CIVIL APPEAL NO 1969 OF 2011

Para 31

“...In the instant case, one party booked gains and the other party booked a loss. Nobody intentionally trades for loss. An intentional trading for loss per se, is not a genuine dealing in securities. The platform of the stock exchange has been used for a non-genuine trade. Trading is always with the aim to make profits. But if one party consistently makes loss and that too in preplanned and rapid reverse trades, it is not 45 genuine; it is an unfair trade practice”

Para 33

“...In the instant case, through reversal trades there was no genuine change of rights in the contract.”



GLOBAL EARTH PROPERTIES AND DEVELOPERS LIMITED VS SEBI APPEAL NO 212 OF 2020

Para 11

“Having heard the parties at some length we find that the reversal of trades are considered to be non-genuine trades if it involves an entity reversing its buy or sell position in a contract with substantial buy or sell position with the same counter party during the same day”

Para 12

“ Such execution of trades, in our opinion are non-genuine trades and creates artificial volume giving misleading appearance. The reversal of trades executed by the Appellant cannot be called a normal trading transaction in as much as the these trades were reversed within a short span ranging from a few seconds to a few minutes within the same counter parties. By no stretch of imagination it can be held to be a mere coincidence that the Appellants trades matched consistently with the same counter parties unless there was a meeting of minds with a view to trade a predetermined time. Such a kind of transaction, in our opinion is a manipulative device and is also synchronized trading.”



NESSA TECHNOLOGIES LIMITED VS SEBI

APPEAL NO. 311 OF 2016

Para 5

“We note that the impugned order has considered all these conditions made by the Appellant before the Ld. WTM of SEBI. It is held in the impugned order that various Sections of Companies Act, 1956 is violated because the company issued the securities to more than 49 persons and hence it is a public issue and the provisions of Section 56 were not followed. In terms of Section 67(3) of the Companies Act any issue to “50 persons or more” is a public issues have to comply with the provisions of Section 56 of Companies Act and ILDS Regulations. Accordingly, in the instant matter the Appellant have violated these provisions and their argument that they have issued the NCDs in multiple tranches and no tranches has exceeded 49 people has no meaning.”



SAHARA INDIA REAL ESTATE CORPORATION LIMITED VS SEBI CIVIL APPEAL NO 9813 OF 2011

“.... That any share or debenture issue beyond forty nine persons, would be a public issue attracting all the relevant provisions of the SEBI Act, regulations framed thereunder, the Companies Act, pertaining to the public issue....”



PIRAMAL ENTERPRISE LIMITED VS SEBI

APPEAL NO 466 OF 2016

Para 24

“ Considering the aforesaid, we are of the opinion that the object of the Act is not only to protect the investors but also the securities market. The Appellant is part of the securities market and its existence is required for the healthy growth of the securities market. SEBI is the watchdog and not a bulldog. If there is an infraction of a rule, remedial measures should be taken in the first instance and not punitive measures. In the absence of any direct or clinching evidence of insider trading or misuse of UPSI, a reasonable benefit of doubt should be extended the PEL instead of mechanically imposing a penalty. Other factors should be considered including those stated in Section 23J of the Act which apparently was not considered”

In the instant case AO had imposed a penalty of Rs.5 lakhs for violation of Clause 3.2.1 of the Model Code of Conduct for Prevention of Insider Trading and a further penalty of Rs.1 lakh for violation of Clause 1.2 and 2.2 of the said Model read with Regulation 12 of PIT Regulations which was set aside by Hon'ble SAT.



N. NARAYANAN VS ADJUDICATING OFFICER, SEBI

CIVIL APPEAL NOS.4112-4113 OF 2013

Role of Board of Directors has been explained as under:

Para 32

“Responsibility is cast on the Directors to prepare the annual records and reports and those accounts should reflect ‘a true and fair view’. The over-riding obligation of the Directors is to approve the accounts only if they are satisfied that they give true and fair view of the profits or loss for the relevant period and the correct financial position of the company.”



Para 33

*“Company though a legal entity cannot act by itself, it can act only through its Directors. They are expected to exercise their power on behalf of the company with utmost care, skill and diligence. This Court while describing what is the duty of a Director of a company held in **Official Liquidator v. P.A. Tendolkar (1973) 1 SCC 602** that a **Director may be shown to be** placed and to have been so closely and so long associated personally with the management of the company that he will be deemed to be not merely cognizant of but liable for fraud in the conduct of business of the company even though no specific act of dishonesty is provide against him personally. He cannot shut his eyes to what must be obvious to everyone who examines the affairs of the company even superficially.”*

Para 34

“ The facts in this case clearly reveal that the Directors of the company in question had failed in their duty to exercise due care and diligence and allowed the company to fabricate the figures and making false disclosures. Facts indicate that they have overlooked the numerous red flags in the revenues, profits, receivables, deposits etc. which should not have escaped the attention of a prudent person.”



SECTION 24 - OFFENCES.

- (1) Without prejudice to any award of penalty by the adjudicating officer or the Board under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees or with both.**
- (2) If any person fails to pay the penalty imposed by the adjudicating officer or the Board or fails to comply with any directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with fine, which may extend to twenty-five crore rupees or with both.**



SECTION 24A - COMPOSITION OF CERTAIN OFFENCES.

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.



SECTION 26B - OFFENCES TRIABLE BY SPECIAL COURTS.

Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Act, 2014 or on or after the date of such commencement, shall be taken cognizance of and tried by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.



SECTION 27 - CONTRAVENTION BY COMPANIES.

(1) Where a contravention of any of the provisions of this Act or any rule, regulation, direction or order made thereunder has been committed by a company, every person who at the time the contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such contravention.

(2) Notwithstanding anything contained in sub-section (1), where an contravention under this Act has been committed by a company and it is proved that the contravention has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

