

LEGAL UPDATES

SEBI: SEBI IMPOSES PENALTY ON DEALING IN ILLIQUID STOCK OPTIONS AT THE BSE

In [Re Ashok Kumar Sharma HUF](#), the SEBI undertook to investigate the trading in illiquid stock on the Bombay Stock Exchange (BSE). The bench observed that of the total trading in the stocks, 81.40% were non-genuine. The adjudicatory authority initiated the proceedings against the noticee for contravening the reg. 3(a),(b),(c),(d) and Regulation 4(1) & 4(2)(a) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 ("PFUTP Regulations, 2003"). The bench ruled that such trades were not genuine and a false and misleading image or appearance was created of trading with respect to the fake volume of shares. The bench ruled that the transactions as entered by the noticee were synchronized trades and in a short time span, the transactions were reversed with the interplay of the parties. The bench cited the Apex court decision in SEBI Vs. Rakhi Trading where it was held that the trading platform has been misused for trading in non-genuine stock options. A trading activity done for intentional loss cannot be termed as genuine dealing. SC ruled that it is not at all relevant who is the second party, client or broker. Further, in a case where there is no evidence of interplay of minds in a synchronized trading activity, the test would be of the predominance of possibilities with respect to the liability due to contravening the statute or the provision of the regulation. It has been observed that both parties pre-determined the prices before trading, and the noticee was not transacting in the regular practice of business with the other party. Hence, due to reversing and syncing the trade the prices have been affected. Such activities of trade amount to manipulating the security prices thereby hugely impacting the transparency and fairness of the market. No one is able to participate in trade except for the ones who have set the prices beforehand. It cannot be a chance that the appellants matched the trade with the other party with whom they had entered into a trading activity earlier. Observing the same, the chairman of SEBI imposed a penalty of INR 5,00,000 on the noticee, noting that the fine as imposed is proportionate with the default as committed.