

## IN THE SUPREME COURT OF INDIA

## CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4242 OF 2004

S.E.B.I. ... APPELLANT

VERSUS

ROOPRAM SHARMA ... RESPONDENT

## O R D E R

The appellant, aggrieved by the Order dated 19.09.2002 passed by the Securities Appellate Tribunal, Mumbai, in Appeal No. 20 of 2002 setting aside the direction given by the appellant prohibiting the respondent from accessing capital market and dealing in securities market, has preferred this appeal.

Facts lie in a narrow compass.

The Chairman of the appellant, the Securities and Exchange Board of India, passed Order dated 19.02.2002 prohibiting Roopram Sharma, respondent herein, from accessing the capital market and dealing in securities for a period of three years. He challenged the same by way of an appeal before the Securities Appellate Tribunal, Mumbai. The Tribunal on facts found that the company's public issue was designed to defraud the investing public and the issue was manipulated and the said Roopram Sharma was involved in that. Relevant portion of the finding of the Tribunal in this regard reads as follows:

"The Respondent has established beyond doubt that the company's public issue was designed to defraud the investing public and the issue was manipulated and the Appellant was involved. However, it is noticed that in such proven misconduct on the part of the Appellant, the Respondent has opted to issue a direction under section 11B 'prohibiting the Appellant from accessing capital market and directing him not to deal in securities market in any capacity for a period of three years.'"

However, the Tribunal found the order to be bad on its conclusion that the same tantamounts to imposition of penalty under Section 11B of the Securities and Exchange Board of India Act, 1992. The Tribunal in this connection has observed as follows:

"In my view the direction tantamounts to imposition of penalty which section 11B does not provide for, as explained in Sterlite Industries (India) Ltd. vs. SEBI, (2001) 34 SCL 485 (SAT). In this view of the matter I am of the view that the direction has no legal backing and therefore cannot sustain."

Despite service of notice, nobody has chosen to appear on behalf of the respondent.



| Court Master

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(Signed order is placed on the file)