

ITEM NO.4 Court 14 (Video Conferencing)

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No. 1272/2022

HEMANT SHETH & ORS.

Appellant(s)

VERSUS

SECURITIES AND EXCHANGE BOARD OF INDIA

Respondent(s)

(IA No.20546/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.20545/2022-EX-PARTE STAY)

Date : 21-02-2022 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DINESH MAHESHWARI
HON'BLE MR. JUSTICE VIKRAM NATH

For Appellant(s) Mr. Ashim Sood, Adv.
Mr. Vikas Bengani, Adv.
Mr. Ekansh Gupta, Adv.
Mr. Mayank Pandey, AOR

For Respondent(s)

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

Learned counsel for the appellants submits that the Whole Time Member has erred in issuing directions to the appellants for disgorgement and the Securities Appellate Tribunal has also erred in affirming such directions despite there being no determination of the questions as to whether, and to what extent, the appellants had made ill-gotten gains, if any.

Learned counsel also submits that the Whole Time Member and the Tribunal have further erred in issuing the orders and affirming the same for the so-called joint and several liability for disgorgement. According to the learned counsel, the concept of

joint and several liability cannot be imported in relation to the equitable remedy of disgorgement, which is essentially to be measured as per the quantum of ill-gotten gains by a particular entity.

According to the learned counsel, in any case, the considerations which have been applied qua the other entities, said to be directly involved in the questioned trading, could not have been applied to the appellants when the allegations against the appellants had been of financing and not of direct trading.

The matter requires consideration.

Admit.

Issue notice.

(NEETA SAPRA)
COURT MASTER (SH)

(RAM SUBHAG SINGH)
BRANCH OFFICER