

BEFORE THE SECURITIES APPELLATE TRIBUNAL  
MUMBAI

**Order Reserved on: 26.09.2022**

**Date of Decision : 05.10.2023**

**Appeal No. 420 of 2021**

1. Vedanta Limited  
(in which Cairn India Limited has merged)  
1<sup>st</sup> Floor, C Wing, Unit 103,  
Corporate Avenue, Atul Projects,  
Chakala, Andheri (East),  
Mumbai – 400 093.
2. Mr. P. Elango  
G 1, Alsa Court No. 72,  
Harrington Road,  
Chennai – 600 031.
3. Mr. Aman Mehta  
115A, 2<sup>nd</sup> Floor,  
Jor Bagh,  
New Delhi – 110 003. .... Appellants

Versus

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

Mr. Somasekhar Sundaresan, Advocate with Mr. Pawan  
Sharma, Mr. Rishabh Sharma, Advocates for the Appellants.

Mr. Shiraz Rustomjee, Senior Advocate with Mr. Manish  
Chhangani, Advocate i/b The Law Point for the Respondent.

**AND**  
**Misc. Application No. 810 of 2021**  
**And**  
**Appeal No. 486 of 2021**

Ms. Neerja Sharma  
3/7, West Patel Nagar,  
New Delhi – 110 008.

..... Appellant

Versus

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

...Respondent

Mr. Shyam Mehta, Senior Advocate with Mr. Sumit Agrawal,  
Mr. Amit Agrawal, Mr. Sharad Bansal, Mr. Pratham Darad,  
Ms. Radhika Yadav, Mr. Tarun Toprani, Ms. Krithika  
Kataria, Advocates i/b Regstreet Law Advisors for the  
Appellant.

Mr. Shiraz Rustomjee, Senior Advocate with Mr. Manish  
Chhangani, Advocate i/b The Law Point for the Respondent.

CORAM : Justice Tarun Agarwala, Presiding Officer  
Ms. Meera Swarup, Technical Member

Per : Ms. Meera Swarup, Technical Member

1. Two appeals have been filed against Order No.  
PM/NR/2021-22/11815-11818 dated May 19, 2021 passed  
by the Adjudicating Officer ('AO' for short) of the Securities  
and Exchange Board of India ('SEBI' for short), the  
Respondent, under Section 15-I of SEBI Act, 1992, in the

matter of Cairn India Limited (now merged with Vedanta Limited). Appeal No. 420 of 2021 has been filed by Vedanta Limited ('the Company' for short), Appellant no. 1, Mr. P. Elango, Appellant no. 2 and Mr. Aman Mehta, Appellant no. 3. Appeal No. 486 of 2021 has been filed by Ms. Neerja Sharma. As the impugned order is common to all the appellants, both the appeals are being taken up together. By the impugned order, penalties have been imposed for violation of Regulation 3 and 4 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 ('PFUTP Regulations' for short) and Regulation 19(1)(a) of SEBI (Buyback of Securities) Regulations, 1998 ('Buyback Regulations' for short).

2. The brief facts of the case are as follows. The Board of Directors of Cairn India Ltd. (the Company) approved on December 26, 2013 a proposal to buyback 17,08,95,522 equity shares at a maximum price of Rs. 335/- per share (with a face value of Rs. 10/- each) for a maximum amount of Rs. 5725 crores from the open market route in accordance with Buyback Regulations. The shareholders of the Company approved the proposal through postal ballot by a special resolution on January 6, 2014. A Public Announcement for

the buyback was made on January 14, 2014. The buyback was scheduled to open on January 23, 2014 and close on July 22, 2014. The maximum price of Rs. 335/- per share was a premium of 4% compared to the average of the weekly high and low of the closing prices of the equity shares of the Company during the two weeks preceding the date of Board approval in November 26, 2013.

3. The Company deposited in an Escrow Accounts Rs. 143.125 crores on January 21, 2014 being 2.5% of the maximum buyback size under Regulation 15B of the Buyback Regulations.

4. As required under Regulation 14(3) of Buyback Regulations, the Company had to ensure that at least 50% of Rs. 5725 crores i.e. Rs. 2862.50 crores was utilized for buying back the shares of the Company i.e. 8,54,47,761 shares or more. The Company could not achieve the maximum amount of 50% of buyback size. On June 30, 2014 the Company informed SEBI that till June 27, 2014 it could buyback 3,67,03,839 shares, 21.48% of the maximum number of buyback shares utilizing Rs. 1225.45 crores which represented 28.59% of the maximum buyback size. The Company sought extension of buyback period which was not

acceded to by SEBI. On July 30, 2014, the Company wrote to SEBI informing that it could not ensure buyback of 50% of the amount earmarked as required under Regulation 14(3) of the Buyback Regulations. It requested SEBI to release the cash Escrow amount of Rs. 143.125 crores containing 2.5% of buyback size under Regulation 15B of the Buyback Regulations.

5. SEBI carried out investigations to ascertain whether the Company violated Buyback Regulations and PFUTP Regulations. Based on the investigation dated February 3, 2016, the cash in Escrow Account was released to the Appellant Company. The report stated that even though the Company could not be successful in the buyback, the cash deposited in Escrow Account cannot be forfeited under Clause 15B (8)(a) of the Buyback Regulations as the volume-weighted average price at BSE Limited (BSE) and National Stock Exchange (NSE) during the buyback period was higher than the buyback price. Accordingly, the cash escrow deposit was released by the SEBI on February 12, 2016.

6. Based on investigation regarding possible violation of PFUTP Regulations, it was found that out of 123 trading days, buy orders were placed by the Company on 82 days on

NSE and on all 123 days on BSE. No buy orders were placed on NSE on 24 days and buy orders for less than 5000 shares were placed on 15 days out of a total of 54 days on which the price was favourable. Accordingly, SEBI concluded that by making the announcement of buyback without any intent to fulfill it, the Company and Mr. P. Elango (CEO and Director of the Company, Appellant no. 2), Mr. Aman Mehta (Director on the Board of the Company, Appellant no. 3) and Ms. Neerja Sharma, Director (Risk Assurance) and Company Secretary, Appellant in Appeal no. 486 of 2021 who all signed the public advertisement dated January 14, 2014 acted fraudulently and violated Regulations 3(a), (b), (c), (d) and 4(1), 4(2)(K) and (r) of the PFUTP Regulations and Regulations 19(1)(a) of the Buyback Regulations. A penalty of Rs. 5.25 crores was levied on the Company and that of Rs. 15 lakh each on the Appellant nos. 2 and 3 and Appellant in Appeal no. 486 of 2021 under Section 15HA and 15HB of the SEBI Act, 1992.

7. A common Show Cause Notice (SCN) dated July 13, 2017 was issued to all 4 Noticees. As Cairn India Ltd. had merged with Vedanta Ltd. on April 11, 2017, Vedanta Ltd. furnished reply to the SCN on January 19, 2018 on behalf of

all the Noticees. Opportunity of personal hearing was availed of by the Noticees on April 6, 2018 and May 29, 2018. Further, replies were filed by the Company on February 6, 2019 and October 31, 2020. A further hearing was held on October 22, 2020 and October 27, 2020. Based on the facts and material on record, the AO concluded that –

*“It is established that Cairn (Noticee 1) did not place enough buy orders at appropriate time towards the aim of completing the buyback, hence failed to show interest and acted fraudulently. The Noticees 2, 3 and 4 viz, Mr. P. Elango, Mr. Aman Mehta and Ms. Neerja Sharma who had signed the public advertisement dated January 14, 2014 have facilitated the Company in making the said misleading announcement.”*

Accordingly, the four appellants were held to have violated the provisions of Regulation 3(a), (b), (c), (d) and 4(1), 4(2)(K) and (r) of the PFUTP Regulations and Regulations 19(1)(a) of the Buyback Regulations.

8. We have heard Shri Somasekhar Sundaresan, the learned counsel assisted by Shri Pawan Sharma and Shri Rishabh Sharma and Shri Shyam Mehta, the learned senior counsel assisted by Shri Sumit Agrawal, Shri Amit Agrawal, Shri Sharad Bansal, Shri Pratham Darad, Ms. Radhika Yadav, Shri Tarun Toprani and Ms. Krithika Kataria, the learned counsel in respective appeals and

Shri Shiraz Rustomjee, the learned senior counsel assisted by Shri Manish Chhangani, the learned counsel for the respondent.

9. The respondent's case is that the announcement of buyback of shares by the Company was an announcement without any intent to fulfill it and hence fraudulent. This is proved by the following:-

- (i) There were a total of 123 trading days available to the Company to achieve the maximum buyback size of 17,08,95,522 shares, the Company was thus required to buy a maximum of an average of 13,89,390 shares every day at Rs. 335 per share. Buying less indicates lack of intent by the Company.
- (ii) The premium margin of 4% fixed by the Company for maximum buyback price reduced the probability of the closing price being reasonably favourable during the buyback period.
- (iii) Given the magnitude of the total size and number of shares to be bought, high degree of monitoring



should have been put in place to ensure that at least 50% of target is fulfilled.

(iv) Data for 2012 and 2013 indicated that most of the shares of the scrip were traded on NSE. However, out of 123 trading days, the Company placed orders on only 82 days on NSE with no orders being placed on 41 days. On BSE, the Company placed orders on all 123 days.

(v) The Company had not placed enough buy orders between the period January 23, 2014 to March 1, 2014 when the price of scrip was below the maximum buyback price. The closing price was favourable on 54 days on NSE and 55 days on BSE out of 123 days. The Company did not place any orders on 24 days out of 24 favourable days on NSE and placed orders for more than 1,00,000 shares on only 13 days.

10. The appellants have pleaded that there is nothing on record to conclude that the announcement of buyback was made without the intention to fulfill it. This is borne by the following:-

- (i) The Company had deposited Rs. 143.125 crores in Escrow Account for processing the buyback. After investigation the Respondent did not forfeit the amount on February 12, 2016 under Section 15B (8) of Buyback Regulations and released it as the Respondent found that the VWAMP during the buyback period was higher than the buyback price. The investigation report dated June 6, 2015 had also concluded that there was no impact of the public announcement on the volume or price of the scrip.
- (ii) The Company engaged professional stock brokers and merchant bankers to successfully conclude the buyback. There is nothing on record to suggest manipulative placement of orders on one stock exchange in preference over another. The Company expressed no desire or choice as to the exchange on which orders were placed.
- (iii) The sole reason for non-completion of the buyback was that the price of the scrip moved above maximum buyback price of Rs. 335 for most of

the buyback period i.e. out of 123 trading days on 65 days. In effect, less than three months were available to the Company to complete the buyback.

- (iv) The Company had placed orders almost on daily basis, however, corresponding sell orders at or below maximum buyback price of Rs. 335/- were inadequate to cover the buy orders placed by the Company.
- (v) The regulations consciously and deliberately do not impose any conditions as to how the shares are to be bought back. Therefore, the Respondent's contention that orders should have been placed daily for at least average volume of shares i.e. 13,89,390 shares is misplaced.
- (vi) If the Company was not serious about successfully completing the buyback, it would not have sought extension of time for completing the buyback transaction.

(vii) Despite the market price of the scrip being bullish, the Company managed to buyback shares worth approximately Rs. 3.67 crore. This is not a small sum to be spent by someone who has no intention of completing the buyback transaction.

11. The admitted facts in the case are as follows:-

(i) During the investigation period, i.e. January 23, 2014 to July 22, 2014 (also the buyback period), BSE Sensex registered an increase of 21.76% and NSE Nifty an increase of 22.14%. The price of the scrip on BSE moved from Rs. 321 to Rs. 343.01, an increase of 6.88%. On NSE, the scrip registered an increase from Rs. 321.65 to Rs. 343.1, an increase of 6.67%.

(ii) Out of 123 trading days during the buyback period, the closing price was favourable (less than or equal to the maximum buyback price of Rs. 335/-) for 54 days on NSE and 5 day on BSE.

(iii) The Volume Weighted Average Market Price (VWAMP) of the scrip during the buyback period was Rs. 348.48 per share on BSE and Rs. 342.83

per share on NSE. Thus, the VWAMP for the scrip on both the Exchange was higher than the buyback price of Rs. 335 per share.

12. Having heard the learned counsel for the parties, we note that the allegations against the Company are that firstly, it had made misleading announcement on January 14, 2014 regarding buyback of shares designed to influence the decision of the investors and to induce sale or purchase of securities. Secondly, the Company failed to put in enough buy orders at appropriate time towards the aim of completing the buyback and hence failed to show intent and acted fraudulently. The allegations against Appellant nos. 2 and 3 and the Appellant in Appeal no. 486 of 2021 are that they facilitated the Company in making the said misleading announcement by signing the public announcement.

13. With regard to allegation regarding the Company making a misleading public announcement designed to influence the decisions of investors, we find that the Board of Directors approved the proposal for buyback of shares along with the maximum price of the equity shares at Rs. 335/- on November 26, 2013. The shareholders of the Company approved the proposal of the said buyback on January 6, 2014

and the public announcement was made on January 14, 2014. The opening price on January 23, 2014 (at the start of buyback period) was Rs. 321/- per share and it closed at Rs. 343.10 per share on July 22, 2014. This was in consonance with the bullish trend in the stock market – BSE and NSE saw a gain of approximately 22%. Further, the investigation report clearly held that the Company had complied with relevant provisions of Regulation 15B (8) of Buyback Regulations (for release of amount deposited in Escrow account by the Company) holding that “No major impact on price / volume was observed on the basis of any of the corporate announcement made by Cairn during the investigation period”. The Company could not have foreseen or predicted that the stock markets would witness this bullish trend at the time when the decision for going for a buyback was taken nor could the Company be aware at the time of making the public announcement that the traded price of the scrip would be above the maximum buyback price on 68 days out of 123 trading days. Thus, in our view the allegation that the Company had made misleading public announcement on January 14, 2014 designed to influence the decision of investors and to induce sale or purchase of its securities is not proved.

14. Regarding the allegation that the Company failed to show intent towards completing the buyback by not putting enough buy orders at appropriate time and therefore acted fraudulently, we find that out of 123 trading days available to the Company to conclude the buyback, on 55 days at BSE and 54 days at NSE, the closing price of the scrip was lesser or equal to maximum buyback price of Rs. 335/-.

15. We also note that the closing price was more than maximum buyback price of Rs. 335/- per share from April 2, 2014 to April 23, 2020 and from May 12, 2014 to July 22, 2014. It is further noted that out of 123 days available to the Company to complete the buyback, it placed buy orders on 82 days on NSE and on all 123 days on BSE. It is also noted that the SEBI (Buyback of Securities) Regulations, 1998 do not lay down any method or procedure for conducting the buyback. The Company appointed professional merchant bankers and brokers for the buyback transaction and deposited Rs. 143.12 crores in an Escrow account. It cannot be faulted for adopting a prudent and cautious approach by placing few buy orders at the initial stage of the buyback period. Placement of large buy orders at the initial stage could have affected the price of the scrip and possibility of the price

going above the maximum price even earlier could not be ruled out. The Company could not have perceived that in last 2-3 months of the buyback period the price would not be favourable. We note that the Company bought back Rs. 3.34 crores of shares during the period April 25, 2014 to May 9, 2014 when the price fell down below the maximum price. There is nothing on record to indicate that the Company instructed the intermediaries to prefer one Stock Exchange over another. The Company utilized Rs. 1225.45 crores in the buyback process and in our view this is not a paltry sum to invest for a non-serious effort to buyback the shares. The above indicates that it cannot be conclusively proved that the Company showed no intent to successfully complete the buyback and there by acted fraudulently.

16. Thus, we hold that the violations of provisions of Regulations 3(a), (b), (c), (d) and 4(1), 4(2)(K) and (r) of the PFUTP Regulations and Regulations 19(1)(a) of the Buyback Regulations are not proved against the Company. Appellant no. 2 (Mr. P. Elango), Appellant no. 3 (Mr. Aman Mehta) and Ms. Neerja Sharma, Appellant in Appeal no. 486 of 2021 were found to have violated the same provisions as they signed the public advertisement dated January 14, 2014 and



thereby facilitated the Company in making the said misleading announcement. We have already held that the public announcement was not misleading, consequently, the violations of provisions of Regulations 3(a), (b), (c), (d) and 4(1), 4(2)(K) and (r) of the PFUTP Regulations and Regulations 19(1)(a) of the Buyback Regulations against the Appellant nos. 2 and 3 in Appeal no. 420 of 2021 and Appellant in Appeal no. 486 of 2021 are set aside.

17. Accordingly the Appeal nos. 420 of 2021 and 486 of 2021 are allowed and the order dated May 19, 2021 of the AO is set aside. The miscellaneous application is disposed of.

Justice Tarun Agarwala  
Presiding Officer

Ms. Meera Swarup  
Technical Member

05.10.2023  
msb