

**IN THE SECURITIES APPELLATE TRIBUNAL
AT MUMBAI**

DATED THIS THE 8TH DAY OF MAY, 2026

**CORAM: Justice P.S. Dinesh Kumar, Presiding Officer
Ms. Meera Swarup, Technical Member
Dr. Dheeraj Bhatnagar, Technical Member**

**ORDER ON INTERIM PRAYER
IN
Appeal No.120 of 2026
(Along with Misc. Application No. 392 of 2026)**

Harish Sheth and Anr.

...Appellants

(By Mr. Pesi Modi, Senior Advocate with Mr. Rushin Kapadia,
Mr. Sameer Pandit, Ms. Krina Gandhi, Ms. Chandani Turakhiya,
Advocates i/b. Wadia Ghandy & Co. for the Appellants.)

Securities and Exchange Board of India and Ors. ...Respondents

Mr. Pradeep Sancheti, Senior Advocate with Mr. Ravishekhar Pandey,
Mr. Ankit Ujjwal, Advocates i/b Agama Law Associates for Respondent
No. 1.

INTERIM ORDER

Per: Justice P. S. Dinesh Kumar, Presiding Officer

This appeal is directed against order dated February 5, 2026 passed by the QJA¹, SEBI² issuing several directions, which include payment of about ₹208.77 Crore, debarment from accessing the securities market and penalty.

2. We have heard Mr. Pesi Modi, learned Senior Advocate for the appellants and Mr. Pradeep Sancheti, learned Senior Advocate for the SEBI.

3. Brief facts of the case are, SEBI conducted an investigation in the matter of Setco Automotive Limited ('SAL' for short), a listed company, to ascertain whether the financial statements published for FY 2019-20 to FY 2021-22 were as per Accounting Standards. Based on the investigation report and opinion of the competent authority that the said company and others had possibly violated Securities laws, an SCN³ was issued to show cause why directions under Section 11 and other provisions of the SEBI Act, 1992⁴ should not be issued and penalty be not imposed. The main allegation in the SCN was, India Resurgence Fund ('IRF' for short) funded ₹615 Crore to SAL and SASPL (Setco

¹ Quasi-Judicial Authority

² Securities and Exchange Board of India

³ Show cause Notice Dated 14.10.2024

⁴ Securities and Exchange Board of India

Auto Systems Private Limited). Out of the said sum, ₹107.76 Crore was transferred to Setco Engineering Private Limited ('SEPL' for short) as marketing commission and a sum of ₹101 Crore was invested in SEPL to acquire preference shares. SEBI's allegation is, the said sums were diverted to the promoters and accordingly, by the impugned order, they have been directed to bring back the same into the Company. Noticee Nos.3 and 4 have challenged the said order in this appeal.

4. Mr. Modi learned Senior Advocate for the appellants submitted that the appellants have promoted and built SAL. It is one of the largest suppliers of clutches to truck manufactures in India. SASPL is a fully owned subsidiary of SAL.

5. During FY 2019-20, SAL was financially stressed. It could not raise finance from banks or NBFCs⁵. Finally, IRF agreed to provide ₹615 Crores subject to the following conditions:

- a) The entire promoter shareholding had to be pledged to IRF;
- b) The appellant had to give personal guarantees for full repayment;
- c) The marketing commission paid to SEPL had to be changed so as to impose a cap and instead a lump sum of ₹100 Crore to ₹110 Crore was to be paid to SEPL. Additionally, investments were to be made into the promoter companies

⁵ Non-Banking Financial Company

(SEPL & TTPL) so that they could pay off their lenders - get release of promoter pledged shares - and then pledge them to IRF.

6. He further submitted that all terms were approved by the Board, Audit Committee and shareholders. IRF package was the only chance of survival for the Company. The main securities given are promoters' stake in SAL, their personal assets and personal guarantee.

7. He submitted that ₹107.76 Crore as per the valuation report was paid to SEPL as lump sum marketing commission. SAL and SASPL made long-term investment in preferential shares of SEPL⁶ and TTPL⁷. SEPL and TTPL paid their lenders and got their pledged shares released and immediately pledged them with IRF. Appellants also pledged their shares and gave their personal guarantee to IRF. After restructuring, SAL's share price increased from ₹5 to ₹20 and the current price is ₹24.

8. He submitted that the impugned order adversely affects appellants' financial credibility in the market and in turn, it affects SAL. With the impugned in force, appellants and their Company are exposed to the risk of lenders invoking the pledge/guarantees and it may lead the Company into liquidation. He submitted that

⁶ Setco Engineering Private Limited

⁷ Transstadia Technologies Private Limited

the allegations pertain to FY 2019-20 to FY 2021-22 and there is no imminent urgency to implement the impugned order and prayed for stay of the impugned order.

9. Mr. Pradeep Sancheti, learned Senior Advocate for SEBI submitted that this is a classic case of diversion of Company's funds by the promoters and made detailed submissions. In substance, he contended that appellants have strategically transferred the clutch business to SASPL and paid a huge marketing commission of ₹107.76 Crore to SEPL, which is also owned by the appellants. Further, investment in preferential shares to the tune of ₹101 Crore also inures to appellants' benefit. Therefore, the prayer for stay of the impugned order is wholly untenable.

10. We have carefully considered the rival contentions and perused the records.

11. Admitted position is, SAL's promoters hold 59.25% share of which SEPL holds 47.89%. SEPL is owned by the appellants. IRF has advanced ₹615 Crore to SAL, which manufactures clutches. SEPL marketed the products and it was entitled for commission. SAL came under financial stress and it transferred the clutch business to its fully owned subsidiary SASPL.

12. SEBI's main allegations is, SAL has diverted ₹107.76 Crores as marketing commission to SEPL and invested ₹101 Crore in SEPL towards preferential shares.

13. Appellants' defence is, that money was used to release SAL's shares held by SEPL and in turn, to pledge them with IRF. Their further defence is, in addition to the pledge of shares, they have mortgaged their personal assets and also executed personal guarantees to secure ₹615 Crore.

14. With the above rival contentions, the point that arises for our consideration is ***whether appellants' prayer for stay of the impugned order and particularly the direction to pay/bring back ₹208.77 Crore merits consideration?***

15. It is not in dispute that the transactions are of FY 2019-20 to FY 2021-22. It was submitted that after infusion of funds, the share price has increased from ₹5 and the present price is about ₹24. It is also not in dispute that SAL's shares held by SEPL and also the shares of SEPL are pledged with IRF. In addition, appellants have given their personal guarantee and mortgaged their personal assets to secure the ₹615 lent by IRF. One of the main contentions urged by Mr. Sancheti was that the diversion has resulted in company's money flowing into the pockets of the promoters. It was argued that ultimately Company will have to pay back the loan, which shall pinch the pockets of the investors. Refuting this argument and adverting to paragraph 66 to 69 of the impugned order, it was pointed out by Mr. Modi that the company had made full disclosure of the state of affairs and the financials. The shareholders have approved the entire scheme

and appellants being the promoters have recused from voting in the EGM⁸.

16. Perusal of paragraphs 66 to 69 of the impugned order shows that the proposal to give ₹100-110 Crore to compensate SEPL is fully disclosed to the minority shareholders. The QJA has recorded thus in the impugned order:

“Therefore, it is noted that while approving the resolution minority shareholders of Noticee 1 were aware that: -

- (a) the clutch manufacturing business of Noticee No.1 shall be transferred to Noticee No.2 at such consideration as may be decided by the board of Noticee No.1 not exceeding Rs. 5 lakh;*
- (b) SEPL was a promoter controlled entity where in Noticees No. 3 and 4 were directors and shareholders;*
- (c) SEPL was a company controlled by Noticees 3 and 4 and Noticee No.1 was paying 2% of all sales made by it to SEPL;*
- (d) as part of restructuring, the amount of marketing commission paid to SEPL will be 2% of all sales made by Noticee No. 2 and the aggregate marketing commission payable to SEPL by Noticee No. 2 will be capped at approximately Rs. 8 crores per annum; and*
- (e) One-time payment of the marketing commissions to SEPL in the range of Rs. 100 crores to Rs. 110 crores to compensate SEPL for the loss of future revenue on account of restructuring.”*

17. The above extracted portion shows that the QJA has noticed that the minority shareholders had approved the related party transactions.

⁸ Extraordinary General Meeting

18. Mr. Modi also showed para 5.15 of the memorandum of appeal, wherein it is pleaded that the appellants and other promoters had abstained from voting on the resolutions. The resolutions were passed with a majority of over 99% of the public shareholders.

19. Thus, three things are clear. Firstly, the proposal to make a payment of ₹100-110 Crore to SEPL was placed for consideration of the minority of shareholders. Secondly, 99% minority shareholders have approved the resolution. Thirdly, the appellants and SEPL who are SAL's promoters have abstained from voting. This leads to an inference that the investors in the company consented to the affairs of the company wholly uninfluenced by the promoters who had abstained from voting. In our view, shareholders' opinion and business decision, if they are lawful, cannot be substituted by the Regulator.

20. So far as investing in preferential shares is concerned, the QJA has noted thus:

“The investments in SEPL were approved by Audit Committee and were disclosed in financial statements in compliance with applicable accounting standards. I agree that SEPL, as owner of SAL shares, had the right to utilize such shares as it deemed appropriate without the necessity to use it for SAL.”

(Emphasis Supplied)

21. Thus, the above noting by the QJA shows that investment in SEPL were approved by the audit committee and they were

disclosed in financial statements as per applicable Accounting Standards. This finding runs counter to QJA's direction in para 118 (c) to pay or bring back the money.

22. With regard to other directions in para 118 of the impugned order, Mr. Modi submitted that appellants shall undertake not to access the securities market and deposit entire penalty amount subject to outcome of this appeal and prayed that the impugned order may be stayed as it has serious adverse consequences on the company.

23. We may record that investors' interest is paramount. Company's share price has increased after infusion of funds. Appellants have executed personal guarantees and also mortgaged their personal properties. It is probable that an adverse order against the promoters of the company may prompt the lenders from invoking the guarantees and pledges which may lead the company into liquidation and that is not in the interest of investors. The matter is at the stage of admission. Hence, in our view, keeping open the contentions of both parties. It is just and appropriate to stay the operation of the impugned order. Accordingly, the point for consideration is answered in the ***affirmative***.

24. In the result, the following:

ORDER

- i. Interim prayer is **allowed**. Order dated February 05, 2026 passed by the QJA, SEBI shall remain stayed, subject to deposit of full penalty amount within four weeks from today. SEBI shall deposit the same in an interest bearing account;
- ii. Appellant shall file an undertaking in this Tribunal by way of an affidavit that they shall not access the securities market; and that they shall not deal with their personal movable and immovable assets whether free or encumbered without SEBI's prior approval;
- iii. The appellants shall file a list of immovable assets with SEBI within four weeks;
- iv. Liberty is reserved to the respondent to move for early hearing, if so advised.

Justice P.S. Dinesh Kumar
Presiding Officer

Ms. Meera Swarup
Technical Member

Dr. Dheeraj Bhatnagar
Technical Member

08.05.2026
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