

IN THE HIGH COURT OF KARNATAKA

Securities and Exchange Board of India

... Petitioner

v.

Multi Commodity Exchange of India Ltd. (MCX) & Ors.

... Respondents

SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995

— Special purpose examination — Outsourcing Circular's applicability to commodity derivative exchanges — Delay in policy and non-disclosure of fees — No violation of Outsourcing Circular found — Monetary penalty for non-disclosure under SEBI Act, 1992 — S. 15HB — Allegations against co-noticees dismissed — Emphasizes timely disclosures and compliance.

SEBI Circular dated September 28, 2018

— Outsourcing Guidelines — Abolished concept of CDEs and extended norms to commodity derivatives — Confusion over earlier circulars — MCX not in breach of Outsourcing Circular but liable for failing to disclose significant quarterly payments — Monetary penalty under SEBI Act, 1992 — S. 15HB — Reaffirms transparent governance and timely compliance.

Master Circular

— Outsourcing Circular applicability — Commodity Derivatives Segment omitted in Master Circulars — Confusion led to delay in TCS platform transition — No Outsourcing Circular violation by MCX — Failure to disclose substantial quarterly payments penalized under SEBI Act, 1992 — S. 15HB — Highlights need for regulatory clarity and prompt disclosures.

SEBI Circular dated January 10, 2019

— Committees at Market Infrastructure Institutions — Circular referenced in Master Circulars for Stock Exchanges, Clearing Corporations, and Commodity Derivative Segments — Outsourcing Circular absent for Commodity Derivatives — Confusion over applicability — Penalty for non-disclosure, not Outsourcing violation — SEBI Act, 1992 — S. 15HB — Allegations against co-noticees dismissed — Underscores clear disclosure practices.

Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012

— Outsourcing Guidelines — Applicability to Commodity Derivatives Exchanges under SECC Regulations — Ambiguity over compliance timeline — MCX penalized for failing to disclose substantial quarterly payments — Allegations against co-noticees dismissed — Emphasizes transparency and timely adherence to norms.

Securities and Exchange Board of India Act, 1992

— Outsourcing Guidelines — Commodity Derivative Exchanges — Applicability of SEBI Outsourcing Circular dated September 13, 2017 under SECC Regulations, 2018 — No breach of Circular found — MCX failed to disclose large quarterly payments exceeding its annual profits — Non-disclosure under Reg. 30(12) read with LODR Regulations, 2015 — Monetary penalty under §. 15HB — Allegations against other noticees dismissed.

Securities Contracts (Regulation) Act, 1956

— Outsourcing Guidelines and Disclosure Obligations — Alleged delayed compliance and inadequate

oversight — MCX found liable for failing to disclose significant quarterly payouts to 63 Moons — Monetary penalty imposed — Confusion over circular's scope not a valid defense — Allegations against co-noticees dismissed.

Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2018 — Outsourcing Circular — Applicability to Commodity Derivatives Exchange prior to 2018 not established — Disclosure Norms under Reg. 33(1) read with LODR Regulations, 2015 — MCX failed to disclose substantial quarterly payments exceeding annual profits — Monetary penalty imposed — Allegations against other noticees dismissed.

LODR Regulations, 2015 — Disclosure obligations — MCX failed to disclose large quarterly payments that overshadowed annual profits — Contravention of Regs. 4(1)(d), 4(1)(e), 4(1)(i), 30(12) read with Reg. 33(1) — SECC Regulations, 2018 — Non-disclosure admitted as inadvertent — Monetary penalty under Sec. 15HB — SEBI Act, 1992 — Allegations against co-noticees dismissed — Reinforces need for transparent governance.

SEBI (Settlement Proceedings) Regulations, 2018 — Settlement Applications — Noticees initially sought settlement but withdrew — Allegations of delayed transition, inadequate disclosures, and outsourcing non-compliance — MCX penalized for failing to disclose substantial quarterly payments — Allegations against other noticees dismissed — Clarifies Outsourcing Circular's applicability to commodity derivative exchanges.

SEBI circular no. SEBI/HO/MRD/DP/CIR/P/2017/101 dated September 13, 2017 — Outsourcing Guidelines — Applicability to commodity derivative exchanges questioned — Alleged breach, delayed implementation, and large undisclosed payments to 63 Moons — MCX penalized for disclosure lapses — Allegations against other noticees dismissed — Stresses timely disclosure and regulatory compliance.

Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 — Imposition of monetary penalty — Applicability of Outsourcing Circular to commodity derivatives exchanges contested — No violation of Outsourcing Circular found — MCX penalized for non-disclosure of substantial payments (Rs. 25 Lakh) — Allegations against other noticees dismissed — Emphasizes transparent governance and timely reporting.

SEBI Circular dated March 22, 2021 — Outsourcing obligations — Whether applicable to Commodity Derivative Exchanges — Confusion over scope led to delayed vendor transition — MCX held liable solely for non-disclosure of significant quarterly payments to 63 Moons — Monetary penalty imposed — Allegations against co-noticees dismissed — Emphasizes transparent governance and timely compliance.

FACTS. MCX commenced operations in 2003 using specialized trading software licensed from 63 Moons (formerly FTIL). Over time, 63 Moons's ownership in MCX was reduced to zero by 2014, though MCX continued to rely on it for software support under successive agreements. Following the merger of the Forward Markets Commission into SEBI in 2015, MCX formed MCXCCL as its clearing corporation under SEBI oversight. In 2017, SEBI issued an Outsourcing Circular for recognized Stock Exchanges and Clearing Corporations, raising questions

about its applicability to commodity derivative exchanges. Between 2020 and 2023, MCX considered a new Commodity Derivative Platform (CDP) from TCS, but the project experienced delays, requiring extensions of the 63 Moons contract at significant cost. SEBI issued show cause notices alleging inadequate disclosures, timeliness issues in implementing outsourcing requirements, and procedural lapses in vendor selection and management decisions. Multiple replies, board discussions, and hearings ensued. Ultimately, an order imposed a monetary penalty on MCX for failing to disclose substantial quarterly payments to 63 Moons, while allegations against other noticees were largely dismissed.

PRAYER.

ISSUES OF LAW.

Whether MCX and MCXCCL breached outsourcing guidelines, including the Outsourcing Circular, under the SECC Regulations, 2018; whether key officials failed to comply with timely disclosure requirements; whether the Outsourcing Circular applied to commodity derivative exchanges; whether management acted prudently in negotiating service extensions with 63 Moons and awarding a new platform contract to TCS; and whether MCX's omission to disclose large quarterly payments violated disclosure norms.

SUMMARY. SEBI conducted a special purpose examination into MCX and MCXCCL's contractual arrangements with 63 Moons for trading software and their transition to a TCS-developed platform. It issued show cause notices alleging delayed implementation of outsourcing guidelines, inadequate disclosure of significant costs, and procedural lapses in vendor selection, prompting multiple board discussions, replies, and personal hearings. The core questions concerned whether the Outsourcing Circular applied to commodity derivative exchanges, whether MCX and MCXCCL's management acted prudently in negotiating contract extensions and overseeing risk controls, and whether disclosures about project delays and fees were timely. Eventually, SEBI imposed a monetary penalty on MCX for failing to disclose substantial quarterly payments to 63 Moons, while other allegations regarding outsourcing policy and any wrongdoing by co-noticees were dismissed. The proceedings highlighted the importance of transparent governance and regulatory clarity in the commodity derivatives segment.

HELD. It was held that MCX did not violate the Outsourcing Circular provisions but was liable for failing to disclose substantial quarterly payments to 63 Moons, resulting in a monetary penalty. Allegations against other noticees were dismissed. The order underscored the need for clear disclosure practices and timely compliance with regulatory directives.

FINAL STATUS. Disposed with a monetary penalty on mcx.

COUNSELS

Judgment Pronounced on

