

IN THE SUPREME COURT OF INDIA

Securities and Exchange Board of India

... Petitioner

v.

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

... Respondents

Securities and Exchange Board of India Act, 1992 — Outsourcing obligations under Outsourcing Circular — Whether applicable to commodity derivative exchanges post-FMC-SEBI merger — Alleged violations not sustained due to legal ambiguity — Delays in implementing new TCS-based platform and reliance on 63 Moons — Failure to disclose substantial payments promptly under LODR — Monetary penalty on MCX for disclosure lapses — Emphasis on timely disclosures.

SEBI Circular dated September 28, 2018 — Outsourcing obligations — Ambiguity in application to commodity derivative exchanges post-FMC-SEBI merger — Legal uncertainty on extension of earlier circulars — Delayed TCS transition and repeated 63 Moons extensions — Failure to disclose substantial payments — Monetary penalty on MCX for disclosure lapses — Outsourcing violation allegations not sustained due to unclear applicability.

LODR Regulations, 2015 — Disclosure obligations — Alleged violation of Regulations 4(1)(c), 4(1)(d), 4(1)(e), 4(1)(i) and 30(12) read with SECC Regulations, 2018 — Listed entity must provide accurate and timely disclosures — MCX failed to disclose substantial payments to 63 Moons — Outsourcing allegations not sustained due to ambiguity — Monetary penalty on MCX — Emphasizes strict adherence to LODR norms for transparency.

Master Circulars — Applicability of Outsourcing Circular — Master Circulars for Stocks and Clearing include it; Commodity Derivatives Master Circulars omit it — SEBI Circular dated January 10, 2019 is common, but Outsourcing Circular is missing in Commodity Derivatives — Legal ambiguity led to exoneration for outsourcing violations — Penalty on MCX for delayed disclosure of substantial payments.

SEBI (Settlement Proceedings) Regulations, 2018 — Settlement applications and withdrawal — Outsourcing violation allegations not sustained due to ambiguity — MCX penalized for delayed disclosure of substantial payments — Emphasizes timely disclosure by listed entities.

SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 — Applicability of Outsourcing Circular disputed — Alleged delay in TCS-based platform and extended reliance on 63 Moons — Outsourcing violations not sustained — Failure to disclose payments to 63 Moons found — Monetary penalty imposed — Highlights prompt disclosure obligations under LODR.

SEBI Circular dated January 10, 2019 — 'Committees at Market Infrastructure Institutions' — Included in Master Circulars for both stock and commodity segments — Unlike Outsourcing Circular, whose

applicability was ambiguous, this 2019 Circular was recognized – Enforcement focused on disclosure lapses rather than outsourcing.

Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 – Outsourcing obligations and timely disclosure post-FMC-SEBI merger – Allegations of outsourcing breaches not proved – Non-disclosure of significant payments established – Monetary penalty on MCX – Emphasis on robust governance and LODR compliance.

Securities Contracts (Regulation) Act, 1956 – SCN by SEBI challenging Outsourcing Circular applicability – Delays in new platform and reliance on 63 Moons – Alleged violation of SEBI Act, SCRA, and SECC Regulations – Outsourcing allegations not sustained – MCX penalized for delayed disclosures – Emphasis on prompt disclosure.

Securities Contracts (Regulation)(Stock Exchanges and Clearing Corporations) Regulations, 2018 – Outsourcing obligations post-FMC-SEBI merger – Delays in new platform, repeated 63 Moons extensions – Outsourcing allegations not proved due to ambiguity – MCX liable for delayed disclosures under Regulation 33(1) – Monetary penalty imposed.

Securities Contracts (Regulation)(Stock Exchanges and Clearing Corporations) Regulations, 2012 – Commodity Derivatives Exchanges, post-2018 amendment MCX is a Stock Exchange – Outsourcing allegations not proved due to ambiguity – Timely disclosure of payments to 63 Moons mandated – MCX penalized for delay – Other allegations dismissed.

SEBI circular no. SEBI/HO/MRD/DP/CIR/P/2017/101 dated September 13, 2017 – Outsourcing obligations under Clause 3 with Annexure I – Ambiguous applicability to Commodity Derivatives after FMC-SEBI merger – MCX and MCXCCL formulated Outsourcing Policy – Outsourcing violation not sustained – Monetary penalty only for delayed disclosures.

FACTS. MCX started operations in 2003 under the Forward Market Commission and depended on 63 Moons (formerly FTIL) for trading software through long-term agreements. When the Forward Market Commission merged with SEBI in 2015, MCX's clearing segment was formed into MCXCCL. Citing software obsolescence, MCX issued an RFP for a new Commodity Derivatives Platform and selected TCS as the vendor. Repeated project delays led MCX to repeatedly extend 63 Moons' services, incurring significant costs. SEBI issued a show cause notice alleging non-compliance with outsourcing requirements, inadequate disclosures of substantial payments, and delays in operationalizing the new platform. The Noticees filed and then withdrew settlement applications, after which personal hearings and multiple procedural steps occurred to examine the applicability of the Outsourcing Circular, the adequacy of due diligence, and the timeliness of disclosures.

PRAYER.

ISSUES OF LAW.

Whether MCX and MCXCCL violated outsourcing and disclosure obligations under applicable regulations; whether the Outsourcing Circular applied to commodity derivative exchanges after the FMC-SEBI merger; whether the repeated delays in implementing a new trading platform and continued reliance on 63 Moons

amounted to breaches of regulatory duties; whether material payments and extended contracts required prompt disclosure under LODR norms; whether individual officers bore liability for any lapses.

SUMMARY. The dispute involved MCX's transition from software provided by 63 Moons to a new system developed by TCS, with repeated project delays and considerable costs tied to extended agreements. Regulatory notices alleged that MCX and MCXCCL had not complied with the Outsourcing Circular once the exchange was under SEBI's purview, that they delayed implementing the new platform, and that substantial payments to 63 Moons were not promptly disclosed. MCX argued there was uncertainty about the circular's applicability to commodity derivatives and maintained that retaining 63 Moons was necessary to sustain operations. Following hearings and submissions, a monetary penalty was levied on MCX for disclosure lapses, while other allegations and proceedings against additional parties were dismissed, highlighting the importance of robust governance and timely disclosures.

HELD. The adjudicating authority concluded that allegations involving outsourcing violations were not sustained due to legal ambiguity, but MCX was found liable for failure to disclose significant payments to 63 Moons in a timely manner. A monetary penalty was imposed on MCX, underscoring the obligation for prompt disclosure of material financial information by listed entities.

FINAL STATUS. The matter was disposed of, with a monetary penalty imposed on mcx for its disclosure lapse and no adverse findings against other noticees.

COUNSELS

Judgment Pronounced on