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The **Supreme Court** in the case of **SEBI vs Terrascope Ventures Limited [Civil Appeal Nos. 5209-5211 of 2022]** dated **March 17, 2026**, has held that the diversion of funds raised through a preferential issue for purposes other than those disclosed in the explanatory statement to the shareholders is a fraudulent and unfair trade practice under Regulations 3 and 4 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (PFUTP Regulations). Such an act, being illegal and contrary to statutory regulations that are a matter of public policy, is void ab initio and cannot be subsequently legitimized or validated by a resolution of ratification passed by the shareholders.

Further, the Court clarified that initiation of separate proceedings by the SEBI's Whole Time Member for remedial directions (like debarment from the market) and by the Adjudicating Officer for imposing monetary penalties on the same set of facts is permissible, as these authorities exercise distinct jurisdictions and powers under the SEBI Act.

The Court observed that the funds raised through the preferential issue were immediately diverted for purposes not disclosed in the notice of the Extraordinary General Meeting (EoGM). This act was held to be a clear breach of Regulations 3 and 4 of the PFUTP Regulations. The Court emphasized that the disclosure of objects for a preferential issue, as mandated by Regulation 73 of the SEBI (ICDR) Regulations, 2009, is of utmost significance as it influences the decisions of investors and stakeholders.

Also, the Court noted that the definition of 'fraud' under the PFUTP Regulations is broad and does not require deceit; it includes any act, omission, or concealment that induces another person to deal in securities. The immediate diversion of funds upon receipt indicated that the respondents had no intention of using the funds for the stated objects from the very inception, making the disclosure untrue and misleading. This also constituted a violation of Section 21 of the Securities Contracts (Regulation) Act, 1956 (SCRA) read with Clause 43 of the Listing Agreement, which mandates reporting of variations between projected and actual utilization of funds.

The Court also found the reliance on Section 27 of the Companies Act, 2013, to be misplaced as it applies to a 'prospectus' for a public offer, not a private placement, which was the nature of the preferential allotment in this case. The Court distinguished between private rights, which can be waived or ratified, and matters involving public interest and public policy, which cannot. Since SEBI's regulations are framed to protect the rights of multiple stakeholders in the securities market, a violation of these regulations is a matter of public law and cannot be condoned by a private resolution of shareholders.

An act that is ultra vires the regulations is void and cannot be ratified, even with unanimous shareholder consent. The diversion was contrary to the PFUTP Regulations and disclosure norms, making it a plainly illegal act that could not be legitimized post-facto, added the Court.

On the validity of parallel proceedings by the WTM and the Adjudicating Officer, the Court found no fault in the parallel proceedings, noting that the two authorities were vested with different powers and operated in separate fields during the period in question. The Whole Time Member (WTM), exercising powers under Sections 11, 11(4), and 11B of the SEBI Act, had the authority to take remedial measures like restraining persons from the securities market to protect investors' interests. In contrast, the AO had the power under Section 15HA to impose monetary penalties for fraudulent and unfair trade practices.

The Court therefore observed that at the time of the proceedings, the power to levy a penalty under Section 15HA was not vested with the WTM (it was vested later by the Finance Act, 2018). Therefore, the AO rightly stepped in to exercise the distinct jurisdiction of imposing a penalty, and this did not amount to double jeopardy or an impermissible overlap of jurisdiction.