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**5<sup>TH</sup> GNLU MOOT ON SECURITIES AND INVESTMENT LAW, 2019**

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**BEFORE THE SUPREME COURT OF INDIA**

**CASE NO. \_\_\_/201X**

**JURISDICTION UNDER ARTICLES 133, 134 & 136 OF THE CONSTITUTION OF INDIA, 1950**

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**SLP No. \_\_\_/201X**

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**THE CENTRAL ELECTRICITY REGULATORY COMMISSION** ... APPELLANT

*Versus*

**THE SECURITIES AND EXCHANGE BOARD OF INDIA** ... RESPONDENT

*Clubbed with*

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**SLP No. \_\_\_/201X**

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**THE SECURITIES AND EXCHANGE BOARD OF INDIA** ... APPELLANT

*Versus*

**THE CENTRAL ELECTRICITY REGULATORY AUTHORITY** ... RESPONDENT

*Clubbed with*

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**CIVIL APPEAL No. \_\_\_/201X**

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**THE ELECTRICITY EXCHANGE OF INDIA LIMITED** ... APPELLANT

*Versus*

**THE SECURITIES AND EXCHANGE BOARD OF INDIA** ... RESPONDENT

*Clubbed With*

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**CRIMINAL APPEAL No. \_\_\_/201X AND CIVIL APPEAL No. \_\_\_/201X**

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**THE ASSOCIATION OF COMMODITY BROKERS** ... APPELLANT

*Versus*

**THE SECURITIES AND EXCHANGE BOARD OF INDIA** ... RESPONDENT

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**WRITTEN SUBMISSION *for* THE APPELLANTS**

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**LIST OF ABBREVIATIONS**

<b>Serial No.</b>	<b>Abbreviations</b>	<b>Full Form</b>
1.	AC	Appeal Cases
2.	ACB	Association of Commodity Broker
3.	AIR	All India Reporter
4.	Anr.	Another
5.	AO	Adjudicating Officer
6.	Art.	Article
7.	BCX	Bharat Commodity Exchange
8.	Bom.	Bombay
9.	CERC	Central Electricity Regulatory Commission
10.	Ch.	Chapter
11.	CLB	Company Law Board
12.	Co.	Company
13.	Corp.	Corporation
14.	Del.	Delhi
15.	Ed.	Edition
16.	EOW	Economic Office Wing
17.	EXIL	Electricity Exchange India Ltd
18.	FCRA	Forward Contract (Regulation) Act, 1952
19.	FMC	Forward Market Commission
20.	H.C.	High Court
21.	HL	House of Lords
22.	IA	Interlocutory Application
23.	IIA	Indian Investors Association
24.	I.L.R.	Indian Law Reporter
25.	Inc.	Incorporation
26.	IPC	Indian Penal Code, 1860
27.	Ltd.	Limited

28.	MhLj	Madras Law Journal
29.	Mh. L.R	Madras Law Review
30.	MoF	Ministry of Finance
31.	MPID Act	Maharashtra Protection of Interests of Depositors (in Financial Establishments) Act, 1999
32.	NBFC	Non-Banking Finance Company
33.	No.	Number
34.	NTSD	Non-Transferable Specific Delivery
35.	PC	Professional Corporation
36.	Pt.	Part
37.	RIL	Roths India LLP
38.	SAT	Securities Appellate Tribunal
39.	SC	Supreme Court
40.	SCC	Supreme Court Cases
41.	SCL	SEBI and Corporate Laws Reporter
42.	SCN	Show Cause Notice
43.	SCR	Supreme Court Weekly Reporter
44.	SCRA	Securities Contract (Regulation) Act, 1956
45.	SEBI	Securities and Exchange Board of India
46.	Sec.	Section
47.	SFIO	Serious Fraud Investigation Office
48.	SLP	Special Leave Petition
49.	WTM	Whole Time Member

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**REGULATIONS**

Securities and Exchange Board of India (Intermediaries) Regulations, 2008, Gazette of India, pt. III sec. 4 (May 26, 2008).

Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992, Gazette of India, pt. II sec. 3 sub-section (ii) (Oct. 23, 1992).

## STATEMENT OF FACTS

**INTRODUCTION OF FORWARD CONTRACTS IN ELECTRICITY-** In 2009, FMC granted BCX the approval for providing a platform to trade forward contracts in goods notified under Section 15 of FCRA. As a result, EXIL petitioned to CERC to halt the launch of trading in forward contracts in electricity by BCX for such contracts are within the exclusive jurisdiction of CERC by virtue of the Electricity Act, 2003. FMC objected to the same stating that FMC alone has jurisdiction to regulate forward contracts in electricity

**ADJUDICATION BY CERC AND BOMBAY HIGH COURT-** On August 13, 2009 CERC pronounced its order stating that FMC's jurisdiction is not inconsistent with that of CERC but since CERC is vested with the authority to promote development of the market in power, BCX will be governed by the orders and regulations of CERC. Thus, FMC filed a Writ Petition before the Bombay High Court wherein it was observed that neither FMC nor CERC has exclusive jurisdiction to deal with the futures contract in electricity independently and the Central Government may decide the issue related to jurisdiction by amending appropriate legislation. Aggrieved by the order of the Hon'ble High Court of Bombay, both FMC and CERC filed separate Special Leave Petitions before the Hon'ble Supreme Court of India.

**INTRODUCTION OF NTSD CONTRACTS IN ELECTRICITY BY CERC-** While the Writ Petition was pending before the Bombay High Court, CERC gave EXIL the permission to organize month-ahead contracts in electricity which are essentially forward contracts in the nature of NTSD contracts. FMC brought this to the attention of Bombay High Court that EXIL is neither registered with FMC nor any recognition to it granted by the Central Government in order to launch month-ahead forward contracts.

**DISCLOSURE OF PAIRED CONTRACTS-** In 2013, FMC received a letter from IIA stating that a huge payment default had occurred on the platform of EXIL to the tune of Rs. 2100 crore. FMC appointed RIL to carry out a forensic audit of EXIL. It was founded that registered brokers of EXIL were trading on EXIL without actual delivery of electricity and instead paired contracts were being entered into. FMC forwarded the complaint to EOW. As per the EOW Report, there were 200 entities operating as a member/ broker at EXIL who were bringing in investors to invest in paired contracts by making false and misleading representations. Simultaneously, SFIO also initiated investigation into the EXIL scam upon receiving instructions from MoF.



**MERGER OF FMC WITH SEBI-** On September 29, 2015, FMC got merged with SEBI. Accordingly, FCRA was repealed by the Finance Act, 2015, and certain provisions of SEBI Act, SCRA and regulations made thereunder were amended. Pursuant to the merger, the brokers operating in the commodity space were given time of 3 months to seek registration from SEBI. All the 200 brokers also applied to SEBI for registration out of which 190 were granted registration. During the pendency of these applications, SEBI received a letter from IIA demanding SEBI to take action against the brokers whose names have appeared in the EOW Report and RIL Report.

**INITIATION OF ENQUIRY PROCEEDINGS-** In 2016, SEBI appointed a Designated Authority to initiate enquiry proceedings against the 10 brokers. SCN was issued to them for ascertaining their fit and proper criteria under SEBI (Intermediaries) Regulations, 2008 and SEBI (Brokers and Stock Brokers Regulations), 1992. Later, SEBI received the SFIO Report wherein all the 200 brokers were found to be involved in the EXIL scam. SEBI issued SCNs to the remaining 190 entities. Further, in 2018, SEBI filed a criminal complaint under erstwhile FCRA to the EOW against all the entities involved in the EXIL scam.

**OBJECTIONS BY ACB AND EXIL-** ACB sent a letter to SEBI stating that the action initiated by SEBI against 200 members/ brokers is unjust. SEBI responded to the aforesaid letter stating that the action initiated by SEBI is in accordance with the provisions of FCRA, SEBI Act, and the regulations made thereunder. Therefore, ACB filed a Writ Petition before the Bombay High Court contending that all proceedings initiated by SEBI are ultra vires as they do not have jurisdiction over the spot market and spot exchanges such as EXIL. EXIL also filed a Writ Petition against SEBI before the Bombay High Court submitting that the action initiated by SEBI by invoking FCRA and filing criminal complaint against EXIL and its promoters is ultra vires, since SEBI has no jurisdiction over spot transactions in electricity. Bombay High Court passed an order in favour of SEBI finding that the actions initiated by SEBI are within the regulatory purview of SEBI.

**APPEAL TO SUPREME COURT-** Aggrieved by the order of the Bombay High Court, ACB and EXIL separately approached the Hon'ble Supreme Court of India which decided to hear them together. Further, the case relating to the jurisdiction of CERC and/or SEBI on derivative contracts in electricity, was also clubbed with the aforesaid appeals.

**STATEMENT OF JURISDICTION**

The Appellants have invoked the jurisdiction of the Hon'ble Supreme Court to hear the instant appeals by virtue of:

**Article 133 of the Constitution of India, 1949 –**

*Appellate jurisdiction of Supreme Court in appeals from High Courts in regard to civil matters.*

*133. (1) An appeal shall lie to the Supreme Court from any judgment, decree or final order in a civil proceeding of a High Court in the territory of India if the High Court certifies under article 134A — (a) that the case involves a substantial question of law of general importance; and (b) that in the opinion of the High Court the said question needs to be decided by the Supreme Court.*

*(2) Notwithstanding anything in article 132, any party appealing to the Supreme Court under clause (1) may urge as one of the grounds in such appeal that a substantial question of law as to the interpretation of this Constitution has been wrongly decided.*

*(3) Notwithstanding anything in this article, no appeal shall, unless Parliament by law otherwise provides, lie to the Supreme Court from the judgment, decree or final order of one Judge of a High Court.*

**Article 134 of the Constitution of India, 1949 –**

*Appellate jurisdiction of Supreme Court in regard to criminal matters*

*134. (1) An appeal shall lie to the Supreme Court from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India if the High Court— (a) has on appeal reversed an order of acquittal of an accused person and sentenced him to death; or (b) has withdrawn for trial before itself any case from any court subordinate to its authority and has in such trial convicted the accused person and sentenced him to death; or (c) certifies under article 134A that the case is a fit one for appeal to the Supreme Court: Provided that an appeal under sub-clause (c) shall lie subject to such provisions as may be made in that behalf under clause (1) of article 145 and to such conditions as the High Court may establish or require.*

*(2) Parliament may by law confer on the Supreme Court any further powers to entertain and hear appeals from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India subject to such conditions and limitations as may be specified in such law.*

**Article 136 of the Constitution of India, 1949 –**

***Special leave to appeal by the Supreme Court***

**136.** *(1) Notwithstanding anything in this Chapter, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India.*

*(2) Nothing in clause (1) shall apply to any judgment, determination, sentence or order passed or made by any court or tribunal constituted by or under any law relating to the Armed Forces.*

APPELLANTS HUMBLY SUBMIT THEMSELVES TO THE JURISDICTION OF THE HON'BLE COURT

**ISSUES RAISED**

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**ISSUE I: WHETHER FORWARD CONTRACTS IN ELECTRICITY ARE WITHIN THE EXCLUSIVE JURISDICTION OF CERC.**

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**ISSUE II: WHETHER THE ACTION INITIATED BY SEBI BY INVOKING FCRA AND FILING CRIMINAL COMPLAINT AGAINST ALL THE ENTITIES INVOLVED IN THE EXIL SCAM IS ULTRA VIRES.**

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**ISSUE III: WHETHER THE ENQUIRY PROCEEDINGS INITIATED BY SEBI AGAINST THE 200 MEMBERS/ BROKERS OF EXIL IS ULTRA VIRES.**

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**SUMMARY OF ARGUMENTS**

**ISSUE I: WHETHER FORWARD CONTRACTS IN ELECTRICITY ARE WITHIN THE EXCLUSIVE JURISDICTION OF CERC.**

CERC, a special regulatory authority created under the Electricity Act of 2003, has the exclusive jurisdiction over regularizing electricity including all forward contracts in electricity. Firstly, the Electricity Act, 2003 is a special legislation that makes provisions for every aspect concerning electricity and thus, the sole regulator of electricity in India. Secondly, the Electricity Act, 2003 overrides FCRA. The Electricity Act, 2003 has an overriding effect over other laws by virtue of Section 174. Further, since both Acts in question are special laws containing non-obstante clauses, the latter Act i.e. The Electricity Act will prevail. Thirdly, CERC is also vested with the regulatory oversight to develop the market in power in India. Section 66 read with Section 178(2)(y) of the Electricity Act empowers CERC to govern forward contracts in electricity.

**ISSUE II: WHETHER THE ACTION INITIATED BY SEBI BY INVOKING FCRA AND FILING CRIMINAL COMPLAINT AGAINST ALL THE ENTITIES INVOLVED IN THE EXIL SCAM IS ULTRA VIRES.**

The action initiated by the Respondent by invoking FCRA and filing criminal complaint against all the entities involved in the EXIL scam is ultra vires. Firstly, FCRA is an act to provide for the regulation of certain matters relating to forward contracts. Pursuant to the merger, SEBI was not expected to deal with matters which were not dealt with by the erstwhile FMC and that SEBI was not expected to take upon itself any function which was beyond its regulatory domain. Secondly, dispute relates to non-transferable specific delivery contracts, which is beyond the purview of FCRA.

**ISSUE III: WHETHER THE ENQUIRY PROCEEDINGS INITIATED BY SEBI AGAINST THE 200 MEMBERS/ BROKERS OF EXIL IS ULTRA VIRES.**

The action initiated by the Respondent by invoking FCRA and filing criminal complaint against all the entities involved in the EXIL scam is ultra vires. Firstly, FCRA is an act to provide for the regulation of certain matters relating to forward contracts. Pursuant to the merger, SEBI was not expected to deal with matters which were not dealt with by the erstwhile FMC and that

SEBI was not expected to take upon itself any function which was beyond its regulatory domain. Secondly, dispute relates to non-transferable specific delivery contracts, which is beyond the purview of FCRA.

**ARGUMENTS ADVANCED**

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**ISSUE I: WHETHER FORWARD CONTRACTS IN ELECTRICITY ARE WITHIN  
THE EXCLUSIVE JURISDICTION OF CERC.**

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1. It is humbly contended that forward contracts in electricity are within the exclusive jurisdiction of Central Electricity Regulatory Commission (*for brevity* ‘CERC’) as [I.A.] CERC is the sole regulator of electricity in India; [I.B.] The Electricity Act, 2003 overrides the Forward Contracts (Regulation) Act, 1952 (*for brevity* ‘FCRA’) and [I.C.] CERC is vested with the regulatory oversight to develop the market in power in India.

**[I.A.] CERC IS THE SOLE REGULATOR OF ELECTRICITY IN INDIA**

2. The Electricity Act, 2003 is a special legislation providing for a specific purpose which has been enacted to consolidate the laws relating to generation, transmission, distribution, trading and use of electricity and generally for taking measures conducive to development of electricity industry, promoting competition therein, protecting interest of consumers and supply of electricity to all areas, rationalization of electricity tariff, ensuring transparent policies regarding subsidies, promotion of efficient and environmentally benign policies, constitution of Central Electricity Authority, Regulatory Commissions and establishment of Appellate Tribunal and for matters connected therewith or incidental thereto.<sup>1</sup>
3. The Electricity Act, 2003 effectively makes provisions for every aspect of the matter concerning electricity and is indeed an exhaustive code in all matters concerning electricity.<sup>2</sup> Therefore, the regulatory bodies created by the Act, which includes CERC, ensure that electricity be given the widest scope and be interpreted to extend to all ancillary and subsidiary matters which can fairly and reasonably be comprehended in it.
4. It is, therefore, submitted that CERC is the sole regulator of electricity in India and thus, forward contracts in electricity are within the exclusive jurisdiction of CERC.

**[I.B.] THE ELECTRICITY ACT, 2003 OVERRIDES THE FORWARD CONTRACTS  
REGULATION ACT, 1952**

5. It is contended that the Electricity Act, 2003 overrides FCRA. This argument is in two folds. *First*, The Electricity Act, 2003 has an overriding effect over other laws by virtue of

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<sup>1</sup> The Electricity Act, 2003, Preamble, No. 36, Acts of Parliament, 2003 (India).

<sup>2</sup> PTC India Ltd. v. Central Electricity Regulatory Commission, (2010) 4 SCC 603 (India).

Section 174 [I.B.1.]; and *secondly*, The Electricity Act, 2003 being a special act, enacted later than FCRA, will prevail [I.B.2.].

**[I.B.1.] Section 174 of the electricity act, 2003 provides it an overriding effect over other laws**

6. The Electricity Act, 2003 is a special law and the provisions of the Act have an overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than the Act.<sup>3</sup> However, according to Section 175 of the Act, the provisions of the Act are in addition to and not in derogation of any other law for the time being in force.<sup>4</sup>
7. The principle of overriding effect of the Act is primary whereas the principle laid down in Section 175 is accessory or merely subordinate to it.<sup>5</sup> This is suggestive of the fact that the principle of overriding effect of the Act will prevail over Section 175 in matters where there is any conflict (but no further). Therefore, when there is any express or implied conflict between the provisions of the Electricity Act, 2003 and any other Act, then the provisions of the Electricity Act, 2003 will prevail, but when there is no conflict, express or implied, both the Acts are to be read together.<sup>6</sup>
8. It is pertinent to note that the test of repugnancy and inconsistency provides that it must be shown that the provisions of the statutes in question are so inconsistent that they cannot stand together and operate in the same field.<sup>7</sup> Once repugnancy is established, it is a well settled principle of law that the general provisions of one statute will be subservient to the special provisions of another statute.<sup>8</sup>
9. In January 2009, FMC granted approval to BCX for providing a platform to trade forward contracts in goods notified under Section 15 of FCRA,<sup>9</sup> which includes electricity as well. Thus, this approval granted under FCRA is repugnant to the object of the Electricity Act, 2003. Since, the Electricity Act, 2003 is a consolidating statute on all matters concerning electricity and enjoys an overriding effect over other laws, including FCRA, CERC as a body created under the Act should have exclusive jurisdiction over every aspect of electricity.

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<sup>3</sup> The Electricity Act, 2003, § 174, No. 36, Acts of Parliament, 2003 (India).

<sup>4</sup> The Electricity Act, 2003, § 175, No. 36, Acts of Parliament, 2003 (India).

<sup>5</sup> Gujarat Urja Vikas Nigam Ltd. v. Essar Power Ltd., (2008) 4 SCC 755 (India).

<sup>6</sup> *Id.*

<sup>7</sup> M. Karunanidhi v. Union of India, (1979) 3 SCC 431 (India).

<sup>8</sup> J.K Cotton Spinning and Weaving Mills Co. Ltd. v. State of Uttar Pradesh, AIR 1961 SC 1170 (India).

<sup>9</sup> Moot Problem, ¶ 1.



10. It is, therefore, submitted that The Electricity Act, 2003 has an overriding effect over other laws by virtue of Section 174 and thus, it overrides FCRA. Therefore, forward contracts in electricity are within the exclusive jurisdiction of CERC.

**[I.B.2.] The Electricity Act, 2003 being a special act, enacted later than FCRA, will prevail**

11. Where there are two special statutes, which contain non-obstante clauses the later statute must prevail as at the time of enactment of the later statute, the Legislature was aware of the earlier legislation and its non-obstante clause.<sup>10</sup> If the Legislature still confers the later enactment with a non-obstante clause it means that the Legislature wanted that enactment to prevail and if the Legislature does not want the later enactment to prevail then it could and would provide in the later enactment that the provisions of the earlier enactment continue to apply.<sup>11</sup>

12. Therefore, even though CERC and FMC are both regulatory authorities, governed by their respective special statutes, operating within their defined spheres, with distinct statutory functions, powers and duties, the Electricity Act, 2003 will be the prevalent statute and will have precedence over FCRA. Consequently, regulatory authority created under the Act i.e. CERC will have jurisdiction over anything related to electricity which also includes forward contracts in electricity.

13. It is, therefore, submitted that the Electricity Act, 2003 being a special act, enacted later than FCRA, will prevail and thus, it overrides FCRA. Therefore, forward contracts in electricity are within the exclusive jurisdiction of CERC.

**[I.C] CERC IS VESTED WITH THE REGULATORY OVERSIGHT TO DEVELOP THE MARKET IN POWER IN INDIA**

14. According to Section 66 of the Electricity Act, 2003 the appropriate commission shall endeavour to promote the development of a market (including trading) in power.<sup>12</sup> The term “trading” means purchase of electricity for resale thereof and the expression “trade” shall be construed accordingly.<sup>13</sup> Trade and commerce would in their ordinary and accepted sense includes forward contracts.<sup>14</sup> Thus, the term “trading” is wide enough to cover both spot and forward contracts for electricity.

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<sup>10</sup> *Solidaire India Ltd. v. Fairgrowth Financial Services Ltd.*, (2001) 3 SCC 71 (India).

<sup>11</sup> *Maruti Udyog Ltd. v. Ram Lal*, (2005) 2 SCC 638 (India).

<sup>12</sup> The Electricity Act, 2003, § 66, No. 36, Acts of Parliament, 2003 (India).

<sup>13</sup> The Electricity Act, 2003, § 2(71), No. 36, Acts of Parliament, 2003 (India).

<sup>14</sup> *Waverly Jute Mills Co. Ltd. v. Raymon & Co. (India) Private Ltd.*, AIR 1963 SC 90 (India).

15. Further, CERC has the power to make regulations which may provide for the manner by which the market in power could be developed, including trading, as specified under Section 66.<sup>15</sup> The power to make rules for a market would include the power to make rules for the regulation of business and conditions of trading in the market area and includes making rules stipulating that no person could do business in such a market except under a license granted by the authority making regulations.<sup>16</sup>
16. Therefore, the Electricity Act of 2003, clearly enables CERC to make regulations for the development of the market in power which includes trading also. This necessarily covers all aspects of the market and business/trading in power and would include both spot and forward contracts for the sale or purchase of electricity. Granting CERC such wide powers and the consequent upholding of such wide powers by the courts is indicative that both the judiciary and legislature are on the same page when it comes to the nature of authority exercised by CERC as the exclusive regulatory body created under the Electricity Act, 2003.
17. It is, therefore, submitted that CERC is vested with the regulatory oversight to develop the market in power in India and thus, forward contracts in electricity are within the exclusive jurisdiction of CERC.

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<sup>15</sup> The Electricity Act, 2003, § 178(2)(y), No. 36, Acts of Parliament, 2003 (India).

<sup>16</sup> Chimanlal Premchand v. State of Bombay, AIR 1960 SC 96 (India).

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**ISSUE II: WHETHER THE ACTION INITIATED BY SEBI BY INVOKING FCRA  
AND FILING CRIMINAL COMPLAINT AGAINST ALL THE ENTITIES  
INVOLVED IN THE EXIL SCAM IS ULTRA VIRES.**

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18. It is humbly contended that the action initiated by SEBI by invoking FCRA and filing criminal complaint against all the entities involved in the EXIL scam is ultra vires as **[II.A.]** SEBI does not have jurisdiction over EXIL & and its brokers under FCRA and **[II.B.]** Regulation of non-transferable specific delivery contracts (*for brevity* ‘**NTSD Contracts**’) is beyond the purview of FCRA.

**[II.A] SEBI DOES NOT HAVE JURISDICTION OVER EXIL & AND ITS BROKERS  
UNDER FCRA**

19. The jurisdiction of a statutory authority is circumscribed by the statute under which it seeks to exercise jurisdiction.<sup>17</sup> Any action in excess of such jurisdiction render the proceedings or any orders passed thereunder void ab initio.<sup>18</sup> FCRA is an act to provide for the regulation of certain matters relating to forward contracts, the prohibition of options in goods and for matters connected therewith.<sup>19</sup> Thus, FMC, which has been dissolved by virtue of Section 29A(1)(b) of FCRA,<sup>20</sup> had power and authority to keep forward markets under observation and to take such action in relation to them as it may consider necessary.<sup>21</sup>

20. Furthermore, in furtherance of the amendments to FCRA, there were two important communications dated 20th November 2015, which was addressed by Ministry of Finance and the other dated 14th June 2016, which was addressed by SEBI.<sup>22</sup> The aforesaid communications, categorically set out that post the merger of FMC with SEBI, SEBI was not expected to deal with matters which were not dealt with by the erstwhile FMC and that SEBI was not expected to take upon itself any function which was beyond its regulatory domain.<sup>23</sup>

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<sup>17</sup> 272<sup>nd</sup> LAW COMMISSION OF INDIA REPORT, *Assessment of Statutory Frameworks of Tribunals in India*, 2 (2017), <http://lawcommissionofindia.nic.in/reports/Report272.pdf>.

<sup>18</sup> *Id.*

<sup>19</sup> Forward Contracts (Regulation) Act, 1952, Preamble, No. 74, Acts of Parliament, 1952 (India).

<sup>20</sup> The Finance Act, 2015, § 132, No. 20, Acts of Parliament, 2015 (India).

<sup>21</sup> Forward Contracts (Regulation) Act, 1952, § 4(b), No. 74, Acts of Parliament, 1952 (India).

<sup>22</sup> SEBI Order In the Matter of Motilal Oswal Commodities Broker Private Limited; WTM/MPB/EFD-1-DRA-IV/21/2019, [https://www.sebi.gov.in/sebi\\_data/attachdocs/feb-2019/1551087705719.pdf](https://www.sebi.gov.in/sebi_data/attachdocs/feb-2019/1551087705719.pdf), ¶ 23.1.3

<sup>23</sup> *Id.*

21. EXIL is an electronic based spot trading exchange providing spot trading in electricity and regulated by the CERC.<sup>24</sup> Therefore, since FMC never had the power, authority or jurisdiction to regulate spot exchanges even till the day of its merger with FMC, SEBI does not derive any powers and cannot exercise any power and jurisdiction pertaining to dealings on spot exchanges.
22. It is pertinent to note that only the recognized associations under FCRA are deemed to be considered as recognized stock exchange under SCRA.<sup>25</sup> EXIL was neither registered with FMC as required under Section 14A of FCRA, nor was recognized by the Central Government under Section 6 of FCRA.<sup>26</sup> Therefore, SEBI cannot exercise any powers pertaining to trades and transactions at EXIL platform, since it being an unrecognized association cannot be deemed to be an exchange under SCRA.
23. It is, therefore, submitted that SEBI does not have jurisdiction over EXIL & its brokers under FCRA and thus, action initiated by SEBI by invoking FCRA and filing criminal complaint against all the entities involved in the EXIL scam is ultra vires.

#### **[II.B.] REGULATION OF NTSD CONTRACTS IS BEYOND THE PURVIEW OF FCRA**

24. By virtue of Section 18 of FCRA, NTSD Contracts for the sale or purchase of any goods are specifically exempted from the regulatory oversight or control of FCRA.<sup>27</sup> It provides that Chapter III and Chapter IV of FCRA are not applicable to NTSD Contracts for the sale or purchase of any goods.<sup>28</sup> If at all non-transferable specific delivery contracts are to be regulated or controlled under the FCRA, the Central Government needs to issue a notification declaring that in respect of certain specific goods or class of goods NTSD Contracts are to be regulated or controlled under FCRA.<sup>29</sup> This suggestive of the fact that legislative intent was to exempt NTSD contracts in electricity from regulation and control under FCRA unless expressly specified in certain cases.
25. On October 21, 2009 permission was granted to EXIL by CERC for organising month-ahead contracts in electricity which are essentially forward contracts in the nature of NTSD Contracts.<sup>30</sup> Moreover, noticeably, there has not been any notification, issued by the Central Government, in terms of subsection (3) of Section 18 of the FCRA declaring that NTSD

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<sup>24</sup> Moot Problem, ¶ 2.

<sup>25</sup> Forward Contracts (Regulation) Act, 1952, § 28A, No. 74, Acts of Parliament, 1952 (India).

<sup>26</sup> Moot Problem, ¶ 6.

<sup>27</sup> Forward Contract Regulation Act, 1952, § 18(1), No. 74, Acts of Parliament, 1952 (India).

<sup>28</sup> *Id.*

<sup>29</sup> Forward Contract Regulation Act, 1952, § 18(3), No. 74, Acts of Parliament, 1952 (India).

<sup>30</sup> Moot Problem, ¶ 6.

Contracts in electricity are to be regulated or controlled under the FCRA. Therefore, the month-ahead contracts in electricity organised by and traded on EXIL fall well within Section 18(1) of FCRA, excluding them from the regulation and control of erstwhile FMC or SEBI, under FCRA.

26. It is, therefore, submitted that regulation of NTSD Contracts is beyond the purview of FCRA and thus, action initiated by SEBI by invoking FCRA and filing criminal complaint against all the entities involved in the EXIL scam is ultra vires.

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**ISSUE III: WHETHER THE ENQUIRY PROCEEDINGS INITIATED BY SEBI AGAINST THE 200 MEMBERS/ BROKERS OF EXIL IS ULTRA VIRES.**

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27. It is humbly contended that the enquiry proceedings initiated by SEBI against the 200 members/ brokers of EXIL is ultra vires as **[III.A.]** SEBI has no jurisdiction to initiate enquiry proceedings against the brokers of EXIL under the SEBI (Stock Broker and Sub Brokers Regulations), 1992 (*for brevity* ‘**Brokers Regulations**’); **[III.B.]** SEBI cannot invoke Chapter V of the SEBI (Intermediaries) Regulations, 2008 (*for brevity* ‘**Intermediaries Regulations**’) against the brokers of EXIL and **[III.C.]** The enquiry proceedings cannot continue simultaneously during the pendency of the criminal proceedings initiated by SEBI under FCRA.

**[III.A.] SEBI HAS NO JURISDICTION TO INITIATE ENQUIRY PROCEEDINGS AGAINST THE BROKERS OF EXIL UNDER THE BROKER REGULATIONS**

28. The jurisdiction of an authority is circumscribed by the statute under which it seeks to exercise jurisdiction.<sup>31</sup> Any action in excess of such jurisdiction render the proceedings or any orders passed thereunder void ab initio.<sup>32</sup> When an application for registration is received by SEBI under the Brokers Regulations, it shall take into account for considering the grant of a certificate, all matters relating to trading, settling or dealing in securities and one of such matters is whether the applicant is a fit and proper person based on the criteria specified in Schedule II of the Intermediaries Regulations.<sup>33</sup> If the applicant does not fulfill the necessary requisites, in order to be granted a certificate of registration, SEBI may reject his application after giving a reasonable opportunity of being heard.<sup>34</sup> Thus, the power to grant a certificate of registration to any person to act as a Broker is only vested with the Board under Chapter II of the Brokers Regulations.

29. Pursuant to the merger of FMC with SEBI, the brokers operating in the commodity space were given time of three months to seek registration from SEBI.<sup>35</sup> As a result, all the 200 brokers all the brokers of EXIL applied to SEBI for the registration.<sup>36</sup> Therefore, the

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<sup>31</sup> Madan Lal Arora v. Excise & Taxation Officer, Amritsar, AIR 1961 SC 1565 (India).

<sup>32</sup> *Id.*

<sup>33</sup> Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992, Gazette of India, pt. II sec. 3 sub-section (ii) (Oct. 23, 1992), § 5(e).

<sup>34</sup> Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992, Gazette of India, pt. II sec. 3 sub-section (ii) (Oct. 23, 1992), § 7(1).

<sup>35</sup> Moot Problem, ¶ 16.

<sup>36</sup> *Id.*

applications of registration received by SEBI from the brokers were applications for fresh registration.<sup>37</sup> If the brokers were not fit and proper to be granted a certificate of registration, the Board could have rejected their application. Hence, the Board has no jurisdiction to either commence or try the present enquiry proceedings. Under the garb of considering an application seeking a certificate of registration, which is required to be considered by the Board, neither can a designated authority be appointed nor can such designated authority initiate an inquiry. Ipso facto, the enquiry proceedings initiated by SEBI have no force and sanctity in law.

30. It is, therefore, submitted that SEBI has no jurisdiction to initiate enquiry proceedings against the brokers of EXIL under the Broker Regulations and thus, the enquiry proceedings initiated by SEBI against the 200 members/ brokers of EXIL is ultra vires.

**[III.B.] SEBI CANNOT INVOKE CHAPTER V OF THE INTERMEDIARIES REGULATIONS AGAINST THE BROKERS OF EXIL**

31. It is contended that SEBI cannot invoke Chapter V of the Intermediaries Regulations against the brokers of EXIL. This argument is in two folds. *First*, Brokers of EXIL are not registered under the Brokers Regulations **[III.B.1.]**; and *secondly*, The second show cause notice (SCN) served on the brokers of EXIL is bad in law **[III.B.2.]**.

**[III.B.1.] Brokers of EXIL are not registered under the Brokers Regulations**

32. While considering the application for grant of registration to a broker, is required to take into account whether the applicant is a fit and proper person.<sup>38</sup> SEBI determines if the applicant is fit and proper to be granted a certificate of registration on the basis of the criteria provided Schedule II of the Intermediaries Regulations.<sup>39</sup> Further, the power of SEBI to invoke Chapter V of the Intermediaries Regulations is circumscribed to either pass an order for suspension of a certificate of registration or for cancellation of certificate of registration in respect of a person who has already been granted such a certificate.<sup>40</sup>
33. Therefore, the scope of authority of a designated member under the Intermediaries Regulations is to appoint a designated authority for enquiring into the violation under

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<sup>37</sup> Clarifications, ¶ 53.

<sup>38</sup> Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992, Gazette of India, pt. II sec. 3 sub-section (ii) (Oct. 23, 1992), § 5(e).

<sup>39</sup> Securities and Exchange Board of India (Intermediaries) Regulations, 2008, Gazette of India, pt. III sec. 4 (May 26, 2008), Schedule II.

<sup>40</sup> Securities and Exchange Board of India (Intermediaries) Regulations, 2008, Gazette of India, pt. III sec. 4 (May 26, 2008), § 23.

Regulation 23 of Intermediaries Regulations read with Section 12 (3) of the SEBI Act.<sup>41</sup> In pursuance of the same, the only action that can be taken by the designated authority is that if there are reasonable grounds to do so, it can issue a notice to the concerned person requiring him to show cause as to why the certificate of registration granted to it, should not be suspended or cancelled or why any other action provided herein should not be taken.<sup>42</sup>

34. It is pertinent to note that the application of registration, filed by the brokers of EXIL, were for fresh registrations.<sup>43</sup> Merely because the criteria to determine whether the applicant seeking a certificate of registration is a fit and proper person is set out in the Intermediaries Regulations, does not in any manner mean or empower SEBI Board to invoke Chapter V of the Intermediaries Regulations.
35. Furthermore, Chapter V has no relevance whatsoever to an application seeking a certificate of registration as a broker under the Brokers Regulations. Since the brokers of EXIL are not stock brokers who have been granted a certificate of registration, SEBI has no jurisdiction to issue a notice or pass any orders thereupon in so far as the brokers of EXIL are concerned. Chapter V has been included in the Intermediaries Regulation with a specific purpose i.e. to determine the appropriate action for the purpose of suspension or cancellation of certificate, and it has to be invoked for that purpose only. Therefore, invoking chapter V, while considering the application of the brokers of EXIL for registration is completely misconceived and unwarranted.
36. It is, therefore, submitted that SEBI cannot invoke Chapter V of the Intermediaries Regulations against the brokers of EXIL since brokers of EXIL are not registered under the Brokers Regulations. Thus, the enquiry proceedings initiated by SEBI against the 200 members/ brokers of EXIL is ultra vires.

**[III.B.2.] The second SCN served on the brokers of EXIL is bad in law**

37. In case any default of the nature specified in Regulation 23 of the Intermediaries Regulation has been committed by any person who has been granted certificate of registration under the SEBI Act or regulations made thereunder, a designated authority is appointed by the designated member.<sup>44</sup> In pursuance of the same, the designated authority issues, if it finds

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<sup>41</sup> Securities and Exchange Board of India (Intermediaries) Regulations, 2008, Gazette of India, pt. III sec. 4 (May 26, 2008), § 24(1).

<sup>42</sup> Securities and Exchange Board of India (Intermediaries) Regulations, 2008, Gazette of India, pt. III sec. 4 (May 26, 2008), § 25(1).

<sup>43</sup> Clarifications, ¶ 53.

<sup>44</sup> *Supra* note 41.



reasonable grounds to do so, a notice to the concerned person requiring him to show cause as to why the certificate of registration granted to it, should not be suspended or cancelled or why any other action provided herein should not be taken.<sup>45</sup>

38. Further, on the basis of the representations made by the notice and the facts and circumstances of the case, the designated authority submits a report.<sup>46</sup> It is on the receipt of this report that another notice (Second SCN) is sent to the notice in order to calling upon the notice to submit a written representation as to why the action, including passing of appropriate direction, as the designated member considers appropriate, should not be taken.<sup>47</sup>
39. In January 2016, SEBI appointed a designated authority to initiate enquiry proceedings against the 10 brokers under the SEBI Act and regulations made thereunder and subsequently, SCN was issued to them for ascertaining their fit and proper criteria.<sup>48</sup> While the enquiry proceedings were in progress, SEBI received the SFIO Report wherein all the 200 brokers who had applied to SEBI for registration were found to be actively involved in the financial transactions in the guise of month ahead contracts and thus, SEBI issued SCNs to the remaining 190 entities as well.<sup>49</sup>
40. The SCNs issued to 190 brokers were on the basis of SFIO report.<sup>50</sup> Subsequently, second SCN was also issued to the brokers pursuant to SFIO Report to ascertain their fit and proper status.<sup>51</sup> It is pertinent to note that the report of the designated authority, in furtherance of regulation 27 of the Intermediaries Regulations, was submitted to the designated member when the matters were heard before the Supreme Court.<sup>52</sup> Therefore, the report of the designated authority was submitted after the second SCN was served on the brokers.
41. The second SCN served on the brokers of EXIL is, ex-facie, bad in law as SEBI did not take receipt of any report recommending the measures from the designated authority to be initiated against the brokers under the second SCN. As aforementioned, it is a condition precedent that only after considering the report submitted by the designated authority, the designated member can issue a show cause notice under regulation 28(1). In the present

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<sup>45</sup> *Supra* note 42.

<sup>46</sup> Securities and Exchange Board of India (Intermediaries) Regulations, 2008, Gazette of India, pt. III sec. 4 (May 26, 2008), § 27.

<sup>47</sup> Securities and Exchange Board of India (Intermediaries) Regulations, 2008, Gazette of India, pt. III sec. 4 (May 26, 2008), § 28(1).

<sup>48</sup> Moot Problem, ¶ 18.

<sup>49</sup> *Id.*

<sup>50</sup> Clarifications, ¶ 33.

<sup>51</sup> Clarifications, ¶ 43.

<sup>52</sup> Clarifications, ¶ 40.

situation no such steps were taken by the Board before issuing the second SCN to the brokers. In lieu of the report from the designated authority, the Board had served the second SCN to the brokers on the basis of the SFIO report. In such circumstances the second SCN is bad and illegal in law as SEBI failed to comply with the conditions as mentioned under regulation 28(1) of the Intermediaries Regulations.

42. It is, therefore, submitted that SEBI cannot invoke Chapter V of the Intermediaries Regulations against the brokers of EXIL since the second SCN served on the brokers is bad in law. Thus, the enquiry proceedings initiated by SEBI against the 200 members/ brokers of EXIL is ultra vires.

**[III.C.] THE ENQUIRY PROCEEDINGS CANNOT CONTINUE SIMULTANEOUSLY DURING THE PENDENCY OF THE CRIMINAL PROCEEDINGS INITIATED BY SEBI UNDER FCRA**

43. It is an established principle of law that if the incident giving rise to a charge framed against a workman in a domestic enquiry is being tried in a criminal Court, the employer should stay the domestic enquiry pending the final disposal of the criminal case.<sup>53</sup> Whenever the criminal action and the disciplinary proceedings are grounded upon the same set of facts, the Court, generally, is of the view that the disciplinary proceedings should be stayed.<sup>54</sup> This principle is to be followed when the case is of a grave nature or involves questions of fact or law, which are not simple.<sup>55</sup> In such cases if the departmental proceedings and the criminal case are based on identical and similar set of facts, it would be desirable and advisable to stay the departmental proceedings till the conclusion of the criminal case.<sup>56</sup>
44. The employer is expected to await the decision of the trial Court otherwise the employee would be compelled to disclose his defence, which he intends to use in the criminal trial, since the charges on which the domestic enquiry is based, are the same as those in the criminal proceedings.<sup>57</sup> Thus, by simultaneous holding of the domestic enquiry during the pendency of the criminal trial, the employee would suffer a serious prejudice in his defence before the criminal Court since the foundation of both the charges is same.<sup>58</sup>
45. On receiving a letter from IIA, demanding SEBI to take stringent action against the brokers, and the SFIO report, SEBI issued SCNs and appointed a designated authority to initiate

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<sup>53</sup> M. Paul Anthony v. Bharat Gold Mines Ltd. and Anr., AIR 1999 SC 1416 (India).

<sup>54</sup> Tata Oil Mills Co. Ltd. v. Workmen, AIR 1965 SC 155 (India).

<sup>55</sup> Depot Manager, Andhra Pradesh State Road Transport Corporation v. Mohd. Yousuf Miyan, AIR 1997 SC 2232 (India).

<sup>56</sup> Kusheshwar Dubey v. Bharat Coking Coal Ltd. AIR 1988 SC 2118 (India).

<sup>57</sup> Babulal Verma v. Union of India, 2008 (3) MhLj 484 (India).

<sup>58</sup> Delhi Cloth and General Mills Ltd. v. Kushal Bhan, AIR 1960 SC 806 (India).

enquiry proceedings against the brokers of EXIL.<sup>59</sup> Subsequently, SEBI filed a criminal complaint also under erstwhile FCRA to the EOW for taking appropriate action under relevant laws against all the entities involved in the EXIL scam.<sup>60</sup> The charges on which the enquiry proceedings is based, are similar to those in the criminal proceedings. Thus, both the proceedings are in relation to the said subject-matter.

46. Under these circumstances, the enquiry proceedings cannot continue simultaneously during the pendency of the criminal proceedings for the brokers would be compelled to disclose their defence, which they may use in the criminal trial. The brokers would be seriously prejudiced, if the criminal proceedings, which are still pending would give an unfair advantage to the prosecution, which is not intended in a criminal trial. Hence, in the interest of fairness, it is expedient that enquiry proceedings be stayed pending the criminal proceedings which have admittedly been initiated by SEBI against the brokers of EXIL.
47. It is, therefore, submitted that the enquiry proceedings cannot continue simultaneously during the pendency of the criminal proceedings initiated by SEBI under FCRA and thus, the enquiry proceedings initiated by SEBI against the 200 members/ brokers of EXIL is ultra vires.

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<sup>59</sup> Moot Problem, ¶ 16.

<sup>60</sup> Moot Problem, ¶ 18.

**P R A Y E R**

IN LIGHT OF THE ISSUES RAISED, ARGUMENTS ADVANCED AND AUTHORITIES CITED IT IS  
HUMBLY PRAYED THAT THE HON'BLE COURT MAY BE PLEASED TO -

- **QUASH** the order of the Hon'ble Bombay High Court issued on December 31, 2010.
- **DECLARE** that Forward Contracts in Electricity are within the exclusive jurisdiction of CERC.
- **QUASH** the order of the Hon'ble Bombay High Court issued on December 31, 2018.
- **DECLARE** that the action initiated by SEBI by invoking FCRA and filing criminal complaint against all the entities in the scam is ultra vires.
- **DECLARE** that the enquiry proceedings initiated by SEBI against the 200 members/brokers of EXIL is ultra vires.

AND/OR

PASS ANY OTHER ORDER, DIRECTION, OR RELIEF THAT THIS HON'BLE COURT  
MAY DEEM FIT IN THE INTERESTS OF JUSTICE, EQUITY AND GOOD  
CONSCIENCE.

*All of which is most humbly prayed*

Date: --/--/201X

Sd/-

On behalf of  
The Central Electricity Regulatory Commission  
The Electricity Exchange of India Limited  
The Association of Commodity Brokers  
Counsel for the Appellants