# IBC DOSSIER

Bulletin on Landmark Judgments under IBC, 2016



**MR. NILESH SHAH & ORS.**
**Vs.**
**SECURITIES AND EXCHANGE BOARD OF INDIA & ANR.**

## Brief Facts

Kotak Mahindra Mutual Fund, sponsored by Kotak Mahindra Bank, launched six close-ended Fixed Maturity Plans (FMPs) between 2013–2016, scheduled to mature in April–May 2019. Kotak AMC invested ₹266 crore of scheme funds in Zero Coupon Non-Convertible Debentures (ZCNCDs) issued by Essel Group companies (Konti Infrapower & Edison Utility Works), backed by pledged shares of Zee Entertainment (ZEEL). When ZEEL's share value dropped in late 2018, the security cover fell below the required 1.5x, and Essel promoters refused to provide additional collateral. Kotak AMC, instead of invoking the pledge, restructured redemption of ZCNCDs, delaying payouts to unitholders. SEBI issued show-cause notices, finding violations of the SEBI Act and Mutual Fund Regulations, including lack of due diligence, extension of maturity beyond scheme terms, and inadequate disclosures. Orders by SEBI's Whole Time Member (WTM) and Adjudicating Officer imposed penalties on Kotak AMC, Kotak Trustee Company, and senior executives.

Appeals to the Securities Appellate Tribunal (SAT) partially succeeded, but the matter reached the Supreme Court under Section 15Z of the SEBI Act.

## Decision

The Supreme Court held that compliance with SEBI regulations is mandatory, irrespective of whether investors ultimately gained or avoided losses. It rejected Kotak AMC's defense that no harm was caused, emphasizing that breaches cannot be excused by favorable outcomes. The Court affirmed findings of lack of due diligence, unlawful extension of maturity dates without proper roll-over, and failure to disclose material information to SEBI and investors. It dismissed appeals by Kotak AMC, Kotak Trustee, and senior executives, upholding penalties and costs (₹30 lakh on Kotak AMC, ₹20 lakh on Kotak Trustee, and monetary penalties on executives). The Court stressed that regulatory breaches, even if well-intentioned, undermine market integrity.

It cautioned fund managers with the dictum: "Mandate first, gains later; SEBI compliance, never falter."

## Link of the Order

https://ibbi.gov.in/uploads/order/5e47e875f932111446da103521ecd3d3.pdf