

News

The Bombay High Court denies a request to cancel 2020 MCX negative crude oil futures deals.



The Court noted that sophisticated commodities traders were aware of market risk and that market finality would be disturbed if negative trades were annulled.

Bombay High Court

A series of writ petitions challenging the Multi Commodity Exchange's (MCX) decision to settle April 2020 crude oil futures at a negative price and the market regulator Securities and Exchange Board of India's (SEBI) refusal to cancel those trades were dismissed by the Bombay High Court. [**SEBI & Ors v. Dhanera Diamonds & Ors**]

Several commodity dealers and brokers, led by **Dhanera Diamonds**, filed petitions against **SEBI, MCX, and its clearing organization, but they were denied by a bench of Justices RI Chagla and Advait M Sethna.**

Advait M. Sethna and Justice RI Chagla

Following the drop of crude prices below zero on the New York Mercantile Exchange (NYMEX) during the peak of the COVID-19 shock, traders requested instructions from the market regulator to cancel deals in crude oil futures that expired on April 20, 2020.

The Bench ruled, "We find no merit in these petitions to effectively undo the settlement of crude oil future contracts, which is impermissible in law."

According to **Justice Chagla**, SEBI's description of the petitioners as astute commercial traders who opted to keep long positions till expiration in the hopes of an abrupt price recovery was accurate.

He declared, "The traders cannot now contend that the remaining trades, which they consciously took a chance of not squaring off, cannot be settled at a negative rate, since they themselves chose to hold on to their net long position at the time of contract expiration."

He maintained that while some traders had experienced unheard-of losses, SEBI was not obligated to cancel trades.

The Court emphasized the impact on counterparties who had already booked profits in line with the contested circular when considering the motion to order SEBI to cancel the trades.

"It is obvious that annulment would have had a severe and detrimental effect on the other brokers and the clients who accepted the contested circular and finished settlements based on it. For no fault of their own, their profits would have been disgorged and their trades and settlement would have been set aside, the ruling said.

Justice Sethna emphasized in a concurring opinion that the contested MCX circular of April 21, 2020, which made it clear that crude oil futures would be settled at the "Due Date Rate" (DDR) based on NYMEX crude's front month settlement price converted into rupees, flowed from the MCX rules and regulations.

"The language, purpose, and intent of the circular dated April 20, 2020, seem to be clear," he said.

Regarding the actual challenge against negative pricing, the judge pointed out that there was no evidence that NYMEX oil prices have consistently stayed positive.

Additionally, he concluded that there was no public interest in interfering with a decision made solely for economic gain.

Justice Sethna decided, "As a writ Court, we do not find it just, proper, and/or expedient to come to rescue such traders or groups of traders who have approached this Court, when the market situation turned sour, to their financial detriment."

The traders and brokers were represented by senior advocates Darius **Khambata** and PN Modi. Some of the dealers were represented by Dewani Associates and M&M Legal Ventures.

Mustafa Doctor, a senior advocate, represented SEBI.

The firm was represented by the Law Point law firm.

Senior supporters of the exchange and its clearing company were **Zal Andhyarujina and Janak Dwarkadas**. Both were represented by **Wadia Ghandy & Co.**