

## Shielding SEBI: On Supreme Court's ruling and SEBI probe

The Hindu

Paper - III  
(Indian Economy)

The Supreme Court of India's ruling on a batch of petitions, filed in the wake of a U.S.-based short seller's allegations of malfeasance including stock price manipulation at the Adani group of companies, has squarely tossed the ball back to the markets regulator's court. The Court has opted to subordinate petitioners' entreaties to protect larger public interest to its chariness to substitute "its own wisdom over the regulatory policies" of the Securities and Exchange Board of India. In its 46-page order, the Bench headed by Chief Justice of India D.Y. Chandrachud is emphatic in observing that "SEBI has prime facie conducted a comprehensive investigation" that "inspires confidence", and that "the facts of this case do not warrant a transfer of investigation from SEBI" given that "prima facie no deliberate inaction or inadequacy" was found in the regulator's conduct of its probe. Strikingly, the Bench has completely skirted the fundamental questions that the Court-appointed Expert Committee in its May 2023 report had opted to leave as a 'matter between SEBI and the Court' — the determination of possible violations pertaining to minimum public shareholding and related party transactions. The Bench has instead seized upon prayers urging the Court to direct SEBI to revoke its amendments to the Foreign Portfolio Investors Regulations and Listing Obligations and Disclosure Requirements — amendments that were at the heart of petitioners' submissions of regulatory failure — and roundly denied them on grounds that there was neither "any illegality", nor were the norms "capricious, arbitrary or violative of the Constitution".

The ruling has also done little to assuage investors' concerns about SEBI's approach to getting to the bottom of the allegations raised by Hindenburg Research in its January 2023 report. Without elaboration on any of the regulator's findings, the Court has blandly observed that "SEBI has completed 22 out of the 24 investigations into the Adani group" and that completion of the remaining two "are pending due to inputs being awaited from foreign regulators". The Bench has directed SEBI to complete these "expeditiously". While the Court's reluctance to review the policy actions of a 'specialised regulator' is understandable, the decision to leave the crucial question of SEBI's perceived tardiness in investigating allegations of cor-

### About Adani-Hindenburg controversy:

- The controversy involves allegations of accounting fraud and stock price manipulation made by Hindenburg Research against the Adani Group.
- Hindenburg Research is a US-based research team that offers services in forensic financial research, with a focus on equity, credit and derivatives analysis.
- The controversy began in January 2023, when Hindenburg Research published a report alleging corporate misgovernance and other charges.
- The report accused the Adani group of companies of committing the largest con in corporate history.

### The report accused the Adani Group of:

- Engaging in large-scale stock price manipulation
- Falsely overinflating the value of their assets
- Controlling over 75% of their shares through different offshore shell entities controlled by the Group

### Key points of the Supreme Court's decision:

- No need to transfer case
- SEBI has to complete the remaining investigation in three months.
- SEBI and other agencies will investigate Hindenburg Research
- In March 2023, the SC formed a 6-member committee led by Justice A.M. Sapre to investigate the allegations against the Adani group and claims of regulatory failure.

porate malfeasance and market manipulation by a large conglomerate back to the remit of the very same watchdog hints at a degree of judicial abstinence that may only undermine the larger public good. The Court is surely aware of past instances where it has found SEBI wanting in alacrity of enforcement, a facet flagged by the experts' panel appointed in this case as well. After all, 'justice must not only be done, but it must also be seen to be done'.

### Expected Question for Prelims

**Que. Consider the following statements with reference to the Supreme Court's judgment in the Adani Hindenburg case:**

1. The Supreme Court has approved the CBI investigation in this case.
2. The Supreme Court has considered SEBI's investigation adequate.

Which of the statements given above is/are correct?

- |                  |                     |
|------------------|---------------------|
| (a) Only 1       | (b) Only 2          |
| (c) Both 1 and 2 | (d) Neither 1 nor 2 |

**Answer : B**

### Mains Expected Question & Format

**Que.: How did the United Liberation Front of Asom come into being? What does the peace settlement with the organisation entail?**

**Answer's Approach:**

- ❖ In the first part of the answer, discuss the Adani-Hindenburg case and the decision of the Supreme Court of India in this case.
- ❖ In the second part, discuss the impact of the Indian Supreme Court decision on market confidence and regulatory oversight.
- ❖ Finally give a conclusion giving suggestions.

**Note:** - The question of the main examination given for practice is designed keeping in mind the upcoming UPSC mains examination. Therefore, to get an answer to this question, you can take the help of this source as well as other sources related to this topic.