

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: PRASHANT SARAN, WHOLE TIME MEMBER**

IN THE MATTER OF SOFTRAK TECHNOLOGY EXPORT LIMITED

In Respect of Varsha Vakharia and Naisharg Vakharia

ORDER

UNDER SECTION 11 AND SECTION 11B OF SECURITIES AND EXCHANGE BOARD OF INDIA, ACT, 1992.

1. Securities and Exchange Board of India (hereinafter referred as 'SEBI') had conducted an investigation into the dealings in the shares of Softrak Technology Exports Ltd. (hereinafter referred as 'the company'/ 'STEL') for the period January 1, 2002 to July 31, 2002 (hereinafter referred to as the 'period of investigation'/ 'investigation period') , *inter alia*, to ascertain whether there had been any violation of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995. During the period of investigation, STEL was listed on the Bombay Stock Exchange (hereinafter referred to as 'BSE') and on the Ahmedabad Stock Exchange (hereinafter referred to as 'ASE').
2. Investigations, *inter alia*, revealed that STEL, which had a paid up capital of Rs.3,60,00,000 comprising 36 lakh shares, issued additional shares to the tune of 3 crores on a preferential basis to certain entities including Varsha Vakharia and Naisharg Vakharia (hereinafter collectively referred to as 'the noticees'). These shares were issued by STEL to the shareholders of two companies, namely M/s. Cybersoft Infocomm Ltd. (hereinafter referred to as 'Cybersoft') and M/s. Pushpam Infotech Ltd (hereinafter referred to as 'Pushpam') on swap basis. The shares of STEL so allotted were fraudulently dematerialized using an in-principle listing approval from ASE. The Managing Director of STEL, Shri Sunil Gaglani had represented the company before the exchanges for this purpose. Further, it was seen that immediately prior to allotment several fictitious demat accounts were opened using forged and fictitious documents. The shares allotted on a preferential basis were found to have been transferred, in some instances, to such fictitious accounts. Following this, the said shares were routed through various entities and finally offloaded onto unsuspecting investors at BSE, even though BSE had refused listing permission for these additional shares. It was alleged that

Varsha Vakharia and Naisharg Vakharia too offloaded unlisted shares of STEL and thus created artificial volume and perpetrated fraud upon innocent investors.

3. Accordingly, a common notice dated January 1, 2009 (hereinafter referred to as 'SCN') was issued to Varsha Vakharia and Naisharg Vakharia, amongst others, alleging that the acts of the noticees were in violation of Section 12A of the SEBI Act, 1992 read with Regulation 3, 4(b), 4(c), and 6(a) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 (hereinafter referred to as 'PFUTP Regulations, 1995') and Regulation 3(a), 3(b), 3(c), 3(d), 4(1) and 4(2)(a) of (Prohibition of Fraudulent and Unfair Trade Practices Relating To Securities Market) Regulations, 2003 (hereinafter referred to as 'PFUTP Regulations, 2003'). The SCN called upon the noticees to show cause as to why suitable directions under Sections 11 and 11B of the SEBI Act, 1992 including restraining them from accessing the capital market and prohibiting from buying, selling or dealing in securities in any manner should not be issued against them.
4. The said SCN could not be delivered to Varsha Vakharia and Naisharg Vakharia. A notice was published in the newspapers Gujarat Samachar and Hindustan Times for Undelivered Show Cause Notice on August 9, 2009 and August 13, 2009 respectively. Pursuant to the newspaper notice, Varsha Vakharia replied to the SCN vide letter dated August 18, 2009 and she also replied on behalf of her son, Naisharg Vakharia vide a separate letter bearing the same date. The noticees submitted that they were not aware of any demat account nor had they opened any such account. Further, they submitted that they have never received shares from STEL. Naisharg Vakharia was a minor at the time of the alleged manipulation. The noticees pleaded that they had no knowledge of anything regarding STEL.
5. An opportunity of hearing was granted before me to the noticees on November 13, 2009. However, none of the noticees appeared for the hearing. Subsequently, another opportunity of personal hearing was granted before me on January 22, 2010 at Ahmedabad. The notice for hearing dated December 11, 2009 could not be delivered to the noticees. A notice in this regard was published in the newspaper (daily) Divya Bhaskar, Ahmadabad, on March 5, 2010. The noticees were informed that they should reply within fifteen days, failing which the matter would be decided ex-parte. In the absence of any further submission/reply from

the noticees to the notice published in the newspaper, I am of the considered view that we may proceed in the matter having complied with the principles of natural justice.

6. I have carefully considered the SCN, the replies of the noticees and the other relevant material on record.
7. I note that the paid up capital of STEL as on January 1, 2002 was Rs.33,60,00,000/- (3,36,00,000 shares of Rs.10/-). The above capital of the company consisted of 3,00,00,000 shares allotted on a preferential basis (swapped for consideration other than cash) on two occasions. The details are mentioned below:
 - i. First preferential issue: A resolution under Section 81(1A) of the Companies Act, 1956 was passed by the company on November 24, 2001, by which 1,00,00,000 equity shares were allotted to certain shareholders of Cybersoft on December 11, 2001.
 - ii. Second preferential issue: A resolution under Section 81(1A) of the Companies Act, 1956 was passed by the company on January 31, 2002, by which 2,00,00,000 shares were allotted to certain shareholders of Pushpam on February 14, 2002.

However, these shares were not listed. The listed capital of the company during the investigation period was just 36,00,000 shares.

8. The names of the individuals to whom the first preferential allotment of 1,00,00,000 equity shares was made by STEL are given below:

1	Rajesh M Jain	8	Varsha K Vakharia	15	Param S Shah
2	Dashrat K Khatri	9	Nitin Shah	16	Mahesh C Shah
3	Ganpat P Khatri	10	Naisharg Vakharia	17	Himanshu Pandya
4	Bharat M Jain	11	Manjulaben R Shah	18	Rajendra U Patel
5	Kiran K Khatri	12	Dilip Gajjar	19	Sunil P Shah
6	Rajiv Acharya	13	Bharat Desai	20	Annu S Shah.
7	Kirit Vaghela	14	Dhirajlal P Mehta		

Each of the allottees received 5,00,000 shares.

9. The second preferential issue was made to the following entities, with each entity receiving 10,00,000 equity shares.

1	Pankaj Jain	8	Rajesh Mehta	15	Pradip Jain
2	Dinesh Shah	9	Ronak Mehta	16	Sandeep Shah
3	Hitesh Shah	10	Naresh mehta	17	Pagnesh Tiwari
4	Purushotham Khatri	11	Rakesh Shah	18	Amul Patel
5	Sanjay Khatri	12	Vinod Jain	19	Rajendra Dhariwal
6	Ashok Jain	13	Kiran Mehta	20	Mahavir Shah
7	Nayan Jain	14	Deepak Shah		

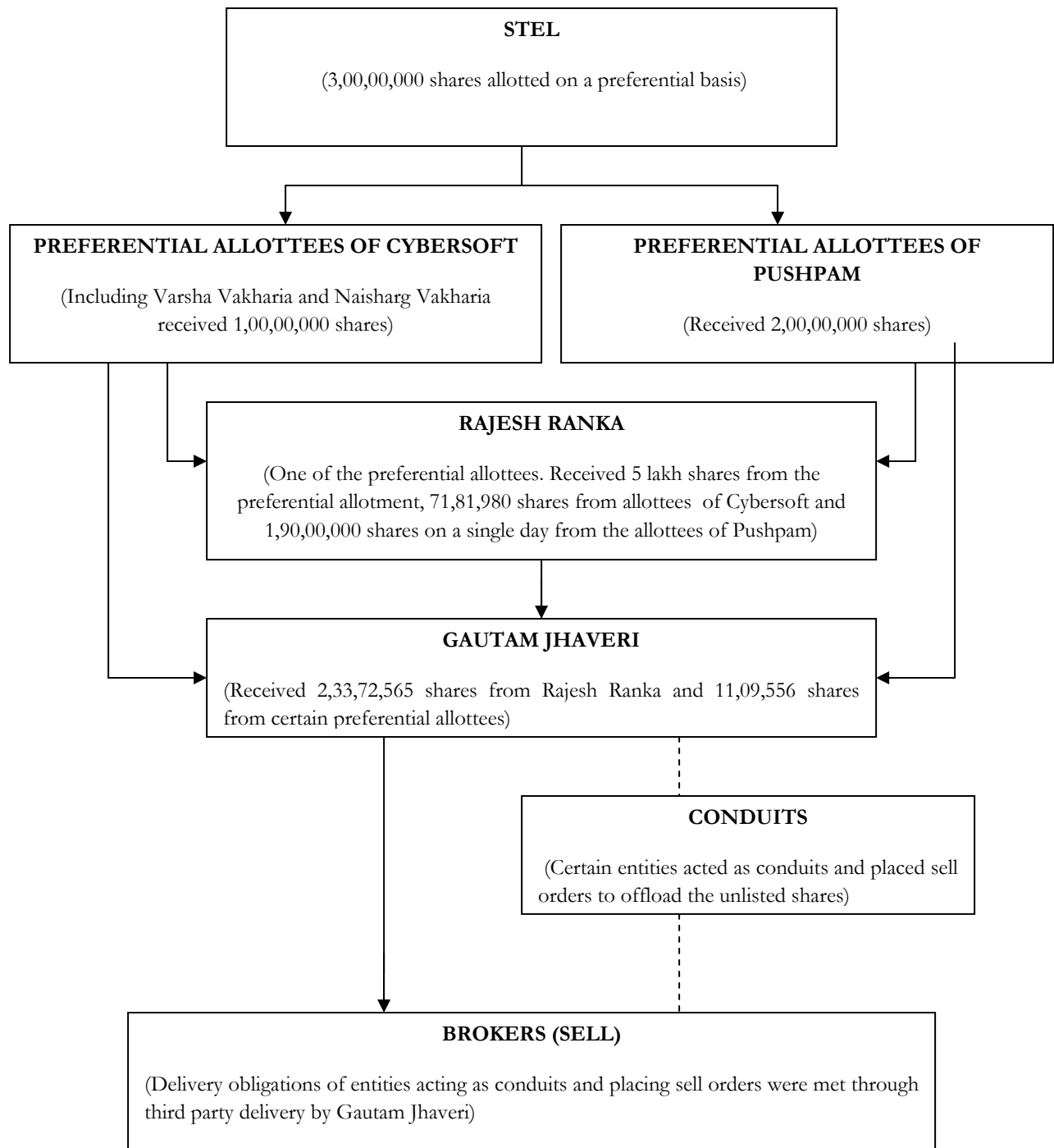
10. From the above, I note that the noticees had received unlisted shares of STEL by way of preferential allotment.

11. I note that subsequent to the first preferential allotment STEL filed an application before BSE and ASE for the listing of 1,00,00,000 equity shares. The ASE gave an in principle approval for the same on December 20, 2001. In order to complete the listing formalities, the BSE sought certain additional information from STEL. In the meantime, NSDL informed BSE that the company had dematerialized its unlisted shares using the in-principle approval from ASE. Again, BSE advised the company to furnish the details of the dematerialized shares. However, the company did not furnish the information requested by the BSE. Following this, the BSE vide its letter dated December 28, 2002 issued a notice to the company to show cause as to why an action of withdrawing permission to the dealings in the company's securities on BSE, should not be taken. STEL did not reply. Subsequently, BSE suspended trading in the securities of the company with effect from January 29, 2003. The listing of the preferential issue of the company of 1,00,00,000 equity shares of the company was rejected by the Listing Committee of the BSE on the above grounds.

12. Similarly, for the second preferential issue, STEL filed listing application with BSE on January 8, 2003. The BSE vide letter dated February 4, 2003, informed the company about the listing formalities to be complied with, for the second preferential issue. STEL did not

reply to the same. The second lot of shares was also not listed as the company had not completed the listing formalities.

13. I observe that, during the investigation period, the price of the scrip increased from Rs. 1.80, the opening price on January 1, 2002 to a high of Rs. 2.30 on January 7, 2002 and then fell to Rs. 0.70 on January 23, 2002, which amounts to a fall of 69% in 13 trading days. The average volume of the shares traded during this period was 77176 shares. The price of the scrip decreased from Rs.0.70/- on April 3, 2002 to Rs.0.40/- on April 11, 2002, i.e. a 42.85% fall in 7 trading days. The average volumes of the shares traded during this period were 241134 shares.
14. I observe that the major selling clients during the investigation period sold large number of shares, which were in multiples of the total listed capital of the company. They, however, had not made any major purchases in the scrip. On analyzing the demat accounts of these selling clients, it was seen that their delivery obligations were met by one Shri Gautam Jhaveri, the proprietor of M/s. Rajesh N. Jhaveri. Gautam Jhaveri, in turn, had received shares from a certain Rajesh Ranka. I note that Rajesh Ranka being a preferential allottee himself held around 5 lakh shares of STEL, and further received 71,81,980 shares from preferential allottees of the first allotment and 1,90,00,000 shares from preferential allottees of the second allotment
15. I note that on February 2, 2002, Varsha Vakharia and Naisharg Vakharia transferred 4,80,000 shares and 2,70,000 shares of STEL respectively to Rajesh M. Jain's (also known as Rajesh Ranka) account. These shares were then transferred to Gautam Jhaveri by Rajesh Ranka. Further, on January 29, 2002 Varsha Vakharia and Naisharg Vakharia transferred 8,626 shares and 2,01,310 shares of STEL respectively to the said Gautam Jhaveri. These unlisted shares were then offloaded into the market and passed onto unsuspecting and unwary investors using the BSE platform through certain entities. As mentioned before, the delivery obligations of the selling clients were met by Gautam Jhaveri. A diagrammatic representation of the movement of the unlisted shares is given below:



16. On further examinations of the demat accounts of the preferential allottees in the scrip, it was seen that:

- i. The accounts were opened in close proximity to each other and were opened just about the time of the allotment. All the demat accounts were opened using the

employee ID cards of a certain Cybersoft Infotech and one Ranka Finance, which had the same address as that of the aforementioned Rajesh Ranka.

- ii. The summons/ letters sent to these entities at the address mentioned in the demat accounts were returned by Rajesh Ranka claiming that he had nothing to do with these accounts. The summons were also sent to these entities at the addresses as filed by the company with the exchange for getting listing permission, which were returned undelivered. ASE also reported that none of these addresses are correct and some other persons are residing at those addresses for quite some time.
- iii. The Bank account numbers obtained from the KYC filed for opening the demat accounts of these allottees were also found to be non-existent. Some of the banks submitted that they don't even have the serial numbers of the bank accounts as mentioned in the Demat account opening forms.
- iv. Several irregularities were observed. In one case the demat accounts were opened for the same person (same photo) in different names, both using the employee ID card of the same company i.e. Cybersoft Infotech.
- v. Of these demat accounts, 16 were opened during December 15 to December 18, 2001. Nine of these account openings were witnessed by one person. The transaction charges for 16 demat accounts were paid by one cheque (No.045477 for Rs.3990/-) drawn on Standard Chartered Bank. On examining the copy of the account opening form submitted by The Standard Chartered Bank vide its letter dated April 8, 2005, it is observed that the cheque was issued from the account of one Shri Bharat Desai and the account was introduced by Rajesh Ranka.

17. I note that the noticees have submitted that they have no knowledge of the alleged manipulation or about the company STEL. They also pleaded that they are not aware of any demat account in their name and have never opened any such account. I observe that the noticees were granted ample opportunity to come forth and defend themselves, and make submissions to evidence their contentions. However, there is no evidence to establish the innocence of the noticees. Several documents like photographs, proof of the address, proof of the identity etc. are required to open a demat account. Without such documents being provided by the noticees, it may not have been possible to open fictitious accounts in their names. I further note that Varsha Vakharia was declared as a relative of a director of the

company in the initial distribution schedule filed by STEL. She is also the mother of Naisharg Vakharia.

18. In view of the foregoing, it appears that the noticees allowed themselves to be used as front entities by certain other parties to carry out a greater plan of manipulation. The entities could have been more cautious which would not have made it easy to misuse their names in the said scheme of manipulation.
19. Therefore, considering the above referred facts and circumstances, I find that the scheme of manipulation in the scrip of STEL involved the issue of shares through two preferential allotments to entities such as the noticees herein within a gap of two months, opening of the DP accounts using fictitious names, addresses and bank accounts, dematerializing the shares by obtaining conditional permission from ASE and off-loading these unlisted shares in BSE through web of off-market transfers and third party deliveries, with the intent to defraud innocent and gullible investors. The acts of the noticee were in violation of Section 12A of the SEBI Act, 1992 read with Regulation 3, 4(b), 4(c), and 6(a) of the PFUTP Regulations, 1995 and Regulation 3(a), 3(b), 3(c), 3(d), 4(1) and 4(2)(a) of the PFUTP Regulations, 2003.
20. In my opinion, if the noticees were innocent victims of an elaborate fraud, then it is expected that they would appear before SEBI and vociferously proclaim their innocence and insist that the perpetrators of the fraud be punished. However, their action of not responding despite repeated opportunity gives rise to a presumption that they were willing partners in this fraud rather than innocent victims.
21. Therefore, I in exercise of the powers conferred upon me under Section 19, read with Sections 11, 11B of the Securities and Exchange Board of India Act, 1992 and Regulation 11 of the Securities and Exchange Board of India (Prohibition of Fraudulent & Unfair Trade Practices relating to Securities Market) Regulations, 1995 read with Regulation 13 of Securities and Exchange Board of India (Prohibition of Fraudulent & Unfair Trade Practices relating to Securities Market) Regulations, 2003, hereby restrain Varsha Vakharia and Naisharg Vakharia from buying, selling or dealing in securities and from associating with the securities market in any manner whatsoever for a period of 6 months.

22. Whereas the noticees have claimed that they never opened any demat account, it appears that the demat accounts in question are fictitious in nature. Accordingly, I hereby direct that the demat accounts be frozen permanently to prevent any further misuse.
23. This order shall be served on all recognized stock exchanges and depositories to ensure that the noticees are not allowed to undertake transactions as prohibited in Para 21 above and for action as per Para 22 above.
24. This order shall come into force with immediate effect.

Date: 2/May/2011

Place: Mumbai

**PRASHANT SARAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA**