

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER REGULATION 29 (3) OF SEBI (STOCK BROKERS & SUB BROKERS) REGULATIONS, 1992 AGAINST SHRI PRAKASH K SHAH , MEMBER , THE STOCK EXCHANGE MUMBAI .

M/s Amara Raja Batteries Ltd. (hereinafter referred to as 'ARBL') , which was initially incorporated as a private limited company in 1985 and the same was subsequently converted into a public limited company in the year 1990. 'ARBL' came out with a public issue in the year 1991 and the shares of 'ARBL' got listed on The Stock Exchange, Mumbai (BSE), National Stock Exchange (NSE), Hyderabad Stock Exchange Ltd. (HSE) and Calcutta Stock Exchange Association Ltd. (CSE). The price of the scrip of 'ARBL' at BSE was Rs.91/- in the first week of October, 2000 and went up to Rs.205/- on January 1, 2001 and further touched a high of Rs.320/- on March 8, 2001.

On March 9, 2001, BSE closed the normal trading at 2 p.m. to facilitate the Badla session and the price at that time was Rs.308.40/-. On that date, NSE was functioning till 4.30 p.m. and the price of the scrip fell to Rs.266.75/- and therefore on March 12, 2001, BSE adjusted the price of various scrips to that of NSE including that of 'ARBL'. The price of 'ARBL' further fell down and thereafter touched a low of Rs.78.50/- on March 19, 2001. It is also found that the volumes in the scrip of 'ARBL' were approximately 50,000-60,000 shares per day in October , 2000 and went up to around 8-15 lakhs shares per day in the month of February and first week of March, 2001 at both BSE & NSE. The average trading in the scrip of 'ARBL' from January to March 2001 went to the extent of 10-15 lakhs shares per day and this constituted approximately 30% of the free floating stock of 'ARBL' .

Securities and Exchange Board of India (SEBI) received complaints regarding the market manipulations / irregularities in the trading in the scrip of 'ARBL' and therefore, SEBI ordered a detailed investigations in the matter to enquire into the alleged violations of the provisions of SEBI Act, 1992 , SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 and SEBI (Stock Brokers & Sub Brokers) Regulations, 1992 and other Regulations and the role played by various persons / intermediaries including Shri. Prakash K Shah , Member, The Stock Exchange Mumbai (hereinafter referred to as "the broker member").

The investigations prima facie revealed that Shri Harinarayan Bajaj and his son, Shri Rahul Bajaj were the predominant traders in the scrip of 'ARBL' during the period August 2000 to March 2001 (hereinafter referred to as "the relevant period"). Their trading has accounted for approximately 30% of the total trading on BSE & NSE and they had absorbed most of the deliveries in the scrip by purchasing and carrying forward their position on BSE. During the relevant period, Shri Bajaj started making use of the different trading cycles of BSE & NSE to shift his position from one exchange to another. It was also found that Shri Harinarayan Bajaj and his son, Shri Rahul Bajaj were shifting positions of approximately 5.5 lakhs shares of 'ARBL' between BSE & NSE in settlement No.1 of NSE and the same was increased approximately to 11 lakhs shares in Settlement No. 9 of NSE. Further, it was found that Shri Bajaj was not having the requisite funds to pay for the deliveries and also for the margins. The investigation also found that when the price of the scrip of 'ARBL' fell down, Shri Bajaj could not purchase any further shares due to lack of funds.

The investigations further revealed that various members of BSE & NSE had aided and abetted Shri Harinarayan Bajaj in creating a false market in the scrip of 'ARBL' and they have failed to exercise due care and skill in their dealings. The broker member had started dealing in the scrip of 'ARBL' since October 2000 and was transacting through M/s Khandwala Shah & Associates . The broker member submitted before the investigating authority that average trading in the scrip of ARBL in each settlement was in the range of 60,000 to 80,000 shares. He further stated that normally the purchases were made on the first two days of the settlement and the sales were executed towards the end of the settlement. The settlement wise trading of the broker member for Shri Harinarayan Bajaj through M/s. Khandwala Shah & Associates, its sub broker are as follows :

Trading, Delivery & Carry Forward (Badla) Position

Of

Amara Raja Batteries Ltd. From Aug 00 to March 01

Settl. No.	Purchase	Sales	C/f	Delivery
A-30	13,740	Nil	13,740	Nil
A-31	20,250	14,107	19,883	Nil
A-32	61,257	81,200	(60)	Nil
A-33	23,268	23,208	Nil	Nil
A-34	10,000	10,000	Nil	Nil
A-35	62,150	62,150	Nil	Nil
A-36	1,07,926	1,07,926	Nil	Nil

A-37	1,02,401	1,02,401	Nil	Nil
A-38	1,20,065	1,08,403	11,662	Nil
A-39	1,37,762	1,11,662	37,762	Nil
A-40	1,55,000	1,47,762	45,000	Nil
A-41	62,075	91,075	5,010	10,990
A-42	2,05,273	2,05,273	5,000	10
A-43	1,60,000	1,60,000	Nil	5,000
A-44	1,18,993	1,00,000	18,993	Nil
A-45	1,25,000	1,38,293	Nil	5,700
A-46	1,00,000	1,00,000	Nil	Nil
A-47	75,000	75,000	Nil	Nil
A-48	75,000	75,000	Nil	Nil
A-49	95,000	95,000	Nil	Nil
<u>A-50</u>				
05-03-01	1,20,000	Nil		
07-03-01	Nil	50,000		
08-03-01		23,135		
09-03-01	Nil	40,000	30,000	Nil
TOTAL	19,50,160	18,98,460		21,700

It was admitted by the broker member before the investigating authority that on enquiry with his sub broker and other market participants in the last week of February, they came to know that Shri Shailesh Bajaj, a defaulter member of BSE was involved in the trading of the scrip. However, after few days the broker member submitted an affidavit stating that in fact Shri Harinarayan Bajaj was trading in the scrip and that he had wrongly mentioned the name of Shri Shailesh Bajaj.

SEBI, therefore, in view of the above facts, vide its order dated June 18, 2001 appointed an Enquiry Officer to enquire into the affairs of the broker member in his dealings in the scrip of 'ARBL' and for the possible violations of the provisions of rules, Bye Laws & Regulations of BSE , provisions of SEBI Act, 1992, SEBI(Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 and SEBI (Stock brokers and sub brokers) Regulations, 1992.

Accordingly the Enquiry Officer issued a notice dated July 6, 2001 along with the findings of the investigations related to the broker member's alleged involvement in the price manipulation in the scrip of 'ARBL'. The alleged charges leveled by the Enquiry Officer against the broker member is as under :

A "The broker member had aided and abetted Shri Harinarayan Bajaj and his family members in creating a false and misleading market in the scrip of 'ARBL' and therefore violated the provisions of Regulation 4 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995.

B(1) The broker member by virtue of his trading in 'ARBL' on behalf of Shri Harinarayan Bajaj had failed to exercise due skill and care in its dealings.

B(2) The broker member had allowed the client to take position which is beyond his financial position

B(3) The broker member had traded in the scrip of ARBL beyond his sub broker's financial capacity"

and thereby violated Regulation 7, Schedule II of SEBI (Stock brokers & sub brokers) Regulations, 1992 (hereinafter referred to as the 'said Regulations') .

The broker member vide his letter dated August 11, 2001 had submitted the reply to the show cause notice dated July 6, 2001 before the Enquiry Officer and interalia stated that there was no complaint of any nature and all the payments were paid by the sub broker, M/s. Khandwala Shah & Associates in time. The broker member further stated that 90% of the trades in the scrip of ARBL were effected by M/s. Khandwala Shah & Associates.

An opportunity of personal hearing was granted by the Enquiry Officer to the broker member on October 12, 2001 . The Enquiry Officer after conducting the enquiry and after perusing the reply of the broker member and the submissions made on behalf of the broker member found that the broker member is not guilty of violating the provisions of SEBI(Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995. However, the Enquiry Officer found that the broker member had given high exposure in one single scrip to his sub broker . Ultimately they were forced to take delivery of shares at the end of the final settlement of his trading with the sub broker, M/s Khandwala Shah & Associates and the same shows that the broker member traded in the scrip of ARBL beyond his sub broker's financial capability . By executing transaction , as mentioned above , for his sub broker in the scrip of ARBL , the broker member failed to exercise due care and skill as mandated by Clause A(2) of the Code of Conduct prescribed under the said Regulation and recommended that the certificate of registration granted to the broker member may be suspended for a period of 3 months.

SEBI issued a notice dated March 13, 2002 under regulations 29 (1) of the said regulations asking him to show cause why the penalty as recommended by the Enquiry Officer not be imposed against him . A copy of the Enquiry Report was also forwarded to the broker member along with the show cause notice . The broker member vide his letter dated April 8, 2002 requested extension of time upto April 30, 2002 for filing his reply and subsequently the broker member filed his reply vide letter dated April 25, 2002. The broker member stated that M/s. Khandwala Shah & Associates are their registered sub brokers since 1997 and they had entered into the concerned agreement for the registration of the sub broker. As per the said agreement the registered sub broker is supposed to take individual client registration form and also to enter into an agreement with the clients.

The broker member also stated that till February 2001 the working of the sub broker with respect to the margins, deliveries, payments etc. have been always regular and that they have given no opportunity for any complaint or dispute. Further the broker member stated that as per the agreement with the sub broker it is the duty of the sub broker to monitor scrip level and client level. Further, the broker member stated that they made enquiries with the sub broker and they were informed in late February 2001 by Shri Sanjay Shah, partner of the sub broker that they were trading for and on behalf of their client Shri Bajaj and in the process the sub broker also informed them that they collected required margin from their client before executing any transaction. The broker member also stated that they had warned the sub broker to clear the position without any delay of any nature and accordingly in Valan Nos.50 & 51 the sub broker cleared the position.

The broker member further stated that due to the financial strength, family background and market reputation of the sub broker they used to allow the sub broker the daily volume of Rs.1 crore in the ordinary course of business and they had collected margin in the range of Rs. 35 to 80 lakhs from the sub broker and the same was deposited with BSE. The broker member stated that they had given the required information as sought by BSE without any delay and BSE did not inform the broker member about the probable malpractices suspected by it. The broker member vide its reply referred above agreed to undertake and / or indemnity as may be considered by SEBI.

An opportunity of personal hearing was granted to the broker member on July 3, 2002 and the broker member along with its representative and the accountant appeared before me and made their submissions. The representative reiterated the same submissions which they made vide their reply dated 25th April, 2002 and admitted that by executing the aforesaid transaction for its sub broker in their dealings in the scrip of ARBL , the broker member failed to exercise due skill and care, as mandated under the provisions of the said Regulations. The broker member also requested to take a lenient view. Subsequent to the aforesaid personal hearing the broker member vide its letter dated July 11, 2002 admitted that their activities attracts the fiduciary responsibility as they are the principal for their sub broker, M/s Khandwala Shah & Associates .

I have perused the extracts of the investigation report , the Enquiry Report, the reply filed by the broker member and the submissions made on behalf of the broker member at the time of the personal hearing. It is observed that due to the transactions of Shri Harinarayan Bajaj and his son Rahul Bajaj, the volumes in the scrip of ARBL went up to around 8-15 lakhs shares per day in the month of February & first week of March 2001 from 50,000 -60,000 shares per day in Oct, 2000. It is also observed that the broker member had started dealing in the scrip of ARBL since October 2000.

It is observed that the broker member transacted in the scrip of ARBL through its sub broker M/s Khandwala Shah & Associates. The broker member had executed trades in the scrip of ARBL and purchased 19,50,160 shares and sold 18,98,460 shares from Settlement No. A 30 to A-50 .

In this regard I feel that , by executing such a huge transactions especially when the price of the scrip of ARBL which was ruling at very high price during the said period, the broker member had failed to exercise due skill and care in the conduct of his business .The broker should not have given such a huge exposure when the market price of the scrip of ARBL was very high. The broker member had taken delivery of 21,700 shares during the relevant period. It is pertinent to note that the broker member had given such huge exposure to his sub broker particularly in the scrip of ARBL at a time when the market price of the scrip was ruling very high. It is observed that the broker member had executed trades with buy position ranging from 13,742 to 2,05,273 shares per settlement. Such a big exposure to the sub broker is not indicative of any prudential risk management norms adopted by broker member .

The above mentioned acts of the broker member clearly indicates that he had traded in the scrip beyond his sub broker's financial capability and thereby the broker member violated Clause A (2) of the Code of Conduct prescribed under regulation 7 of the said regulation which state as follows:

Schedule II

A General

1)

2) Exercise of due skill and care : A stock Broker , shall act with due skill , care and diligence in the conduct of all his business.

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It is concluded that the broker member failed to exercise due skill and care and was not diligent in the conduct of his business by giving high exposure to his sub broker in one scrip, i.e. in ARBL and by executing trades with buy position ranging from 13,742 to 2,05,273 shares per settlement at a time when the market price of the scrip of ARBL was ruling very high.

In view of the above circumstances, it is concluded that the broker member had failed to exercise due care and skill in his dealing with his sub broker, M/s. Khandwala Shah & Associates and thereby violated Clause A(2) of the Code of Conduct prescribed regulation 7 of SEBI (Stock brokers & sub brokers) Regulations, 1992.

Therefore by considering the above facts and circumstances , I agree with the recommendations given by the Enquiry Officer and therefore under the provisions conferred upon me under Section 4 (3) of SEBI Act, 1992 and under Regulation 29(3) of SEBI (Stock Brokers & Sub Brokers) Regulations, 1992, I, hereby suspend the certificate of registration granted to Shri. Prakash K. Shah, Member, Mumbai Stock Exchange for a period of 3 months w.e.f August 1, 2002

G. N. BAJPAI

CHAIRMAN

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