

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER UNDER SECTIONS 11 AND 11B OF THE SEBI ACT, 1992

IN THE MATTER OF M/S TRIPOLI CONSULTANCY SERVICES PVT LTD – MEMBER OF CALCUTTA STOCK EXCHANGE

M/s Tripoli Consultancy Services Pvt. Ltd. was a member of the Calcutta Stock Exchange and was registered with SEBI as a stock broker with Registration No. INB 031127534.

The Securities and Exchange Board of India (hereinafter referred to as SEBI) initiated investigation proceedings against Shri Ketan Parekh and some entities associated with him which is still under progress. As a part of these proceedings and in order to ascertain M/s Tripoli Consultancy Services Pvt. Ltd.'s linkages with Shri Ketan Parekh and his associate entities, investigations were also initiated by SEBI against a few other brokers including M/s Tripoli Consultancy Services Pvt. Ltd. On the basis of the preliminary findings, SEBI conducted the inspection of a few brokers who had transacted with other broker members who had been declared as defaulters by the Calcutta Stock Exchange (hereinafter referred to as the CSE)

Pending the investigation a show cause notice dated 21.8.2002 was issued to M/s Tripoli Consultancy Services Pvt. Ltd., calling upon it to show cause as to why appropriate directions under sections 11 and 11B of the SEBI Act, 1992 should not be issued restraining M/s Tripoli Consultancy Services Pvt. Ltd. from trading or dealing in securities market pending completion of investigations. An opportunity of hearing was slated to be given on 3.9.2002. Since the show cause notice addressed to M/s Tripoli Consultancy Services Pvt. Ltd. was returned undelivered, the date of reply to the show cause notice was extended and the date of hearing was postponed to 25.9.2002 vide SEBI letter dated 3.9.2002 which was duly served on the said broker. In the said letter dated 03.09.2002, it was made clear no further opportunity to submit reply or hearing would be given.

Reply of M/s Tripoli Consultancy Services Pvt. Ltd.

M/s Tripoli Consultancy Services Pvt. Ltd. vide its letter dated 12.9.2002 submitted its reply to the show cause notice. However, the representatives of M/s Tripoli Consultancy Services Pvt. Ltd. did not attend the hearing on 25.9.2002 nor did they communicate in this regard to SEBI. Therefore, I proceed further based on the material available on record. The major contentions raised in the reply are as follows:

- The basis of the arriving at a conclusion that it had indulged in huge volumes of transactions in 5 major scrips with the Poddar Group, Biyani Group and other entities of Singhanian Group is not clear.
- The volumes and amounts stated thereof appear speculations and the observations arrived at are completely erroneous. Mere transactions of huge volume are not illegal. All the transactions were executed by them when they were members of CSE. None of the transactions were done in any stock exchange, which is not recognized.
- All the transactions that are reflected in its sauda register would be reflected in the CSE trading records as well. It should be afforded the opportunity to get a certified copy of the records other than those of its which have been used and relied upon by SEBI for the purpose of arriving at the alleged observation.
- Details of its either being the member of any specific named stock exchange (which is not recognized) nor details of the activities that it could have possibly indulged that might be construed to be in the nature of controlling the business of buying, selling, or dealing in securities have not been given. Details of its involvement in organizing or assisting in organizing any stock exchange have not been given.
- All the transactions were executed by them when they were members of CSE. Non reporting of off market transactions to stock exchange is a technical violation. Merely non-reporting cannot be treated as an intention to create a parallel stock exchange mechanism.
- All or any transactions entered into by it was done in the usual course of business and under normal practice of business.
- As a share and stock broker it is irrelevant to allege that it had transacted business on account of Ketan Parekh entities. There was or has been no bar as to with which or what or on whose account a broker is transacting unless there is a specific circular to bar. There are also no question of concealing the dealings of the clients and giving wrong declaration to CSE. The transaction entered into by the noticee has duly been recorded with the CSE. There had always been adequate margin with CSE at the relevant period/s and the smooth and fair functioning of the market has/have never been interfered with.
- The noticee has always maintained its due status and dignity in the stock exchange to which it is / was a member. The noticee has always been maintaining high standard of integrity, prompt trade and fairness in course of its business. The noticee has never adopted any means to create any false market either singly or in concert with others or indulged in any act detrimental to the inversion interest or which lead to interference with the fair and smooth functioning of the market nor acted in any unreasonable manner.
- The noticee has also not indulged in the off floor transactions at huge volumes as alleged or at all. The noticee states and says that whatever transaction the noticee has made was in the usual course of share and stock business. The noticee has also not created or intended to create a parallel market out of the recognized stock exchanges or any other mechanism outside the recognized one. The noticee had maintained adequate margin with the stock exchange in the form of Bank guarantee, fixed deposits etc., the noticee had always enjoyed its credibility in the market and been financially sound.
- Any action of the noticee has never been prejudicial or detrimental to the orderly development of securities market nor any action of the noticee has been violative of section 19(1) of the Securities Contracts (Regulation) Act, 1956, Regulation 4B of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 and regulation 7 of SEBI (Stock Brokers and Sub Brokers) Regulation 1992 or any other statute whatsoever.

- The show cause includes violation of CSE Byelaws. it has asked SEBI to supply it with a copy of the latest, amended and gazetted copy of Bye-law of CSE.
- The noticee has been declared defaulter by the CSE by an unilateral and arbitrary action of the CSE which the noticee has strongly objected to.
- The said show cause notice under reference and the allegations contained therein is prejudicial and based on conjecture and surmises at the same time speculative which is far from the truth. The noticee submits and prays that the said purported show cause under reference be withdrawn.

Consideration of the issues

On consideration of the show cause notice and the reply filed by M/s Tripoli Consultancy Services Pvt. Ltd., my findings are as under:

a. Violation of Section 19 of Securities Contracts (Regulation) Act, 1956 (SC (R) Act).

As per Section 19 (1) of SC (R) Act " no person shall, except with the permission of the Central Government, organize or assist in organizing or be a member of any stock exchange (other than a recognized stock exchange) for the purpose of assisting in, entering into or performing contracts in securities." This prohibition inter alia applies within the municipal limits of Calcutta.

Section 2(j) defines Stock Exchange as meaning " Any body of individuals, whether incorporated or not , constituted for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities."

From the data furnished by M/s Tripoli Consultancy Services Pvt. Ltd, it has been observed that it has indulged in huge volumes of off the floor transactions in 5 major scrips, namely DSQ Software, Himachal Futuristic, Global Tele, Satyam Computers and Zee Tele during the period March 2000 to March 2001 (amounting to around Rs 11 crores with other brokers and around Rs. 132 crores with the other broking entities associated with them, who had also been declared as defaulters by CSE) outside the trading systems of the recognized stock exchanges.

Brief particulars of the off the floor transactions executed by M/s Tripoli Consultancy Services Pvt. Ltd with other brokers are given below in the major 5 scrips namely, DSQ Software, Himachal Futuristic, Global Tele, Satyam Computers and Zee Tele during the period March 2000 to March 2001as per the data furnished by M/s Tripoli Consultancy Services Pvt. Ltd. is as follows.

Broker	Counter Party in the off the floor transactions	SELL VALUE (in Rs.)	BUY VALUE (in Rs.)	TURNOVER (off the floor transactions) (in Rs.)
Tripoli	Other CSE Broker	56,462,521	56,952,842	113,415,363
Tripoli	Other entities of Singhania Group	624,495,143	693,284,113	1,317,779,256

By transacting such huge volumes of off-the-floor transactions, M/s Tripoli Consultancy Services Pvt. Ltd along with other brokers appears to have organized a parallel stock exchange for the purpose of assisting in, entering into or performing contracts in securities. It may also be mentioned that M/s Tripoli Consultancy Services Pvt. Ltd has not reported any of the above mentioned off the floor transactions entered into by it to CSE. The intention to organize a parallel stock exchange is also evident from the fact that M/s Tripoli Consultancy Services Pvt. Ltd had concealed the off the floor transactions from CSE by not reporting them to the stock exchange.

The noticee has not denied that they had dealt with other brokers of CSE. It is pertinent to mention here that there is no need for a broker to trade with other brokers of the same stock exchange for its genuine trades. I find that they had indulged in the off-the-floor transactions and it was also confirmed from CSE's data that they have not reported all of their off-the-floor trades and hence the broker appears to have violated Section 19 of Securities Contracts (Regulation) Act, 1956 (SC(R) Act).

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Violation of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995

Regulation 4 (b) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 provides that "no person shall indulge in any act, which is calculated to create a false or misleading appearance of trading on the securities market".

M/s Tripoli Consultancy Services Pvt. Ltd had executed huge volumes of off the floor transactions. In this context, SEBI circular circular No. SMDRP/ POLICY/ CIR-32/1999 dated September 14, 1999 (which was notified to the members of CSE vide CSE's notice dated September 16, 1999) is relevant. The circular inter-alia provides that all deals shall be executed only on the screens of the exchanges in the price and order matching mechanism of the exchanges just like any other normal trade. The volume of off the floor transactions which were executed by M/s Tripoli Consultancy Services Pvt. Ltd, outside the recognized stock exchanges and not reported to the stock exchange was so large that it would have impacted the price discovery mechanism of the stock exchanges, had they been executed through the trading systems of the recognized stock exchanges and disclosed to the market through the official quotation list of the recognized stock exchanges. Hence, by keeping such large volumes of off the floor transactions outside the trading systems of stock exchanges and not reporting these transactions to the stock exchange, M/s Tripoli Consultancy Services Pvt. Ltd along with other brokers has willfully concealed huge volumes of turnover in securities and thereby interfered with price discovery mechanism of stock exchanges and appears to have created a false and misleading appearance of trading on the securities

market and has also acted in violation of the SEBI circular dated September 14, 1999 and bye-laws 332 and 334 (iii) of the CSE Bye-laws.

M/s Tripoli Consultancy Services Pvt. Ltd. had reported to the CSE that its trading had been on account of proprietary trades. However as per the findings of the investigation and as per the data furnished by him, it is noted that it had executed substantial amount of client transactions including other brokers. It has also been noticed that M/s Tripoli Consultancy Services Pvt. Ltd had executed transactions on behalf of other brokers. Details of declarations made by it to the CSE regarding Proprietary and Client Trades and the actual trade details furnished by it in soft form regarding proprietary trades during the period Nov. 3, 2000- April 4, 2001 are given below.

As per declaration given to the exchange				As per data collected from M/s Tripoli Consultancy Services Pvt. Ltd in soft form		
Broker	Proprietary (In Rs)	Client (In Rs)	% of Prop. Trade	Proprietary (In Rs)	Client (In Rs)	% of Prop. Trade
Tripoli Consultancy	759984474	0	100.00	1537934953	1883465471	44.95

From the data provided above, it is clear that M/s Tripoli Consultancy Services Pvt. Ltd had made wrong declaration to CSE and thereby concealed the trading done by it on behalf of clients.

By concealing the dealings of the clients by giving wrong declarations to the CSE, M/s Tripoli Consultancy Services Pvt. Ltd has not only avoided compliance with the prudential exposure limits and margin requirements of CSE prevailing during the relevant period of time, but it has also interfered with the fair and smooth functioning of the market by concealing the dealings of the major clients from the exchange authorities. This appears to have been done for the purpose of creating a false and misleading appearance of the market with the intention to prevent the exchange authorities from initiating appropriate measures for the purpose of safety and integrity of the market.

Indulging in off the floor transactions at huge volumes and not reporting or reporting only a fragment of the said transactions to the exchange amounts to creating a parallel market outside the recognized stock exchange mechanism. Such transactions avoid transparency requirements, do not contribute to the price discovery and deprives many investors of the benefit of the best possible price. It also militates against the basic concept of the stock exchanges which is meant to bring together a large number of buyers and sellers in an open manner. These trades also avoid the prudent regulatory controls and market safety measures like payment of margins, intra-trade turnover, exposure limits etc. It is possible that by avoiding margins and exposure limits, M/s Tripoli Consultancy Services Pvt. Ltd had involved in excessive speculative business in the market beyond reasonable levels not commensurate with its financial soundness.

Further, by concealing the dealings of the clients and by giving wrong declarations to the CSE, M/s Tripoli Consultancy Services Pvt. Ltd appears to have interfered with the fair and smooth functioning of the market and thus appears to have violated Section 19(1) of Securities Contracts (Regulation) Act, 1956 read with Regulation 4 (b) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995.

The broker's pay-in default interfered in the smooth functioning of the market and the brokers pay in default is one of the major causes of the payment crisis of the CSE during the settlement nos.148-150. The broker has not denied the fact that it has defaulted in meeting its pay-in liabilities. The broker has been declared as defaulter by CSE due to default in its pay -in obligations to CSE.

The broker has not given any explanation for wrong declarations of client trades as proprietary trades.

The broker is asking SEBI to furnish the copy of their Stock Exchange's bye-laws. The byelaws and amendments thereto are public documents and are notified in the Official Gazette, which could be obtained by the said broker from the Official Gazette.

The brokers have not produced any evidence in support of their defense, as required by the show cause notice, other than denying all the violations in general.

Conclusion

M/s Tripoli Consultancy Services Pvt. Ltd's action as elaborated above is detrimental to the orderly development of securities market and amounts to its acting against the interest of genuine investors. Hence some action is urgently required to be taken by SEBI against it in order to ensure that the investors in the securities market do not in any way suffer any losses and are not put to any harm and that the safety and integrity of the market remain unimpaired.

It is also noted that M/s Tripoli Consultancy Services Pvt. Ltd has defaulted in meeting its pay-in obligations for the settlement nos. 148,149 and 150 and had been declared as a defaulter by CSE and was not readmitted by CSE within a period of six months from the date of declaration of default. It is noted that recovery proceedings including civil and criminal proceedings have also been initiated against M/s Tripoli Consultancy Services Pvt. Ltd by the exchange. Further the certificate of registration granted to it by the SEBI has been cancelled under the SEBI (Stock Brokers and Sub-brokers) Rules & Regulations, 1992 vide order dated June 24, 2002, since it had ceased to be a member of the CSE, had not been readmitted to membership by the CSE within six months and had thereby failed to fulfill the prerequisite criteria of registration.

Shri Ratan Lal Poddar's action as elaborated above is detrimental to the orderly development of securities market and amounts to his acting against the interest of genuine investors. Hence some action is urgently required to be taken by SEBI against him in order to ensure that the investors in the securities market do not in any way suffer any losses and are not put to any harm and that the safety and integrity of the market remain unimpaired.

It is also noted that Shri Ratan Lal Poddar has defaulted in meeting his pay-in obligations for the settlement nos. 148,149 and 150 and had been declared as a defaulter by CSE and was not readmitted by CSE within a period of six months from the date of

declaration of default. It is noted that recovery proceedings including civil and criminal proceedings have also been initiated against Shri Ratan Lal Poddar by the exchange. Further the certificate of registration granted to him by the SEBI has been cancelled under the SEBI (Stock Brokers and Sub-brokers) Regulations, 1992 vide order dated **June 24, 2002** since he had ceased to be a member of the CSE, had not been readmitted within six months by CSE and had thereby failed to fulfill the prerequisite criteria of registration.

It should also be not lost sight of that these proceedings are for the limited purpose of preventing the said broker from indulging in similar trading outside the exchange and carrying out a similar manipulation pending completion of the investigation, under sections 11 and 11B of the SEBI Act. They are not for the conclusive determination of all facts, which may be possible only after completion of the investigation. The Bombay High Court has upheld SEBI's power under sections 11 and 11B to pass preventive orders pending completion of investigation in *Anand Rathi v. SEBI*, [2001] 32 SCL 227. Therefore any further proceeding in the matter by SEBI would be conducted uninfluenced by any observation or finding made in this interim order.

The investigation is still pending. The findings of investigation at the present stage as elaborated above shows the prima facie involvement of M/s Tripoli Consultancy Services Pvt. Ltd in activities which are detrimental to the interests of the securities market and the common investors. It is felt that some preventive action is necessary in order to prevent M/s Tripoli Consultancy Services Pvt. Ltd. from dealing in the securities market pending completion of investigation.

In view of the emergent situation, it is necessary to ensure that no further harm or detriment is caused to the market or that investors are not adversely affected. Hence after taking into consideration the above mentioned facts and circumstances of the case, in exercise of the powers conferred upon me under section 4(3) of the SEBI Act, 1992, read with Sections 11 and 11B of the SEBI Act, 1992, I hereby debar M/s Tripoli Consultancy Services Pvt. Ltd and its directors Shri BP Singhania and Shri Praveen Kumar Agarwal from associating with securities market activities and dealing in the securities market till the completion of investigation. During the said period, M/s Tripoli Consultancy Services Pvt. Ltd and its directors are directed not to buy, sell or deal in the securities market directly or indirectly.

G. N. BAJPAI

CHAIRMAN

Date: October 18, 2002

Place: MUMBAI

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