

ORDER UNDER REGULATION 29(3) OF THE SEBI(STOCK BROKERS AND SUB-BROKERS) REGULATIONS, 1992 AGAINST M/S S K INVESTMENTS, SUB-BROKER TO M/S R.K.JHUNJHUNWALA, MEMBER-BSE, IN THE CASE OF BARODA AGRO INDUSTRIES LIMITED.

Baroda Agro Industries Ltd (BAIL) made private placement of shares in 1992, and it had applied to the CCI for the permission to come out with public issue. In the meantime, CCI was scrapped and SEBI was constituted. The company made a fresh application to SEBI for coming out with a public issue and approval was granted on 19.11.93. Consequently, the company came out with a public issue for 27,00,000 equity shares for Rs.10/- at par which opened on 17/3/94 and closed on 21/3/94, the earliest closing date. Out of the issue of 27,00,000 shares offered to public, 648000 shares were reserved for preferential allotment to NRIs/Persons of Indian Origin residing abroad, on repatriation basis.

Complaints were received from some investors alleging market manipulation in the scrip of M/s.Baroda Agro Industries Ltd by a group of brokers acting in collusion with the management of the company. Further, it was stated by the complainants that they had sold their shares in the market and given deliveries, but the same were returned by the stock exchange as “bad deliveries” on the ground that the said shares were ‘non-transferable’ as they belong to promoters quota and therefore were subject to “lock-in”. The investors stated that they had purchased the said shares in 1992 on a firm allotment basis and at that point of time, they were told that the shares were freely tradable and transferable once the company came out with public issue in 1994. The shares of the company were listed on the Bombay Stock Exchange, which gave trading permission with effect from 30.8.94. The complaining investors had sold their shares in the month of March-April '96.

On receipt of these complaints, BSE was asked to look into trading pattern of the scrip and identify whether there had been any broker(s) who have dealt heavily in the scrip, which has resulted in the scrip posting abnormal gains. Whether the people who had offered shares in the auction were the same or were in any way linked to the buying brokers or the management of the company. Whether any connection existed between the management of the company and these brokers based on the trading and payment details of these brokers. It was also decided to stop the pending auctions till the investigations are complete.

It was stated in the report of BSE that initially the price of the scrip was ruling in the range of Rs.13 to 17. On October 24, 1994, the scrip registered a price of Rs.32.50 on the BSE. In the next settlement, the price again came down to Rs.13. Subsequently the price rose and the scrip was trading in the range of Rs.22 to Rs.47 till the month of March '95. Further, the price went upto Rs.110. Due to this steep hike, the trading in the scrip was suspended with effect from July 31,1995 vide BSE notice No.5590/95 dated July 29,1995.

The report also indicated that R.K.Jhunhunwala had major dealing in BAIL. He stated that his trading in the scrip of BAIL was mainly for his sub broker SK Investments and was 30500 shares on gross basis and 28600 shares on net basis. It was also stated that he had given terminal to his sub broker M/s.S.K.Investments and it is his sub-broker who had traded in scrip of BAIL. Mr.Jhunhunwala stated that only Mr.Sanjeev Kumar Saraf of M/s.SK Investments can explain about the trading in BAIL. Since M/s.S.K.Investments had met their payment commitments in time, he never inquired about the client on whose behalf Mr.SK Saraf had bought shares of BAIL. When the scrip was delisted, he had an outstanding position of 15900 shares. This entire outstanding position was of M/s.SK.Investments.

Mr.Saraf was also asked to clarify about the trading in BAIL. Mr.Saraf clarified that his major dealings were for Mr.Amit Gokani and either Mr.Gokani himself or Mr.Anil Gandhi on his(Mr.Gokani) behalf placed the orders. It was also admitted that he had never met Mr.Anil Gandhi personally and yet he allowed him to deal on behalf of Mr.Gokani. Efforts were made to find facts with Mr.Anil Gandhi who had dealt through various brokers but it was of no avail. Mr.Gandhi did not appear despite several reminders and despite efforts by Saurashtra Stock Exchange where he was a member. The exchange suspended his trading rights for not co-operating with the SEBI investigations. It was suspected that Mr.Anil Gandhi rigged the price of BAIL from Rs.30 to Rs.110/- and SK Investments and R.K Jhunhunwala assisted and knowingly helped Mr.Gandhi in this price manipulation. In view of this, enquiry proceedings were initiated against M/s.SK Investments for prima facie violations of Clause A1,A2,A3,A4 and A5 of the Code of Conduct specified in Schedule II, compliance of which is mandatory in terms of Regulation 7 of the SEBI (Stock broker and Sub-Broker) Regulation 1992 . The Enquiry Officer conducted the enquiry and held that there is no adequate material to show that Mr.Anil Gandhi was connected with the management of BAIL and that the sub-broker was aware of the manipulative operations of his client Shri. Anil Gandhi. There was no evidence to suggest that sub broker knowingly helped his client in price manipulation. The enquiry officer however, considering the fact that Mr.Anil Gandhi was allowed to trade in large quantities in the scrip of BAIL, and was allowed to act on behalf of Mr.Gokani, recommended that a warning be issued to M/s. S K Investments, asking him to be careful.

Consequent upon this, a show cause notice as required under Regulation 29(1) of SEBI (Stock Broker and Sub Brokers) Rules and Regulations, 1992, enclosing a copy of the enquiry report was issued to the broker. The broker was called upon to show cause as to why action as recommended by the Enquiry Officer should not be taken against it. The broker was also advised to submit their reply, if any, within 21 days of the receipt of the show cause failing which it will be presumed that it has no explanation to offer.

The broker replied to the show cause notice issued to them vide their letter dated 23/01/02.They have stated that they undertake to take all possible and due care while discharging their duties and responsibilities and would be more cautious and careful. They have requested for a lenient view to be taken against them. The broker was given an opportunity for personal hearing before me. Shri. Sanjay Shroff from the broker company appeared before me on 17/08/2002 and made submissions. Shri. Sanjay Shroff reiterated the submissions made by the sub-broker earlier in writing.

I have carefully examined the reply of M/s S K Investments, material and evidence available on record and submissions made by them from time to time and at the time of personal hearing. I agree with the findings and recommendation of the enquiry officer. I find that M/s S K Investments had not been acting in careful and diligent manner and allowed Mr.Anil Gandhi to deal in a substantial way. Mr.Gandhi dealing through various brokers cornered a large quantity of shares. However, I find that Mr.Anil Gandhi was issued a warning as it was contended by him before the then Chairman, SEBI that he had acted as an investor who took delivery of the shares purchased and did not indulge in any speculative activity in the scrip of BAIL. I find from the records that a warning was issued to Mr.Gandhi. In the light of the totality of the facts, I hereby issue a warning to M/s.S.K Investments and direct that the broker be cautious in future while dealing in shares and securities and that they should adhere to all the Rules, Regulations, Circulars and Guidelines issued by SEBI strictly and, violation if any, of SEBI Act and its Regulations in future, would be viewed seriously.

G N BAJPAI
CHAIRMAN
SECURITIES AND EXCHANGE BOARD OF INDIA

Date : 5th November, 2002
Place: Mumbai