

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

ORDER UNDER SECTION 11B OF SEBI ACT AGAINST SHRI.YASHWANT THAKKAR IN THE CASE OF ELVIS INDIA LTD.

C/ /2003/IES

- 1.1. M/s Elvis India Ltd., an Ahmedabad based Public Limited Company, came out with a public issue of 65,43,900 equity shares at par aggregating Rs.654.39 Lac in 1994-95. The issue opened on 27.12.94. The earliest and the latest closing dates were 30.12.94 and 7.1.95 respectively. The issue closed on 30.12.94. The issue was reportedly over-subscribed by 4.49 times.
- 1.2. A reference was received from the Deputy Director of Income Tax (Investigation), Ahmedabad, relating to irregularities in the applications by stock invest. It was found that one of the bankers to the issue, the Punjab National Bank, Navrangpura Branch, Ahmedabad (hereinafter called the Bank), issued 40 stock-invests of Rs.5 Lacs each totaling Rs.2 Crores on 01.03.1995 i.e. two months after the closing date of the issue, which were used in subscription of the issue. Shri Yashwant Thakkar was the purchaser of these stocks.
- 1.3. After investigating into this matter, the IT Department found that the bank was involved in this fraud and that the officials of the bank in collusion with the said Thakkar and/or the issuing company issued the stock invests without filling them up on 1st March, 1995. There were forty applications dated 27.12.94 relating to these stock invests and all these applications referred to the date of issuance of stock invests

as 27.12.94. It was also found that the name of the applicants of the 40 applications against which these 40 stock invests were issued were different from the purchaser of the stock invests. The stock invests were further found to be in the names of different companies other than the issuer company. The company had failed to give any explanation to these facts and stated that this was a conspiracy against them by the purchaser of the stock invests and the bank.

1.4. The issuing bank in their first statement given to the controlling branch on 16th January, 1995 did not include the Rs.2 Crores amount in the collection amount. However, in their revised statement of the same date and with same reference included the Rs.2 Crores amount in the total collection. This letter was finally proved to be materially altered. The controlling branch of the Bank issued final certificate and sent the documents to the Registrar to the Issue, PCS Industries Ltd., without checking the application forms and stock invests. In turn, PCS Industries prepared the final list of applications without checking the applications and their stock invests. These applications were without bankers stamp and it is evident that the RTI received them after 1st March, 1995. Basis of allotment was finalized on 9th March, 1995 and PCS Industries sent all the documents with the stock invests to the company as they had not been authorized to sign and present the stock invests to the banks for realization.

1.5. It was, prima facie, found in the investigations that the blank stock invests were admittedly sent by the purchaser, much after the closure of the issue and later returned to him which he submitted to the bank for cancellation.

- 2.1 A show cause notice dated 15.05.2000 was issued to Shri Y. Thakkar since the modus operandi stated above indicated a collusion with the company and the other intermediaries in the irregularities committed in the public issue of Elvis India Ltd. It was alleged that the activities of Shri Thakkar was illegal with an intention to manipulate the issue which was detrimental to the interest of the investors. In the said Show Cause Notice it was stated that why suitable directions under Section 11B should not be issued in the interest of the investors.
- 2.2 In reply to the said Show Cause Notice Shri Thakkar vide letter dated 21.05.2000 acknowledged the receipt of the said show cause notice and stated that he had never been connected with Elvis India Ltd. in any way as directed nor was he a part of the management. He stated that he acted as a small investor. He further stated that he was never involved in any irregularities of the issue. He also stated that he would provide necessary details and said that a small investor like him should not be proceeded with harsh penalties.
- 2.3 A personal hearing was given to Shri Y. A. Thakkar on 10.07.2000 which was rescheduled to 18.04.2002 at his request. Shri Y. A. Thakkar appeared for the personal hearing on 18.04.2002 and reiterated his stand that he was an innocent investor and was not involved in any manipulation of the public issue of Elvis India.
- 3.1 I have gone through the records, show cause notices, reply and investigation report and also noted the submissions of Shri Y. Thakkar during the public issue.

- 3.2 The purchaser of the stock invests, Shri Yashwant A. Thakkar, was a partner of M/s Rashmikanth A. Shroff, an investment firm. As per his statement to the IT Department and letter to SEBI, they had purchased the stock invests on the request of the company on 1.3.95 without filling up the details therein and sent them to the company.
- 3.3 The company reportedly sent them back stating no shares were allotted against their name. The purchaser also claimed that the letters of the company requesting them to purchase the same and to cancel them, were given to the bank while returning the stock invests for cancellation. But the purchaser produced no such letter or their copies before the investigating authority. The bank authorities also could not find such letters in their custody.
- 3.4 Shri. Y. A. Thakkar knowingly purchased the blank stock invests on 01.03.1995 after closing of the issue. As an educated investor he should have the knowledge that applying for public issue shares after closure of the issue is illegal. It was not at all possible to get blank stock invests by the investors without the nexus between the purchasers and the bank officials.
- 3.5 Mr. Thakkar while canceling the stock invests materially altered the same and justified doing so. Shri Y. A. Thakkar in his letter to the I T Dept. dated 04.10.95 stated as under :

“We had purchased stock invest from Punjab National Bank, Navarangapura Branch, Ahmedabad in name of Elvis India Ltd. on 1.3.95 without filling any matter in the stock invest as

per Company's request and sent it to the company but after few days company had given us back the stock invest for reasons best known to them and the same were sent back to bank for cancellation." (letter to IT Department dated 4.10.95).

3.6 In this letter dated 26.08.97 to SEBI he stated that "Kindly make a note of it that I have never bought or sold the shares of M/s Elvis India Ltd."

3.7 In his letter dated 02.10.97 to SEBI, Shri Thakkar stated as under:

"I have never dealt in shares of Elvis India Ltd. either in primary market or secondary market or otherwise also. During the time of public issue of the company I and my family members had applied for the equity shares of the company. I and my family members had taken stock invest of Rs.2 Crores (20 x 10 lacs) from PNB, Navarangpura branch, Ahmedabad. These stock invest were issued by the bank by marking lien on fixed deposit. I deposited 20 application along with the stock invest with the bankers to the issue. After about 15 days or so these applications were returned to me alongwith the stock invests. On enquiry about the reasons behind return of my applications, it was conveyed to me that my applications have been rejected on the grounds of being late. Consequently, I surrendered the stock invest to PNB, Navrangpura Branch, Ahmedabad." (letter to SEBI dated 7.10.97) ".

4.1 It is noted from the records that Shri Y. Thakkar is not really a small investor as claimed by him. Shri Thakkar bought stock

invests worth Rs. 2 crores and sent them to the company in connivance with the company and the Registrar to the Issue. A person who is investing Rs. 2 crores in a public issue cannot be termed as a small investor by any stretch of logic. It is found that Rs. 2 crores which he had spent were not his funds but funds received illegally from other sources.

4.2 The said issue was opened on 27.12.94 and closed on 30.12.94 and was over subscribed by 4.49 times. Investigations brought out that, one of the bank had issued 40 stock invests of Rs.5 lacs each totaling Rs.2 crores two months after the closure of issue (stock invests were issued on 01.03.95). It was also seen that forty applications dated 27.12.1994 accompanied with these pre-dated stock invests were considered for allotment of shares in the public issue. Investigations revealed that actually these stock invests were purchased by persons who were not applicants in the issue of Elvis India. Further, these stock invests were also found to be issued for subscription for different companies and not purchased for applying in the public issue of EIL. All these stock invests were subsequently cancelled on 15th and 28th March 1995 and yet allotment was made to these applicants.

4.3 It is clearly a case of manipulation and act of creating an illusion of subscription in an issue which otherwise was not fully subscribed. It is clear from the records that the stock invests were purchased after the closure of the issue and these stock invests were used to show that the issue was fully subscribed.

4.4 The modus operandi clearly indicate the direct involvement of the purchaser in this irregularities and the activities of Mr.

Thakkar was detrimental to the development of Capital Markets and also to the interests of the genuine investors

4.5.1 Punjab National Bank has been warned to be careful vide order dated 03.09.2002 for their role in the matter.

4.5.2 M/s Jolly Leasing Finstock Ltd. , the Merchant Banker involved in the matter and its directors Sanjay Choksi, Hitesh Choksi and Shailesh Swamy, were prohibited from accessing the capital market for a period of two years from 30.09.2002.

4.5.3 M/s PCS Industries the Registrars to the issue was suspended for two months vide order dated. 30.09.02.

5.1 In view of the above I am of the considered view that Shri Y. Thakkar was involved distorting and giving a false impression of subscription of the public issue of Elvis India. He was instrumental in creating a facade of subscription of the public issue by the application which were made by stock invests after the closure of the issue and which were purchased after the closure of issue and were not at all realized. This is a fraud committed on the small investors who had invested in the public issue with their hard earned monies without realizing the ulterior motives of the persons like Shri Y. Thakkar. This kind of persons are the ones who drive away the confidence of the investors from the system. These acts create an atmosphere which is not conducive to the development of the market. Therefore, as a preventive remedial measure, it is considered just and needful to meet the ends of justice to restrain the said Shri Yashwant Thakkar from dealing in securities for a period of two years.

Therefore, in exercise of powers conferred upon me under Section 4(3) read with Section 11 B of the SEBI Act, I hereby order that Shri Thakkar shall refrain himself from dealing in securities for a period of two years with immediate effect.

Place :Mumbai

Date :January 11, 2003

G N Bajpai

Chairman

Securities and Exchange Board of India