

ORDER

Order under Regulation 13 of SEBI (Procedure for Holding Enquiry) Regulations, 2002 read with SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 and SEBI (Prohibition for Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995.

Background :

- 1.0 An unusual spurt in price and volume of the scrip of Krishna Filaments Ltd. (hereinafter referred to as KFL) was observed during the period May – June 1998 at a time when BSE Sensex and NSE Nifty fell sharply. The price of KFL increased from Rs.153/- on BSE and Rs.154 on NSE on 15th May 1998 to Rs.311/- on 9th June 1998 on BSE and Rs.313/- on 4th June 1998 on NSE.
- 1.1 On noticing this unusual movement of price and volumes, investigations were initiated by SEBI to look into the affairs relating to buying, selling and dealings in the scrip of KFL by different entities.
- 1.2 In the investigations conducted by SEBI it was, inter alia, revealed that M/s Harsh Investments Consultants (hereinafter referred to as HIC) having its office at A-20 Madhur Milan, Dr. Rajendra Prasad Road, Mulund (W), Mumbai 400 080, a sub broker of BSE had colluded with the promoters of KFL who, acting in concert with their front companies, indulged in price rigging and created artificial volumes in the scrip of KFL.
- 1.3 It was observed that HIC acted as a sub-broker to the following front companies of the promoters of KFL who

indulged in price rigging and creation of artificial volumes of the scrip of KFL:

Companies acting on behalf of promoters	Purchases	Sale	Period
Alankar Finance	133,600	4,400	April 96 - March 98
Agnikamal Finance	18,200	4,600	April 96 – March 98
Adhikash Finance	33,100	5,900	April 96 – March 98
Renold Finance	28,900	1,900	April 96 – March 98
Kalapit Trading	41,500	0	April 96 – March 98
Satyanand Prasad Finance	161,500	15,300	March 97 – April 97

1.4 Investigations further revealed that though the aforesaid purchases were ostensibly made by the entities mentioned above, the actual buyers were the promoters of KFL. It was found during the investigations that this fact was known to HIC as the buy orders for the aforesaid entities were placed with HIC by Shri Jitin Mehta and Deepak Thate the employees and consultants of KFL and deliveries of shares were made by HIC to Shri Mehta at KFL's premises knowing fully well that KFL was not the buyer. Even the payments for these purchases were also made by KFL.

1.5 In addition to the aforesaid entities, following companies also purchased the shares of KFL during the relevant period through HIC:

- a. Competance Trading Pvt. Ltd.
- b. Dominance Trade & Investment Pvt. Ltd.
- c. Precise Exports Pvt. Ltd.
- d. Gainful Exports Pvt. Ltd.
- e. Responsive Plastic Pvt. Ltd.

f. Lyric Investment & Trading Pvt. Ltd.

1.6 Though ostensibly the purchases were made by these companies the actual buyer were the promoters of KFL and HIC had taken orders for the aforesaid purchases from Shri Jitin Mehta, an employee / consultant of KFL and the deliveries were also made to Shri Mehta at KFL's premises, though KFL was not the buyer. It was also found that the payment of Rs.201 lakhs for the aforesaid purchases was made to HIC by KFL. HIC together with its associates mainly M/s Dharmshi Capital Services (hereinafter referred to as DCS) had dealt in the shares of KFL as under:

Front Companies	Purchases	Sale	Sub Broker	Sett. No.
Dominance Trade and Inv. P. Ltd.	29,300	0	DCS	1998012-15
Precise Exports P. Ltd.	37,600 68,400	0 1,500	DCS Harsh Inv.	1998002-50

1.7 It was found that Shri Hiren Dharmshi the proprietor of DCS is the brother of Shri Narendra Dharmshi, proprietor of HIC and according to Shri Narendra, Shri Hiren was looking after the stock broking business of his firm. It was observed that HIC knowingly dealt with the scrip of KFL for its promoters and their front entities which resulted in cornering the supply and upward movement of the price of the scrip. By indulging in these purchases made on behalf of the promoters of KFL, HIC aided and abetted KFL and

its promoters in price manipulation and created artificial volumes.

Appointment of Enquiry Officer :

2.0 Pursuant to the investigations, under Regulation 28(1) of SEBI (Stock Broker and Sub Brokers) Regulations, 1992 (hereinafter referred to as the Brokers Regulations), Shri S V Krishnamohan was appointed as the Enquiry Officer to enquire into the dealings in the scrip of KFL by HIC and for the violations of SEBI Broker Regulations and SEBI (Prohibition for Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 (hereinafter referred to SEBI FUTP Regulations), vide order dated 11.06.2002.

2.1 The enquiry officer issued show cause notice dated 09.08.2002 to HIC under Regulation 28(2) of the Brokers Regulations and received reply thereof on 07.11.2002. As requested by HIC the statements of Shri Hiren Dharmshi and Shri Narendra Dharmshi dated 18.11.1999 and 26.06.2000 respectively as recorded by SEBI during the investigations, were furnished to HIC.

Findings of Enquiry Officer :

3.0 The Enquiry Officer after considering the submissions made on behalf of HIC and on the basis of the evidence on record, vide his report dated 30.11.2002 found that the HIC has, inter alia, violated the provisions of :

- i. Regulation 26(1) (iv) & (vi) of SEBI Brokers Regulations;
- ii. Sub Clause 4(a)&(b) of Clause B of Code of Conduct for sub brokers as specified in Schedule II read with Regulation 15 of SEBI Brokers Regulations;
- iii. Clause D of the Code of Conduct for sub brokers as specified in Schedule II read with Regulation 15 of SEBI Brokers Regulations; and
- iv. Regulation 4(a – c) of SEBI FUTP Regulations.

Recommendation of Enquiry Officer:

4.0 In view of the facts, circumstances and evidence as narrated in the enquiry report the enquiry officer recommended major penalty of suspension of certificate of registration of HIC as a sub-broker for a period of six months in terms of Regulations 13(1)(b) of SEBI (Procedure for Holding Enquiry and imposing Penalty) Regulations, 2002 (hereinafter referred to as Enquiry Regulations).

Show Cause Notice:

5.0 In light of the recommendations of the Enquiry Officer, a show cause notice dated February 10, 2003 under Regulation 29(1) of Brokers Regulations read with Regulation 13(2) of Enquiry Regulations along with a copy of the Enquiry Report was issued to HIC advising it to show cause as to why the penalty as considered appropriate should not be imposed on it.

Reply of HIC to the Show Cause Notice:

6.0 HIC did not respond to the show cause notice.

Oral Hearing:

7.0 However, before taking a view in the matter, HIC was granted a personal hearing before me on 25th March 2003 which was communicated to it vide letter dated 12th March, 2003. Shri Narendra V. Dharamshi, the proprietor of HIC vide his letter dated 24th March 2003 sought adjournment of the personal hearing on the ground of illness of his wife. In the said letter Shri Dharmshi while admitting the violations, submitted that the violations committed by them were unintentional and the irregularities were not deliberate and therefore requested for taking a sympathetic view in the matter.

7.1 As requested by HIC, the personal hearing was adjourned to 30th April 2003 which was attended by Shri Narendra V. Dharmshi who reiterated his submissions and requested for a lenient view.

Consideration of the facts :

8.0 I have carefully considered the findings of investigations so far as they relate to HIC, the enquiry officer's report and the documents relied upon by the Enquiry Officer as evidence.

8.1 It is seen that Shri Narendra V Dharmshi, the proprietor of HIC has not denied that HIC had dealt with in the scrip of KFL for the entities mentioned above which were acting as front entities of the promoters of KFL. He had however submitted that due to illness of his brother-in-law, the affairs of his firm were being looked after by Shri Hiren Dharmshi who was also the proprietor of Dharmshi Capital Services, which had dealt with in the shares of KFL. Shri Narendra Dharmshi in his statement dated 26th June 2000 had admitted that he knew Shri Jitin Mehta, to whom the deliveries of the physical shares of KFL, purchased for the aforesaid front entities of KFL, were made. He had also informed in his statement that he had almost closed down the business of his firm since 1997 and had referred all his clients to Shri Hiren Dharmshi, his brother, who started a new firm namely Dharamshi Capital Services. Shri Narendra Dharmashi further submitted that from January 1999 onwards, there is no transaction in HIC.

8.2 In the reply dt. 7th November 2002 to the enquiry officer, it was admitted by HIC that the payments of Rs.35 lakhs received from KFL was adjusted against dues of Competance Trading Pvt. Ltd. Further, in his statement dated 26.06.2000 Shri Narendra Dharmshi admitted that he had mainly dealt with Alankar Finance, Agnikamal Finance, Precise Exports, Renold Finance, Farnica Finance, Satyanand Prasad Finance, Competance Trading and Sumanlal Neelchand in the scrip of KFL.

8.3 It was informed by Shri Narendra Dharamshi in his statement dated 26.06.2000 that an amount of Rs.30

lakhs which H D Fire Project Company (herinafter referred to as HDFPC), a partnership firm owned by Shri Hiren Dharamshi, the brother of Shri Narendra Dharmshi, owed to KFL was paid by HDFPC to DCS at the request of KFL.

8.4 In view of this, the statement of Shri Hiren Dharamshi was recorded by SEBI. As per the statement dated 18.11.1999 of Shri Hiren Dharamshi the proprietor of DCS, Shri Jiten Mehta was an employee or financial consultant of KFL who had introduced Precise, Competance, Dominance, Alankar, Agnikamal and Kalpit and Shri Mehta was placing orders on behalf of Alankar, Agnikamal and Kalpit with DCS. As per Shri Hiren, no account opening forms were obtained from these clients and no margins were collected. It was further submitted that for these clients, his firm had dealt with in the scrip of KFL only.

8.5 On the basis of the statement of Shri Hiren Dharmshi, it was recorded by the enquiry officer that for the purchase of 42, 200 shares of KFL by Competance (for Rs.108.71 lakhs), the payments were received from KFL and M/s H D Fire Protect Ltd. (Rs. 30 lakhs, as stated above). Shri Hiren Dharmshi admitted his mistake of accepting the funds from KFL and HD Fire Projects respectively and not directly from its client, Competance.

8.6 Further, Shri Hiren admitted that for the purchase of 29,000 shares of KFL for Rs.67 lakhs for Dominance, the cheque of Rs.60 lakhs was received from KFL which again shows that the actual purchases were made by KFL and Dominance was used as a cover. Shri Hiren has admitted

of receiving Rs.166 lakhs from KFL for the purchases made by Competance and Dominance.

- 8.7 On the basis of various statements recorded, the Enquiry Officer had concluded that Alankar, Agnikamal, Adhikash, Reynold Finance and Kalpit Trading etc. were acting as front companies of KFL for the purchase of KFL's own shares. As stated above Competance, Dominance etc. were found to be front companies of promoters of KFL as for all the purchase made on their behalf were funded by KFL.

Findings:

- 9.0 In light of the report of the Enquiry Officer and submissions made on behalf of HIC wherein, inter alia, while admitting the fault it has requested for a lenient view, I am of the opinion that in light of the facts and circumstances of the case, HIC has failed to satisfy me that it has not violated the provisions of SEBI Act and Regulations made thereunder as found by the Enquiry Officer.

- 9.1 HIC had acted negligently in dealing with the shares of KFL wherein the representatives were placing orders and collecting deliveries for different clients of HIC. Further, HIC received payments from KFL instead of from its clients and the deliveries were also given to the representatives of KFL and not the said clients.

- 9.2 It is clear from the facts of the case that one entity viz. KFL was placing orders for the purchase of its own shares in the name of its different front entities and the

payments for the purchase of shares on behalf of all the front entities were also received by HIC through the same entity i.e. KFL. This was a sufficient evidence/ground for giving rise to a suspicion in the mind of any reasonable market intermediary about the genuineness of the said entities and the dealings done by them.

9.3 Therefore, I find that HIC, not only failed and neglected in exercising due diligence and care but also aided and abetted in price manipulation of the said scrip by KFL and its front entities.

9.4 In view of this, I have no reason to differ with the findings of the Enquiry Officer and therefore, I agree with his findings that the aforesaid acts of omission and commission by HIC were in violation of :

- i. Regulation 26(1) (iv) & (vi) of SEBI (Stock Brokers & Sub Brokers) Regulations, 1992.
- ii. Sub Clause 4(a)&(b) of Clause B of Code of Conduct for Sub Brokers as specified in Schedule II read with Regulation 15 of SEBI (Stock Brokers & Sub Brokers) Regulations, 1992.
- iii. Clause D of the Code of Conduct for sub broker as specified in Schedule II read with Regulation 15 of SEBI (Stock Brokers & Sub Brokers) Regulations, 1992.
- iv. Regulation 4(a) (b) and (c) of SEBI (Prohibition for Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995.

Order/Penalty

Therefore, in exercise of powers conferred upon me under Section 4(3) of SEBI Act, 1992 read with Regulation 13 of SEBI (Procedure for Holding Enquiry) Regulations, 2002 along with SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 & SEBI (Prohibition for Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995, I, hereby order that the registration of Harsh Investments Consultants as a sub broker of BSE be suspended for a period of six months.

This order shall come into effect after three weeks from the date of this order.

G. N. BAJPAI
CHAIRMAN
Securities and Exchange Board of India

Place : Mumbai

Date : 17th June, 2003