

SECURITIES AND EXCHANGE BOARD OF INDIA
ORDER UNDER SECTION 11(1), 11(4) AND 11B OF SEBI ACT.

against

Sunil Kumar Kayan and Sanjay Bansal

Sunil Kumar Kayan is a member of Calcutta Stock Exchange (CSE) operating under trade name Sunil Kumar Kayan & Co. and registered with as a stock broker (Regn. No. INB 03-06689-17) hereinafter referred to as the broker. Securities and Exchange Board of India (SEBI) had come across with information regarding alleged illegal trading in securities by the broker. Therefore an inspection of the broker was ordered by SEBI vide order dated August 13, 2003.

The inspecting officials visited office of the broker at 8, Lyons Range, Ground floor, Kolkata- 700 001 on August 14, 2003. The inspecting officials reported that they found three NSE trading terminals being operated in the premises of the broker though he is neither a member of NSE nor a sub-broker of any NSE member. Upon enquiry it was revealed that one of the trading terminals has been given to the broker by M/s GCM Securities Ltd., member NSE and other two trading terminals were given by Shri Sanjay Bansal, member Gauhati Stock Exchange and registered sub-broker of ISE Securities Ltd., member NSE. All the three trading terminals were unauthorized as no details had been provided by these NSE broker and sub-broker to NSE in this regard.

During the said visit by inspecting officials of the broker's office during trading hours, around 40 clients then present fled the premises immediately. Shri Sunil Kumar Kayan was not available in the office at that time. Smt. Sujata Kayan reportedly wife of Shri Sunil Kumar Kayan was present in the office at that time and she seemed to be managing the affairs of the broker.

The major findings of Inspection are as follows-

- The broker has taken unauthorized trading terminals from Shri Sanjay Bansal and M/s GCM Securities Ltd.
- The broker has also extended unauthorized trading terminals to various persons/entities, as was apparent from the hand written note book and copies obtained by inspecting officials, which showed existence of his trading activities in other areas such as Burra Bazar and Burdwan.
- The broker had ordered/ traded in certain scrips in quantities of one or two shares. A test check of such trading data of the broker revealed that such orders/trades constitute around 70% of his total orders/trades.
- Many such transactions (for buy/sell of one or two shares) entered into by the broker on his own account as well as on account of his wife/others were found to be squared off by end of the day. The net amount receivable of the bills (of such transactions) was as little as 70 Paise to few rupees like Rs.3.29 / Rs.4.33, etc.; such instances are as under-

Bill date	Name of the client	Net bill amount
14/08/03	Sujita Biswas	Rs.0.70
14/08/03	Sandip Chatterjee	Rs.3.29
14/08/03	Sunil Kayan	Rs.6.67
14/08/03	Sujata Kayan	Rs.1.41
14/08/03	Sujata Sarkar	Rs.1.06
14/08/03	Sujata Chatterjee	Rs.4.33
14/08/03	Niranjan Sheth	Rs.9.02

The net bill amount appears to be rather unusual and it indicates a possibility of using the amount as a benchmark price which is arrived at by executing a small amount of order on the exchange while the large part of the order could have been executed illegally outside the exchange. Thus there is reasonable ground to believe that the broker is engaged in illegal trading outside the stock exchange.

- Handwritten /printed papers found in the broker's office by the inspecting authority showed that Sunil Kumar Kayan & Co. had transacted in Futures and Options segment also for his clients without a valid registration to transact in the F&O Segment of NSE. The sauda confirmation slips obtained from the broker's office apparently showed that after entering into a contract for an official market lot, the broker had split the trades in less than official market lot among his various clients. Further, the trading terminal which is in operation in the office of the broker did not have the permission to trade in Futures and Options. Therefore, it appears that the sauda in Futures and Options were executed in off-market.
- The trade details obtained from the broker's office showed transactions that did not have any NSE order numbers, trade number and trade time indicating that these transactions have been entered off the floor.
- Handwritten papers found in the broker's office showed cash received and paid from /to his clients and many such cash receipts /payments were beyond the limit permitted under Income Tax Act for cash transactions. Further SEBI rules also prohibit acceptance of cash by brokers from clients.
- A note book found in the broker's office apparently indicated record of turnover and difference amounts on daily basis.

Inspection authority reported that the staff members of the broker and Mrs. Sujata Kayan were non-cooperative. They refused to authenticate copies of the papers/ documents/ handwritten chits/ledger accounts/bills, etc. found in the broker's office. They also failed to submit details / records/ documents relating to trades done on the date of inspection when demanded by the inspecting officials. Thus many of the entries in the handwritten chits /note book remained unexplained due to non-cooperation on the part of the broker. However the inspecting officials had taken photo copies of these documents for further analysis.

The documents available on record prima facie show that Sanjay Bansal had given terminals to Sunil Kumar Kayan (who is not a registered sub-broker of NSE member) knowing that Sunil Kumar Kayan was trading on behalf of clients. Sunil Kumar Kayan who is

not registered as a broker of NSE or sub-broker of NSE member was not allowed to trade on NSE for any clients. However the above facts shows that he was doing so which is in violation of Section 12 of SEBI Act, 1992 and NSE norms. Shri Sanjay Bansal by providing the use of his trading terminals to Sunil Kumar Kayan for trading on behalf of clients at NSE assisted in violation of Section 12 of SEBI Act, 1992. Further, documents on record show that Shri. Sanjay Bansal acting in concert with Sunil Kumar Kayan had allowed Sunil Kumar Kayan to transact business in NSE in the name of Sanjay Bansal which is also in violation of Section 12 of SEBI Act, 1992.

From the forgoing it is apparent that the broker has been apparently acting as unregistered sub-broker for clients in violation of section 12 of SEBI Act. 1992 and has also been carrying on or organizing or assisting in execution of illegal trades outside the recognized stock exchange. Carrying of such illegal trading is detrimental to investors and securities market. Such trading seriously jeopardizes the safety and integrity of the market. Such activities are prima-facie in violation of section 19 of S C (R) Act. The inspection is yet to be completed. Prima-facie evidence collected so far show that illegal trading is being conducted under the cover/auspices of membership of the stock exchanges and with active assistance of the concerned brokers.

Therefore, in exercise of powers under section 11(1), 11(4) (b) and section 11 B of the SEBI Act read with section 19 of the SEBI Act. 1992 and order passed thereunder, I hereby order that the entities namely Sunil Kumar Kayan operating under trade name Sunil Kumar Kayan & Co. (INB 03-06689-17) and Sanjay Bansal (INB 131037112 and INS231297511) be restrained from buying, selling or dealing in securities in any manner, directly or indirectly with immediate effect, pending completion of inspection and determination of further appropriate action on receipt of the report. The Order be served on the above entities through stock exchanges. The entities will be given a post decisional hearing on receipt of request. As regards GCM Securities Ltd. who had also extended unauthorized terminal to Sunil Kumar Kayan, the matter be referred to NSE for necessary action under their bye-laws.

T.M.NAGARAJAN

DATE : 20TH AUGUST 2003

WHOLE TIME MEMBER

PLACE : MUMBAI

SECURITIES AND EXCHANGE BOARD OF INDIA