MO/48/IVD/1/04

SECURITIES AND EXCHANGE BOARD OF INDIA

DIRECTION UNDER SECTION 11(4)(b) READ WITH SECTION 11B OF SECURITIES AND EXCHANGE BOARD OF INDIA, ACT, 1992 AGAINST M/S RAJSHREE FISCAL SERVICES LTD IN THE MATTER OF SAATAL KATTHA AND CHEMICALS LTD

Background

1. M/s Saatal Kattha and Chemicals Ltd (hereinafter referred to as "SKCL") having office at 42, Jaora Compound, M.Y Hospital Road, Indore – 452 001, came out with a public issue of 21,50,000 equity shares of Rs. 20/- each aggregating to Rs. 4,30,00,000. The public issue opened for public subscription on 30.1.95 and closed on 2.2.95. Central bank of India acted as a pre-issue lead manager and M/s Rajashree Fiscal Services Ltd (hereinafter referred to as RFSL) acted as the post issue Lead Manager and M/s Sriven Corporate Services Pvt Ltd (hereinafter referred to as SCSPL) acted as the Registrar to the said public issue.

2. SEBI received anonymous complaints alleging that the company has fraudulently changed the NRI subscription from 'competitive basis' to 'firm basis' in its public issue without the requisite approval of SEBI with a malafide intention to harm the investors. SEBI vide its letter dated July 11, 1997 had forwarded a copy of the complaint to the Central Bank of India, Merchant Banking Division (pre-issue Lead Manager) seeking for comments. Central Bank of India vide letter dated July 29, 1997 had furnished comments. Vide the said letter, it contented that it was the pre-issue Lead Manager for the public issue of SKCL and the post issue activities were handled by Rajashree Fiscal Services Ltd. The draft prospectus was submitted to SEBI vide letter no. CO:MBD:MJ:94-95:1972 dated 1.9.94. An acknowledgement card was issued by SEBI vide letter dated November 02, 1994.

3. As per the draft prospectus submitted to SEBI under the heading capital structure, 4,00,000 equity shares were reserved for preferential allotment to NRI's / OCB's /FII's on competitive basis. RBI's approval letter no. CO:FID(II)4754, 10.02.40 (5136)/94-95 dated 24/10/1994 was also obtained by SKCL. The SKCL appeared to have changed the basis of reservation for NRI from "competitive" to "firm" basis in its final prospectus dated November 23, 1994. SKCL appeared to have printed separate application forms inviting subscription from NRI's on firm basis. The same was done without the knowledge or approval of the pre-issue lead manager. Further the application form does not contain reference about date of the prospectus, date of opening of issue, application number or the name of the designated bank branch where the applications were to be deposited etc.

4. SKCL opened a current a/c with Central Bank of India, Churchgate Branch and deposited NRI applications along with the remittances from certain NRIs. This a/c was opened on 31.01.1995 i.e one day after the public issue had already opened for subscription. Central Bank of India, Mumbai Main Branch which was also the controlling branch had issued consolidated final certificate on March 20, 1995 on behalf of 28 designated branches. The said certificate did not indicate any collection received from NRI's.

5. SKCL obtained a certificate for Rs. 80,00,000 dated 7.4.1995 from Central Bank of India, Churchgate Branch where NRI applications were deposited. This certificate was unauthorisedly used by SKCL to show receipt of subscription from NRIs on firm basis and accordingly the basis of allotment was approved by the Regional Stock Exchange at Indore on 8.4.1995, despite the fact that Churchgate Branch was not a banker to the issue. The central Bank of India, Merchant Banking Division confirmed that all the NRI applications were in the custody of Central bank of India, Churchgate Branch and the Registrar proceeded to finalise various formalities in the absence of these original share applications. Two cheques accompanied by the NRI applications were returned unpaid in clearing. The net amount received aggregated to Rs. 32.94 lacs only. The aforesaid acts have been confirmed by the pre-issue Lead Manager in its letter addressed to SEBI.

Show Cause Notice, Reply and Hearing

6. Pursuant to the said investigation, a show cause notice dated 11.9.03 was issued calling upon RFSL to show cause as to why appropriate directions should not be passed against it for its involvement in the public issue of SKCL under Section 11 (4) (b) read with Sections 11 (1) and 11B of the SEBI Act, 1992, including directions debarring RFSL from operating in the capital market for a suitable period of time. Vide the said show cause notice, it was also indicated that the reply should be filed before SEBI within 21 days of the date of the said show cause notice failing which SEBI shall be constrained to proceed exparte in the matter. However, RFSL failed to submit any reply to the said show cause notice.

7. In the interest of natural justice, an opportunity of hearing was granted to RFSL before me on 09.12.03. However, RFSL failed to avail the same. I am convinced that ample opportunity has been given to RFSL to make submissions and I proceed further based on the material available on record.

Findings

8. I note that RFSL failed to furnish a satisfactory reply on the aspects of the finalization of the basis of allotment along with the Registrar to the issue without having the original share applications of NRIs. I also note that, during the course of investigation, RFSL was asked to produce the necessary documents in support of its submissions, and RFSL submitted that the file of the public issue containing the certificate (which certified that money from the NRIs had been deposited in the bank) had been misplaced in the godown. RFSL further stated that it was in the process of locating the said file, however, it failed to furnish the same to the investigating authority.

9. I find that, although the drafting and vetting of prospectus is the sole responsibility of the pre-issue lead manager, RFSL as the post-issue lead manager is expected to have knowledge about the total compliances related to both the pre-issue and post-issue activities. Further, ignorance of such compliances is unwarranted from a lead manager associated with the issue. RFSL must have the information about the total receipts being made in the public issue including NRI subscription and the certificate from the bankers to the issue. RFSL had failed to exercise due diligence in ensuring that the change in the prospectus, made at the last stage, was intimated to SEBI. As the post-issue lead manager, RFSL is required to exercise due diligence and care to verify that the prospectus which is being circulated in public is the same which had been filed with SEBI.

10. In view of the above, I find that it is a fit case for issue of directions under Section 11(4)(b) read with Section 11B of SEBI Act. I find that RFSL committed violations as observed above and that the conduct of RFSL is detrimental to the interest of investors and also to the securities market. I conclude that RFSL, being a responsible market intermediary, ought to have exercised due diligence and care in its activities as a post-issue lead manager and I hold RFSL guilty on this count in the public issue of SKCL.

Directions

11. Therefore, in exercise of the powers conferred upon me by virtue of Section 19 read with Section 11(4)(b) and Section 11B of SEBI Act, I hereby direct that M/s Rajashree Fiscal Services Pvt. Ltd be restrained from accessing the securities market and prohibited from buying, selling or dealing in securities for a period of three years from the date of this order which shall come into force with immediate effect.

A.K BATRA

MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA

DATE : 13th January, 2004

PLACE : Mumbai