

**ORDER UNDER SECTION 11B OF SEBI ACT, 1992 READ WITH
REGULATION 11 OF SEBI (PROHIBITION OF FRAUDULENT AND UNFAIR
TRADE PRACTICES RELATING TO SECURITIES MARKET) REGULATIONS,
1995 AGAINST RITESH POLYSTER LTD. AND ITS PROMOTERS**

CO/201/ISD/02/2004

1. Ritesh Polysters Ltd. (hereinafter referred to as Ritesh) is a company originally incorporated as Srinath Synthetics (P) Ltd. on 2nd September 1988 and renamed as Ritesh Polysters (P) Ltd. on 21st April 1993. The company was converted into a Public Limited Company on 7th May 1993 in terms of a special resolution passed on 1st March 1993. The registered office of the company is located at 604, Swapnalok Complex, Sarojini Devi Road, Secunderabad-500 003.
2. Ritesh came out with a public issue of 45,00,000 shares of Rs. 10/- each at a premium of Rs 5/- per share. The paid up capital after the issue would be 69,96,000 shares. The issue was opened on 12th June 1995 and the earliest closing date was 16th June, 1995 and final closing date was 22nd June 1995. As per the prospectus, dated 30.3.95, 15,00,000 shares (out of the issue size of 45,00,000 shares) were reserved for promoters, directors, relatives and their friends on firm allotment basis. The face value of the share was Rs.10/- and the premium was Rs.5/-. As per the prospectus, the promoters contribution was Rs.2,25,00,000 which should have been brought in before opening of the public issue. The promoters of Ritesh were Ritesh Exports Ltd., Shri Surendra Kumar Agarwal, Smt. Roop Rekha Agarwal, Shri Ritesh Agarwal and Deepak Agarwal.
3. Having been satisfied that there was a prima-facie case for investigation, SEBI conducted an investigation to find out whether there was an attempt

by the promoters and others to bail out the issue and to manipulate the price of the scrip.

4. After submission of the Investigation Report by the Investigating Authority, a Show cause notice dated 28.01.2003 was issued to Ritesh and its promoters, in light of the facts mentioned therein, to show cause as to why suitable directions under Section 11B of SEBI Act, 1992 read with regulation 11 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995, including directions for debarring them from accessing the capital market and dealing in securities for a suitable period and also directions to buy back the shares from all the share holders and other suitable directions under Regulation 44 of SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 1997 should not be issued. The main allegations against the company and the promoters as laid out in the show cause notice are as under:

- I. Ritesh fraudulently allotted the shares to its promoters without receiving the full contribution money to the grave detriment of other genuine investors/underwriters. Ritesh and its promoters mobilized monies from market without first investing from their side in the form of promoter's contribution. Ritesh received only Rs. 35 lakhs as promoters contribution, shares worth Rs 2.25 crores have been fraudulently allotted to the promoters. There has been a misstatement in the prospectus to this effect.

- II. From the date of the stock invests, it is seen that 11 applications (Sh.Pawan Kumar Aggarwal and family) were received during the devolvement period. As these 11 applicants were not the underwriters, these cannot be considered as subscription received from the underwriters (in an underwritten issue only the underwriters can subscribe during the devolvement period). Hence, if these

applications are excluded the level of subscription was only 49% as on the 60th day after the closure of the issue. Thus, it was found that the issue did not receive the minimum subscription even after the devolvement period. Moreover, Sh.Surendra Kumar Aggarwal one of the promoters of Ritesh misrepresented that the issue received the minimum subscription by arranging for finance (in the garb of subscription) from Sh.Pawan Kumar Aggarwal and family (financiers)

- III. From the date of stock invests it was seen that these stock invests were issued between 04.08.95 and 18.08.95. Sh.Pawan Kumar Aggarwal stated that these applications were made on the insistence of Sh.Surendra Kumar Aggarwal, Mg.Director of Ritesh Polyster to bail out the issue, with the understanding that the shares will be purchased back by Sh.Surendra Kumar Aggarwal immediately after allotment. As per the statement of Sh.Pawan Kumar Aggarwal, these 11 applications were handed over by Sh.Pawan Kumar Aggarwal to Sh.Surendra Kumar Agarwal personally.
- IV. Ritesh through its director Shri Surendra Kumar Agarwal, subsequently, purchased the shares back from the Pawan Kumar Aggarwal family in the name of Pratha Investments (Proprietary concern of Smt.Sharmila Gang wife of Sh.Mukesh Gang, Auditors of Ritesh Polyster Ltd.) and Ritesh Capital Ltd. (a group company of Ritesh Polyster Ltd.) during the period 5.9.95 to 9.9.95. From the bank statement of Ritesh Polyster and Pratha Investments, it was seen that Ritesh Polyster had utilized the public issue proceeds to buy back the shares from Sh.Pawan Kumar Aggarwal and family in the name of Ritesh Capital and Pratha Investments/Smt.Sharmila Gang. Ritesh Polyster had transferred the funds, collected in the public issue, to the accounts of Pratha Investments and Ritesh

Capital Ltd. who in turn paid the money to Sh.Pawan Kumar Aggarwal and family to buy back the shares from them.

- V. Ritesh Polyster claimed that they had given the amount to Pratha Investments and Ritesh Capital as short term loan. However, it was found that this amount was actually given by Ritesh Polyster to buy back the shares from Sh.Pawan Kumar Aggarwal and family (in the name of Pratha Investments and Ritesh Capital) because the company cannot buy back their own shares as prohibited under Section 77 of Companies Act, 1956.
- VI. Therefore it was found that though the company has received only Rs.35 lakhs as promoters contribution, shares worth Rs.2.25 crores have been fraudulently allotted to the promoters. Thus, the company had committed a fraud on the other genuine investors/underwriters who had subscribed to the issue.
- VII. Sh.Surendra Kumar Aggarwal one of the promoters of Ritesh was in possession of 14,36,000 shares purchased from Pawan Kumar Aggarwal and family (in the name of Pratha Investments and Ritesh Capital Ltd.) by utilizing the public issue proceeds. Sh. Surendra Kumar Agarwal wanted to sell the said shares purchased from Agarwal family. As there was no liquidity in the market, Sh. Surendra Kumar Agarwal sought assistance of Shri Anil agarwal who then introduced Shri R K Goyal and Fourwinds Finance LTd (FFL). FFL could only sell part of the said shares due to lack of liquidity. Thus, it was alleged that Ritesh Polyster Ltd. and its promoters (viz. Ritesh Exports Ltd., Sh. Surendra Kumar Agarwal, Smt. Roop Rekha Agarwal, Sh. Ritesh Agarwal and Sh. Deepak Agarwal) had violated Regulation 4 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995.

5. Shri Surendra Kumar Agarwal replied vide letter dated 8.3.2003 to the SCN dated 28.01.03. Sh. Surendra Kumar Agarwal on his behalf and on behalf of other promoters who are his family members stated that any violation of SEBI (SAST), 1997 doesn't arise as the SEBI (SAST) Regulations, 1997 came into force w.e.f 20.02.97 and stated that they did not indulge in any price manipulation of shares of Ritesh Polysters Limited on any stock exchange of this country. Further, It was submitted that whatever shares bought or sold at that point of time and as listed out was their personal decision based on their requirement of funds to meet certain personal obligations. Ritesh Polyester Ltd. replied vide letter dated 08.03.2003. Through the said letter, Ritesh made the following submissions:

- I. Regarding the allegation that the subscription amount was not kept in separate bank account and was deposited in other bank accounts also, Ritesh submitted that the money collected toward public subscription was actually deposited into Dhanalakshmi Bank & other Banks only as stated in the Prospectus. The money received from few underwriters after serving them several reminders for the underwriting commitments was however, deposited in the State Bank of Patiala after the consent of their Lead Manager M/s. Rajashree Fiscal Services Ltd. There was no intention to illegally mobilize funds for the purpose other than those mentioned in the prospectus.
- II. With respect to the allegation that promoters contribution was not brought, Ritesh submitted that barring few cheques worth Rs. 72 lakhs (approx.) the balance amount of the promoters contribution was credited to the Bank account of the company before opening of the public issue.

- III. Ritesh submitted that 11 application for 14,36,300 shares applied by Agarwal family of Mumbai was mobilised through their Lead Manager, M/s. Rajashree Fiscal Services Ltd. against their underwriting commitment on devolvement and these applications were not directly received by the company.
- IV. Ritesh further submitted that they have not indulged in buy back of any shares of their company as alleged. It had given some amount as temporary loans/ICD's to their business associates on a short-term period basis pending deployment of funds in the proposed project. The investment decisions of their business associates were there own individual decisions and nothing to do with their policies.
- V. Ritesh submitted that the allegation in the SCN that *"Pratha Investments and Ritesh Capital (as persons acting in concert) have acquired 20.86% of post issue capital without making an open offer, which is in violation of Reg. 11(2) of SEBI (Substantial Acquisition of shares and Takeovers) Regulations 1997"* is not tenable since the Takeover Regulations had not come into force at that point of time. Ritesh stated that hence the above allegation is not correct.
- VI. Ritesh Submitted that the allegation that *"Directions under section 11B of SEBI Act, 1992 read with Takeover and FUTP Regulations including directions for debarring from accessing the capita market for a suitable period"* is not correct as the purchase and sale of shares was individual investment decision of individuals and have nothing to do with the said transaction.
6. An opportunity of personal hearing was given on 12.6.2003. Shri Arun Kumar Lohia, Director of Ritesh, Mr. K R Kumar representing the

promoters attended the hearing. The said persons admitted the lapses of Ritesh and the promoters and requested to forgive their lapses.

7. I have carefully considered the facts and circumstances of the case and also submissions made by the promoters and Ritesh polyester vide their letters dated 8.03.2003. I have also taken into consideration the submissions made by the representatives of Ritesh and its promoters during the personal hearing. On perusal of aforesaid submissions my findings are as under:

8. From the details provided by Ritesh Polyster, vide their letter dt.17.6.2002, I find that an amount of Rs.2,52,81,000 were collected in the public issue. However, Shri Arun Kumar Lohia, in his statement on 29th July 2002 submitted that this figure of Rs.2.52 crores was given by mistake and actually they had collected only Rs.2.16 crores which was certified by the Lead Manager also. Sh.Lohia submitted the following details regarding the subscription received :

a. Collected at Dhanalakshmi Bank Rs.2,02,85,636.

This amount was transferred to the current account No.1315 of Ritesh Polyester with Dhanalakshmi Bank.

b. Additionally the following amounts have been received and directly deposited in the current account No.1315 with Dhanalakshmi Bank :

Collected at Indian Overseas Bank	Rs.	1,81,099
Collected at Bank of Baroda	Rs	5.03,000
Collected at Allahabad Bank	Rs	5,71,207
Collected at Allahabad Bank	Rs	28,065

C. Further an amount of about Rs.5.00 lakhs received from some underwriters have been deposited at the current account of Ritesh Polyester Ltd. with State Bank of Patiala.

From the above details it is found that an amount of Rs.2.21 crores has been received as subscription in the public issue. This was for 28,90,250 shares (96.52%). Hence, I find that entire amount collected as subscription was not kept in a separate account opened for this purpose and was being deposited in other accounts also.

9. I find that as per the prospectus, dated 30.3.95, 15,00,000 shares (out of the issue size of 45,00,000 shares) were reserved for promoters, relatives and their friends on firm allotment basis. The face value of the share was Rs.10/- and the premium was Rs.5/-. As per the prospectus, the promoters contribution was Rs.2,25,00,000 and this amount should have been brought in as their part of contribution before the opening of the public issue and the Auditors certify the receipt of the same. The auditors were Gang & Company, Chartered accountants, Shri Mukesh Gang was the proprietor of the said firm who is husband of Smt. Sharmila Gang the proprietor of Pratha Investments.

10. I find that Ritesh vide letter dated 5.7.2000 submitted the details of promoters contribution, which were as under :

Name of the promoter	Cheque No.	Contribution	Date	Drawn on
Ritesh Exports Ltd.	441810	400000	8/6/95	State Bank of Patiala
	441811	450000	8/6/95	State Bank of Patiala
	441812	450000	8/6/95	State Bank of Patiala
	441813	450000	8/6/95	State Bank of Patiala
	441814	450000	8/6/95	State Bank of Patiala
	441815	450000	9/6/95	State Bank of Patiala
	441816	450000	9/6/95	State Bank of Patiala
	441817	450000	9/6/95	State Bank of Patiala
	441818	450000	9/6/95	State Bank of Patiala
	441819	450000	9/6/95	State Bank of Patiala
	441820	450000	9/6/95	State Bank of Patiala
	441821	450000	9/6/95	State Bank of Patiala
	441822	450000	9/6/95	State Bank of Patiala
	441823	50000	9/6/95	State Bank of Patiala
Sh.Surender Kumar Agarwal	508981	300000	9/6/95	State Bank of Patiala
	508984	450000	9/6/95	State Bank of Patiala

	508985	450000	9/6/95	State Bank of Patiala
	508986	390000	9/6/95	State Bank of Patiala
	508987	390000	9/6/95	State Bank of Patiala
	508988	450000	9/6/95	State Bank of Patiala
	508989	450000	9/6/95	State Bank of Patiala
	508990	300000	9/6/95	State Bank of Patiala
	508991	390000	9/6/95	State Bank of Patiala
	508992	390000	9/6/95	State Bank of Patiala
	508993	390000	9/6/95	State Bank of Patiala
	508994	390000	9/6/95	State Bank of Patiala
	508995	450000	9/6/95	State Bank of Patiala
	508982	200000	9/6/95	State Bank of Patiala
	508983	550000	9/6/95	State Bank of Patiala
Smt.Roop Rekha Agarwal	417280	2739500	9/6/95	State Bank of Mysore
Sh.Ritesh Agarwal	819066	150000	9/6/95	State Bank of Patiala
	819067	100000	9/6/95	State Bank of Patiala
	819073	450000	9/6/95	State Bank of Patiala
	819074	300000	9/6/95	State Bank of Patiala
	819075	50000	9/6/95	State Bank of Patiala
Sh.Deepak Agarwal	818144	150000	9/6/95	State Bank of Patiala
	818145	150000	9/6/95	State Bank of Patiala
	818149	700000	9/6/95	State Bank of Patiala
	818150	50000	9/6/95	State Bank of Patiala

11.I find that State Bank of Patialia, R.P.Road Branch, Secunderabad, vide their letter dated 5th September 2000 gave the details about realisation of the above mentioned cheques. The details of cheques that were returned unpaid were as below:

Name of the promoter	Cheque No.	Date	Amount
Sh.Surender Kumar Agarwal	508990	9/6/95	3,00,000
	508983	9/6/95	5,50,000
	508985	9/6/95	4,50,000
	508988-	9/6/95	9,00,000
	89	9/6/95	4,50,000
	508995	9/6/95	7,80,000
	508986-	9/6/95	15,60,000
	87		
	508991-		
	94		
Smt.Roop Rekha Agarwal	417280	9/6/95	27,39,500
Total amount unpaid			77,29,500

12. Ritesh in explanation to the above stated that 3 cheques worth Rs.71,79,500/- (brought in towards promoters contribution) were returned unpaid for certain reasons but the company received the amount of the same thereafter on different dates during 1995-96. From the details provided by Ritesh Capital, I find that cheques worth Rs.49,90,000/- issued by Sh.Surendra Agarwal towards promoters contribution had bounced. Against this an amount of Rs.44,65,000 was stated to have been brought on different dates between 14.6.95 and 26.3.96. Similarly, I find that Ms.Roop Rekha Agarwal had issued a cheque for Rs.27,39,500 towards promoters contribution, which got bounced. Against this an amount of Rs.27,67,750 was stated to have been brought in subsequently on different dates between 2.8.95 and 31.1.96.

13. While explaining contribution received from the promoters, Ritesh Polyester stated that Rs.31,50,000 were received as "investments before 1-6-95" from Ritesh Exports Ltd., Rs.18,97,500 from Sh. Surendra Kumar Aggarwal and Rs.8,23,000 from Smt.Roop Rekha Aggarwal. However, I find there is no such mention in the prospectus about these investments. It appears that these entries were put just to justify the difference between the contribution amount received as shown in the prospectus and actual cheques received from the promoters. Further I find that no cheques appeared to have been received for Rs.31,50,000 from Ritesh Exports Ltd., Rs.18,97,500 from Sh. Surendra Kumar Aggarwal and Rs.8,23,000 from Smt.Roop Rekha Aggarwal; and the same had now been shown as investments before 1.6.95. No evidence has been produced to substantiate this assertion. Therefore, I find that promoters failed to bring in contribution to the extent of Rs.58,70,500 ('shown as investments prior to 1.6.95'). This is in addition to shortfall in contribution on account of bounced cheques.

14. Further, Ritesh claimed that the following promoters contribution was shown to have been actually received by the company, one day prior to the opening of the issue (i.e. on or before 11th June 1995):

Ritesh Exports Ltd.	Rs.58.50 lakhs
Sh.Surendra Kumar Aggarwal	Rs.13.00 lakhs
Sh.Deepak Aggarwal	Rs.10.50 lakhs
Shri Ritesh Aggarwal	Rs.10.50 lakhs
Total	Rs.92.50 lakhs

It was shown that Ritesh Exports Ltd. had brought in 22,00,000 as promoter's contribution on 8/6/95 and Rs.36.50 lakhs on 9/6/95 using the overdraft facility from the bank. However, from the bank statements of Ritesh Polyester I find that, on 9/6/95, Ritesh Polyester had transferred an amount of Rs.36.50 lakhs back to Ritesh Exports Ltd. Thus, I find that Ritesh had shown that Rs.58.50 lakhs was received as promoters contribution from Ritesh Exports out of which Rs.36.50 lakhs have been transferred back to them by Ritesh Polyester. Thus, it can be said that only Rs.22.00 lakhs has been actually received by Ritesh Polyester as promoters contribution from Ritesh Exports.

15. Similarly, it was shown that two other promoters Shri Deepak Agarwal and Sh.Ritesh Aggarwal had brought in Rs.10.50 lakhs each as their promoters contribution on 9.6.95. However from the bank statements I find that Ritesh Polyester had advanced these two persons Rs.10.50 lakhs each and this amount has been routed through the account of Partha Investments. In other words, Ritesh Polyester had given an amount of Rs.22.00 lakhs to Pratha Investments, which in turn have paid Rs.10.50 lakh each to Sh.Deepak Aggarwal and Shri Ritesh Aggarwal. All these transactions took place on the same day i.e.9.6.95. Subsequently, Shri Deepak Aggarwal and Sh.Ritesh Aggarwal had given this money back to Ritesh Polyester as Promoters Contribution. Thus, it appears that these

receipt and payments are mere book entries and no funds have actually been received from Sh.Deepak Agarwal and Shri Ritesh Aggarwal as promoters contribution. Thus, I find contribution from them to the extent of Rs.21.00 lakhs was not actually received by the company and it was the company's money which they were receiving it back as promoters contribution.

16. From the above I find that only Rs.22 lakhs from Ritesh Exports and Rs.13 lakhs from Sh.Surendra Kumar Agarwal has been received as promoters contribution, one day prior to the issue, instead of Rs.2.25 crores as shown by the company. However, it was noticed that the company has allotted shares worth Rs.2.25 crores to the Promoters when it has actually received only a fraction of it (may be Rs.35 lakhs only)

17. I find that the issue opened on 12th June 1995 and the earliest closing was 16th June 1995 and the final closing was on 22nd June 1995. As per the 30 days monitoring report dated 25.7.96, submitted by the Lead Manager (Rajashree Fiscal Services Ltd.), it is seen that the level of subscription was only 7.96% i.e. the level of under subscription was 92.04% (Rs.2,09,71,500). However, as per the 60th day monitoring report dated 21.8.95, the level of undersubscription was only 3.49% (Rs.7,84,125). That means subscription to the extent of Rs.2,01,87,375/- has been received between 25.7.95 (date of 30th day monitoring report) and 21.8.95 (date of 60th day monitoring report) for 25,28,100 shares. The minimum subscription of 90% was not received as on the closing date of the issue and hence the issue got devolved. However, as the issue was underwritten, this amount of Rs.2,01,87,375 must have been brought by the underwriters.

18. I find that that 11 stock invests for Rs.1,07,72,250 were enclosed along with 11 applications sent by one Aggarwal family (comprising of

Sh.Basudev Agarwal, Rajkumar Agarwal, Pawankumar Agarwal, Savitridevi Agarwal, Naresh Kumar Agarwal, Kalpana Agarwal, Sushil Kanta Agarwal, Preeti Agarwal and Sulochana Agarwal). The total shares applied by these 11 applicants was for 14,36,300 shares. On behalf of the Agarwal family, details were collected from Sh.Pawan Kumar Agarwal and his statement was recorded under oath by SEBI. From that it was seen that Sh.Pawan Kumar Agarwal was approached by the promoter of Ritesh Polyester Ltd., Sh.Surendra Kumar Agarwal to apply in the public issue. Accordingly, the above individuals have applied to the public issue. I find that these applications were handed over directly to Sh.Surendra Kumar Aggarwal at Mumbai along with the stock invests and not deposited with any of the collecting banks. From the date of the stock invests, it is clear that these stock invests were issued between 4/8/95 and 18/8/95. Thus, these applications of the Aggarwal family was received by the company only after 4.8.95 i.e. during the devolvment period.

19. I find that Sh.Lohia (on behalf of Sh.Surendra Agarwal) stated that the public issue of Ritesh Polyester was not getting the minimum subscription even in the devolvment period. Accordingly, they had requested their Lead Manager – Rajshree Fiscal to arrange for subscriptions. In response, Rajshree Fiscal had called in about 10 financiers (including Sh.Pawan Kumar Aggarwal) at their office in Mumbai and Sh.Surendra Kumar Aggarwal had made a presentation to them about the company. Subsequently, Sh.Pawan Kumar Aggarwal and family subscribed to 14,36,300 shares during the devolvment period. As per the statement of Sh.Lohia these applications were handed over by Sh.Pawan Kumar Aggarwal to Rajshree Fiscal, who in turn deposited the stock invest in the bank.

20. I find that the devolvment period was from 23rd June to 22nd August 1995. During the devolvment period, only the underwriters can subscribe to the

issue by underwriting it. Though the underwriters can arrange for funds from any source but the application must be made only by the underwriters only. Any applications other than the underwriters must come before the closure of the issue. Hence, I find that these applications from the Agarwal family (who were not the underwriters as per the prospectus) was received directly by the company during the devolvement period. Hence these are invalid applications and should have been rejected. However, these applications were considered and were allotted the shares as applied for. Since the applications made by the Aggarwal family are invalid applications, excluding these subscription from the total subscription, it is seen that the level of under subscription works out to Rs.1,15,56,375 i.e. (Rs.7,84,125 + Rs.1,07,72,250) which works out to about 51% (approx.) That means the issue was subscribed only to the extent of about 49% (approx.).

20.1 I find that minimum subscription of 90% was not received including the devolvement of the underwriters. Hence, the issue should have been refunded, in terms of the prospectus. However, the issue was shown to have been subscribed and the shares were listed for trading. I find that the act of the company is in violation of Section 69 of Companies Act, 1956 (regarding receipt of minimum subscription). The promoters have violated the provisions of Section 63 (misstatement in the prospectus regarding refund of the issue). Moreover, by accepting these invalid applications and allotting shares, the company has created a false illusion that the issue has been subscribed to the required extent. In the process the genuine investors who had applied to the issue also got trapped.

21. I find that Sh.Pawan Kumar Agarwal, in his statement, under oath, to SEBI submitted that at the time of applying for the public issue, Sh.Surender Kumar Aggarwal told Sh.Agarwal that he will make arrangements to buy

these shares, through some body, at a higher rate. Sh.Pawan Kumar Aggarwal sold the shares, belonging to the Aggarwal family, to Ritesh Capital Ltd. and Pratha Investments through off market transactions. They were not aware as to who these two buyers are. All the shares were sold by Aggarwal family @ Rs.7.50/shares. The shares were handed over to Sh.Surendra Kumar Aggarwal along with blank transfer deeds. Sh.Surendra Kumar Aggarwal handed over the consideration for the sale transactions in the form of DD's from Ritesh Capital Ltd./Pratha Investments. as per the following details :

Name of shareholder	Quantity	Sold to	Cheque/ Draft	Date	Amount
Shri Basudev D. Agarwal	120000	Ritesh Capital Ltd.	Draft	7/9/95	900000
Shri Rajkumar B. Agarwal	133000	Pratha Investment Cons.	Draft	5/9/95	997500
Shri Pawankumar B. Agarwal	120000	Pratha Investment Cons.	Draft	7/9/95	900000
Shri Pawankumar B. Agarwal	29200	Pratha Investment Cons.	Draft	7/9/95	219000
Smt. Savitridevi B. Agarwal	246400	Pratha Investment Cons.	Draft	9/9/95	1848000
Smt. Savitridevi B. Agarwal	92200	Ritesh Capital Ltd.	Draft	9/9/95	691500
Shri Nareshkumar B. Agarwal	126400	Ritesh Capital Ltd.	Draft	5/9/95	948000
Shri Nareshkumar B. Agarwal	9800	Pratha Investment Cons	Draft	5/9/95	73500
Smt. Kalpana P. Agarwal	93300	Ritesh Capital Ltd.	Draft	5/9/95	699750
Smt. Sushilkumar N. Agarwal	133300	Pratha Investment Cons	Draft	7/9/95	999750
Ms. Preeta R. Agarwal	14100	Ritesh Capital Ltd.	Draft	6/9/95	105750
Smt. Sulochana R. Agarwal	216000	Pratha Investment Cons	Draft	9/9/95	1620000
Smt. Sulochana R. Agarwal	102600	Ritesh Capital Ltd.	Draft	9/9/95	769500

Thus, I find that Ritesh Capital had paid an amount of Rs.41,14,500 for acquiring 5,48,600 shares and Pratha Investments have paid Rs.66,57,750 for acquiring 8,87,700 shares from Pawan Kumar Agarwal and family.

22. From these bank statements of accounts of Ritesh Capital Ltd. and Pratha Investment Consultants maintained with State Bank of Patiala I find that around the dates (when payments are being made by them to Sh.Pawan Kumar Agarwal and family), funds were being transferred from the current account of Ritesh Polyster Ltd. maintained with the same bank (A/c. No.1315) and immediately on the next day, DD's have been made in favour of the members of the Aggarwal family. The relevant details are given below:

Name of the Account	Funds received from Ritesh Polyster Ltd. CA-1315		Funds utilised towards DD in favour of members of Aggarwal family		
-----	Date	Amount	Date	Ch.No.	Amount of DD
Pratha Investments	1/9/95	10,00,000	3/9/95	***642	10,01,250
		10,00,000		***643	9,98,996
		10,00,000		***644	10,23,032
	4/9/95	10,00,000	5/9/95	***645	9,01,350
		10,00,000		***646	9,01,350
				***647	2,19,328.50
Ritesh Capital	1/9/95	5,30,000	2/9/95	***139	7,00,800
	2/9/95	2,40,000			
	4/9/95	10,00,000	5/9/95	***143	1,05,909
		10,00,000		***144	18,50,772
	6/9/95	10,00,000	7/9/95	***146	6,92,537.25
		10,00,000		***147	7,70,654.25

23. On Analysis of the CA-1315 of Ritesh Polyster Ltd. I find that an amount of Rs.82,00,000 on 9/8/96 and Rs.1,13,00,000 on 31/8/96 (collected as subscription in the public issue) were transferred from the 'Public Issue Account' of Ritesh to the Current account of Ritesh maintained with State

Bank of Patiala. In explanation Ritesh, vide their letter dated 17th June 2002, submitted that these amounts have been given as a short term loan repayable on demand to Ritesh Capital Ltd. (group concern of Ritesh Polyster), Smt.Sharmila Gang and Pratha Investments and regarding the utilisation of these funds by these entities to buy back partly paid up shares, and stated that it was the individual investment decision of these entities. Ritesh Polyster had also submitted the details of the amount received back from these entities.

24. The bank statements reveal that the two entities (Pratha Investments and Ritesh Capital) have utilized these funds received as loan from Ritesh Polyster. As given above, Ritesh Capital had used Rs.41.21 lakhs (out of the loan amount of Rs.77.30 lakhs received from Ritesh Polyster) and Pratha Investments had used Rs.50.49 lakhs (out of Rs.60 lakhs advanced to them as loan by Ritesh Polyster) for purchasing the shares from Sh.Pawan Kumar Aggarwal and family.
25. Regarding repayment of loan by Pratha Investments back to Ritesh Polyster, I find that Pratha Investments received Rs.36.00 lakhs as loan from Greenfield capital Ltd. (formerly known as Ritesh Capital Ltd. and a group company of Ritesh Polyster Ltd.) and Rs.7.45 lakhs from Ritesh Exports Ltd. Further, I find that they received Rs.20 lakhs from Fourwinds Finance Ltd. towards sale of the shares of Ritesh Polyster which they have purchased from Pawan Kumar Aggarwal and family.
26. Justifying their taking loans from a company (belonging to Ritesh Polyster group) to repay the loan of Ritesh Polyster Ltd., Pratha Investments submitted that since they were not able to sell the shares of Ritesh Polyster Ltd.,(procured from Sh.Pawan Kumar Aggarwal family) fully and since they had pressure from Ritesh Polyster Ltd. to repay the loans, they had to take this loan. However, I find that this argument does not have

any merit because, it means Ritesh Polyster, in order to get back its ostensible loan (actually money given to buy shares of Ritesh Polyster) from Pratha Investments, will not lend money through its group companies (Ritesh Capital and Ritesh Exports) to that entity. The money given by Ritesh Polyster was actually for the purpose of buying back its own shares, from the financiers (Sh.Pawan Kumar Aggarwal and family), was received back. Ritesh Polyster was substituted by group companies as creditors in the books of Pratha Investments.

27.Regarding repayment of loan to Ritesh Capital and Ritesh Exports, Pratha Investments further submitted that they had handed over 2,45,900 shares of Ritesh Polyster Ltd. to Ritesh Capital (which were returned by FFL) and 2,37,700 shares to Ritesh Exports Ltd.(which were originally procured from Pawan Kumar Aggarwal and family) towards repayment of the loan taken from them. Hence, it is clear that shares received, pursuant to the buy back from the financiers, were acquired in the name of Pratha Investments/Smt. Sharmila Gang and Ritesh Capital. Part of these shares was sold through FFL for manipulative operations and when the operations failed shares were returned back to nominees of Ritesh Polyster Ltd. This was also verified from the bank statements of Ritesh Capital where no corresponding debit entry for the loan given to Pratha Investments was seen. I find that the funds which were given by Ritesh Capital to Pratha Investments actually had come from Ritesh Polyster.

28.To summarize, Ritesh Polyster collected an amount of Rs.2.21 crores by way of subscription in the public issue. Out of this, they had transferred an amount of Rs.147.30 lakhs to Ritesh Capital Ltd., Pratha Investments/Smt.Sharmila Gang, under the garb of temporary loans/ICD's, as per the following details :

Pratha Investments 60.00 lakhs

Ritesh Capital Ltd.	77.30 lakhs
Sharmila Gang	10.00 lakhs
Total	147.30 lakhs

Thus, I find that about 67% of the public issue proceeds have been disbursed as temporary loan/ICDs only to Ritesh Capital Ltd. and Pratha Investments/Smt.Sharmila Gang. Some of these ostensible loans were outstanding for about a year. In justification to the aforesaid disbursement of loans Shri Lohia submitted that since the funds were lying idle, they had deployed it by way of giving temporary loans/ICDs and charged interest @ 14-15% per annum. When investigation team asked Shri Lohia the reason for coming out with a public issue, if they did not require atleast 67% of the funds immediately, Shri Lohia submitted that they were waiting for the balance allotment money of Rs.7.5/- per share to be collected and till such time they had given these loans. I find that the argument of Sh.Lohia does not have any merit because, (a) as submitted by Sh.Lohia, the company has not taken any steps to collect the balance amount of Rs.7.50 per share (b) it is not possible that they would not be requiring atleast 67% of the funds for the next one year (term of loan given) for the purpose for which it was raised and the company (c) Shri Lohia submitted that they had charged interest @ 14-15% per annum from Pratha Investments while Pratha Investments had submitted that no interest was charged from them by Ritesh Polyester Ltd. for these loans.

29. Therefore, I find that since the company cannot buy back its own shares, they had routed the funds through these entities and the amounts were given to these entities only to buy back the shares from Sh.Pawan Kumar Aggarwal and family (who had lent money disguised as subscription to bail out the issue). These shares were purchased by the company from the public issue proceeds, in the name of Ritesh Capital/Pratha Investments by transferring funds in circuitous route. Subsequently by way of book adjustments (showing as repayment of loan by way of shares), these

shares had gone back to Ritesh Capital and Ritesh Exports Ltd. From the above it is clear that the company has circumvented the provisions of Section 77 of Companies Act, 1956.

30. Further I find that by using the public issue proceeds to fund purchase of shares back from the Pawan Kumar Aggarwal family in the name of Ritesh Capital Ltd. and Pratha Investments, the Promoters have misutilised the funds, raised through the public issue, and used it for purposes other than for what it has been raised. This amounts to misstatement in the prospectus which is in violation of Section 63 of Companies Act, 1956.

31. Thus, it is clear that that the Promoters of Ritesh Polyster Ltd., in collusion with the Aggarwal family, had arranged for finance (in the garb of subscriptions) for bailing out the public issue. In the process the promoters of Ritesh Polyster had created an illusion that the issue has been subscribed to the required extent, during the devolvment period. Otherwise, in terms of the prospectus, the issue would have been refunded. As brought out clearly, in the foregoing paras, that the minimum subscription has not been received (after excluding the applications of the Aggarwal family) even after the devolvment period, instead of refunding the issue, it was shown that the minimum subscription of 90% has been received and allotments were made and the shares were listed. Subsequently, the shares, allotted to Sh.Pawan Kumar Aggarwal and family, were purchased back, by the Promoters of Ritesh Polyster, in off market transactions, in the name of Pratha Investments/Smt.Sharmila Gang and Ritesh Capital Ltd. Ritesh Polyster provided the funds collected from the public issue to Pratha Investments and Ritesh Capital for this purpose. Thus it is seen that Pratha Investments and Ritesh Capital had aided and abetted the promoters in this attempt.

32. As already stated Shri Pawan Kumar Aggarwal had bailed out the issue by applying for 14,36,300 shares in the public issue. Once the requirement of minimum subscription of 90% was met and the shares were listed on the stock exchange, Ritesh Polyster purchased these shares back from them – in the name of Pratha Investments/Sharmila Gang and Ritesh Capital Ltd. Ritesh Polyster utilised the public issue proceeds for purchase of these shares from Pawan Kumar Agarwal and family. I find that Shri Surendra Kumar Aggarwal wanted to sell these shares (purchased from the financiers) in the market. As there was not enough liquidity in the market, he sought the assistance of Shri Anil Aggarwal who then introduced Shri R.K.Goyal/FFL. An understanding was reached between Sh. Surendra Agarwal, Shri Anil Agarwal, Sh. R.K. Goyal & FFL. As per the agreement, Shri Surendra Kumar Aggarwal gave 3,00,000 shares belonging to Ritesh Capital Ltd., 3,06,000 shares belonging to Shri Ritesh Aggarwal and 6,50,000 shares belonging to Pratha Investments/Sharmila Gang to FFL @ Rs.9/- share. FFL gave these entities cheque for the entire value of the shares and it was agreed that these cheques will not be encashed and as and when the shares are offloaded, FFL will make payments to Pratha Investments, Ritesh Capital and Sh. Ritesh Aggarwal who will then return these cheques given initially at the time of handing over the shares. Shri Goyal was to manipulate the market and offload these shares at higher rates. These manipulative profits were to be shared.

33. I find that in all 12,56,000 shares were given by Sh. Surendra Aggarwal to FFL. Out of these, FFL managed to offload only 2,22,000 shares due to lack of liquidity. Out of the balance 10,34,000 share, FFL gave 5,29,200 shares back to Shri Surendra Kumar Aggarwal. FFL could not account for the balance 5,04,800 shares. It was seen that, though FFL had informed 5,04,800 shares as lost to Pratha Investments, Ritesh Capital and Ritesh Aggarwal, it was found that FFL had actually sold, atleast part of these

shares, through Vishal Enterprises. This is evident from the distinctive numbers given in the delivery statement of FFL. In all FFL made a payment of Rs.22,00,000 to Pratha Investments and Rs.10,50,000 to Ritesh Capital. The cheques given by FFL initially at the time of handing over the shares also got bounced. Hence, Pratha Investments, Ritesh Capital and Sh.Ritesh Aggarwal filed a criminal complaint against FFL. It appears from the contradictory statements of various players that dispute arose between FFL and Surendra Aggarwal on account of sharing the proceeds of shares sold in the market at manipulated prices. Part of the shares were sold by FFL out of 5,04,800 shares. It was seen that some of the shares were lodged for transfer, by the purchasers, with the company. Initially the company refused to transfer these shares since these were reported as lost by Pratha Investments, Ritesh Capital & Ritesh Aggarwal. However, pursuant to the Hon.High Court's Order, the company has transferred 2,36,000 shares.

34.Further, I find that Pratha Investments, Ritesh Capital and Sh.Ritesh Aggarwal approached the company for issue of duplicate shares. The company responded with an advertisement in the newspaper and notice to the stock exchange. Stock exchange came to know from its members that some of the shares reported as lost have already been delivered in the market. Accordingly, BSE suspended the scrip with the approval of SEBI.

35.Thus, I find that with the help of FFL and its Directors – Shri Mishra and R.A.Sharma the promoters of Ritesh Polyester (along with Smt.,Sharmila Gang/Pratha Investments, Shri Ritesh Agarwal and Ritesh Capital Ltd) had attempted to manipulate the price and volume of this scrip. The involvement of promoters is clear from the fact that Surendra Aggarwal approached FFL for off loading shares in the market. Part of the shares sold by FFL were in the name of promoter entities. The other shares sold by FFL were those shares which were acquired from the financiers by

utilising the proceeds of the public issue. This is in violation of Regulation 4(a), (b) (c) & (d) of SEBI (FUTP) Regulations, 1995.

36.I find that as on 21/6/02, the promoters of Ritesh Polyester are having control of the following shares ;

Promoter's, friends and relatives	38,06,400 shares	55.24 %
Acquired from Sh.Pawan Kr. Aggarwal and family and still in the original share holders name.	8,15,600 shares	11.94 %

Thus, the promoters were in control of 46,22,000 shares (67.18%). The balance shares with other shares holders (including the underwriters) constitute about 32.82%. As stated by Sh.Lohia, Ritesh Polyester did not take any steps to collect the balance allotment money of Rs.7.50/share. Sh.Lohia stated barring a few under writers and NRI's, only Rs.7.50 was collected from the share holders. That means that majority of 32.82% shares which are with other shares holders are only partly paid up (Rs.7.50 per share).

37.in view of the findings the following violations emerge :

- 1) The entire amount collected as subscription was not kept in a separate account (public issue account) opened for this purpose and was being deposited in other account of other banks also.
- 2) Ritesh Polyester received only Rs.35 lakhs as Promoters contribution instead of Rs.2.25 crores. However, they have fraudulently allotted shares worth Rs.2.25 crores to the promoters and hence cheated the other genuine investors/under writers.
- 3) Ritesh purchased the shares back from the financiers who had bailed out the issue (under the garb of subscription) using the public issue proceeds. This is in violation of Section 77 of Companies Act, 1956.

Thus, the public issue proceeds have not been utilized for the purpose it has been raised. Hence, there has been misstatement in the prospectus to this effect.

4) The issue did not receive the minimum subscription of 90% even after the devolvment period. Hence, the issue should have been refunded which was not done. Thus, there has been a misstatement in the prospectus, to this effect.

38. I have also considered submissions of the Promoters of Ritesh and Ritesh itself vide their letters dated 08.03.2003. There was no proper explanation from the promoters against the detailed charges brought out against them in the show cause notice. Further, the submissions of Ritesh Polyster are evasive and brief. I have also taken note that the representatives of the promoters and Ritesh have admitted their lapses during the course of personal hearing on 12.06.2003. Regarding the allegation that the subscription amount was not kept in separate bank account and was deposited in other bank accounts also, Ritesh submitted that the money collected toward public subscription was actually deposited into Dhanalakshmi Bank & other Banks only as stated in the Prospectus. The money received from few underwriters after serving them several reminders for the underwriting commitments was however, deposited in the State Bank of Patiala after the consent of their Lead Manager M/s. Rajashree Fiscal Services Ltd. There was no intention to illegally mobilize funds for the purpose other than those mentioned in the prospectus. Therefore, I find that substantial part of monies received during devolvment period was kept in other bank accounts other than those mentioned in the prospectus. The company's reasoning that the monies were kept with the consent of their Lead Manager M/s. Rajashree Fiscal Services Ltd. cannot be accepted.

39. Ritesh submissions that they have not indulged in buy back of any shares of their company as alleged. It had given some amount as temporary loans/ICD's to their business associates on a short-term period basis pending deployment of funds in the proposed project. The investment decisions of their business associates were their own individual decisions and nothing to do with their policies cannot be accepted in light of my findings at paras 23 to 30.
40. Therefore, in the interest of the investors and safety and security of the capital market, in exercise of powers conferred on me under Section 4(3) read with Section 11 and 11B of SEBI Act and Regulation 11 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 1995 I, hereby, direct M/s Ritesh Polyester Limited and its promoters viz. Ritesh Exports Ltd., Sh. Surendra Kumar Agarwal, Smt. Roop Rekha Agarwal, Sh. Ritesh Agarwal and Sh. Deepak Agarwal to disassociate themselves in every respect from the capital market related activities and not to access the capital market for a period of ten years.
41. Further, in light of the facts and circumstances of the case, it is already made out that the public issue by the promoters was a hoax with an intention to perpetrate fraud on investors. Therefore, I am of the view that it would be appropriate to pass a direction under section 11B of the SEBI Act as a remedial measure. I hereby direct the above named promoters of Ritesh Polyester Ltd. to buy back the shares from the allottees/shareholders offering an amount at which the shares were issued i.e. Rs 15/- per share if the shares are fully paid or @ Rs. 7.50 per share if the shares are partly paid and delist Ritesh Polyester Ltd. from the stock exchanges.

G.N.BAJPAI

Date: 9th Feb., 2004

**CHAIRMAN Place: MUMBAI
BOARD OF INDIA**

SECURITIES AND EXCHANGE