

SECURITIES AND EXCHANGE BOARD OF INDIA

DIRECTION UNDER SECTION 11B READ WITH SECTION 11 OF SECURITIES AND EXCHANGE BOARD OF INDIA, ACT, 1992 READ WITH REGULATION 11 AND 13 OF SEBI (PROHIBITION OF FRAUDULANT AND UNFAIR TRADE PRACTICES RELATING TO SECURITIES MARKET) REGULATIONS, 2003 AGAINST SHRI SHASHIKANT G BADANI IN THE MATTER OF CYBERSPACE LTD

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as SEBI) conducted investigation into the dealings in the shares of Cyberspace Ltd (formerly known as Cyberspace Infosys Ltd) for alleged market manipulation.
2. During the course of Investigation, it was noticed that Century Consultants Ltd (hereinafter referred to as CCL) had committed irregularities in the trading of the shares of the Cyberspace Ltd. It was also observed that one of the group companies of Cyberspace Ltd is CCL which is a member of NSE, BSE and OTCEI. As per the Annual report for the year 1999-2000, Cyberspace Ltd was holding 55% of the equity shares of CCL and CCL was holding 21% of the total equity paid up capital of Cyberspace Ltd. Shri G.N Johari, Shri A.K Johari and Shri A.M Johari were common directors of Cyberspace Ltd and CCL.
3. As per statements of the employees of CCL recorded during the course of investigation, the directors of Cyberspace Ltd intended to create artificial volumes in the scrip of Cyberspace Ltd and used their broking entity CCL for this purpose. The modus operandi adopted by Shri Arvind Johari, the promoter, was to use the employees or clients or sub brokers of CCL to act as front entities. Shri Arvind Johari used to take their signatures in various blank documents like cheque books, depository instruction slips, account opening forms, client introduction forms etc and then used to do the transactions on their behalf or on behalf of the shell companies formed in their names.

4. BSE's investigation report also identified a list of 26 entities as 'related parties' acting in concert with the promoters of Cyberspace Ltd. The names of Shri Shashikant G. Badani and his wife Mrs Manjula S. Badani are found included in the list of 26 entities. It was also observed that the purchases of Shri Shashikant G. Badani have been 0.92% of the market volume (0.54% in the name of Shri Shashikant G. Badani and 0.38% on behalf of his wife) and the sales of Shri Shashikant G. Badani have been 2.78% (1.0% in the name of Shri Shashikant G. Badani and 1.78% on behalf of his wife) of the market volume in the said scrip during the period of the investigation i.e. October 2000 to March 2001.

SHOW CAUSE NOTICE, HEARING AND REPLY

5. Pursuant to the investigation, a show cause notice dated 23.7.02 was issued to Shri Shashikant G Badani asking him to show cause as to why a suitable direction under Section 11 read with Section 11B of SEBI Act including a direction prohibiting him from dealing in securities for a particular period, should not be issued. It was also mentioned that if he failed to submit any reply within the stipulated period of 21 days then, it would be presumed that he had nothing to say in the matter and SEBI would be free to take such action as deemed fit in the matter. Shri Shashikant G Badani vide his letter dated 20.8.2002 requested SEBI for additional time for filing his reply. SEBI vide its letter dated 29.8.02 acceded to the request of Shri Shashikant G Badani and advised him to submit his reply by 10.9.02 failing which, it would be presumed that he had nothing to say in the matter and SEBI would be free to take such action as deemed fit.
6. Thereafter, in the interest of natural justice, SEBI vide its letter dated 8.9.03 granted an opportunity of hearing to Shri Shashikant G Badani before me on 18.9.2003. However, the said date of hearing was rescheduled for 23.10.03 at the request of Shri Shashikant G. Badani .

The hearing was further rescheduled for 10.11.03 and ultimately to 20.11.03, despite this, Shri Shashikant G Badani failed to appear for the hearing. He submitted a reply vide his letter dated 29.9.03 to the said show cause notice dated 23.7.2002. I am convinced that ample opportunity has been given to Shri Shashikant Badani to make submissions. Therefore, I proceed further based on the material available on record.

FINDINGS

- 7 Shri Shashikant G Badani vide his reply dated 29.9.03 inter alia, contended that, during the period from March 2000 to 2001, he had traded in the shares of 103 companies, of which Cyberspace Infosys Ltd was one of them and his total turnover in the Capital Market was Rs. 103,74,99,921/-. Mrs M.S Badani also traded in the shares of 90 companies and her total turnover was Rs. 39,32,30,560/- for the financial year 2000-2001 and their total turnover put together was Rs. 143,07,30,481/-. Shri Shashikant G. Badani also submitted that the total market volume for the trades executed in the said scrip for the period from 23.10.00 to 14.3.2001 aggregated to Rs. 612,69,20,338 and the total trading done / carried out by him in the said scrip during the said period was Rs. 207,26,7,624 i.e only 3.38% of the total market volume. Shri Shashikant G Badani also denied that he knew that Ajay Gupta was from Century Consultants Ltd.
8. It is noted that, Shri Shashikant G Badani, in his written statement to the investigating authority, stated that he was contacted by Shri Ajay Gupta from CCL who informed him about the buying opportunities in the scrip of Cyberspace Ltd. Thereafter, Shri Shashikant G Badani used to buy through CCL and sell in the market on the subsequent trading day at a higher price. It is noted that this method of trading continued for several

days. While dealing in the scrip of Cyberspace Ltd, Shri Ajay Gupta had assured Shri Shashikant G Badani of a higher selling price and therefore Shri Shashikant G Badani used to buy through him which indicates that Shri Shashikant G Badani had acted in concert with the promoters of CCL who were interested in creating an artificial market in the scrip which leads to the conclusion that Shri Shashikant G Badani had aided and abetted the market manipulation in the scrip of Cyberspace Ltd by its promoters.

9. I have also examined the findings of the investigation vis-à-vis the trading details of Shri Shashikant G Badani. I have carefully examined the submissions of Shri Shashikant G. Badani. I note that, during the course of investigation, it was found that Shri Shashikant G. Badani had done transactions in the scrip of Cyberspace Ltd in extremely large quantities. Moreover, Shri Shashikant G Badani had constantly bought and sold shares on a daily basis without holding on to the same, which indicates that the dealings of Shri Shashikant G Badani in the scrip were not in the nature of investment. Shri Shashikant G Badani, apart from trading in his own name, also traded in the name of his wife Mrs Manjula S. Badani. The sale orders of Shri Shashikant G Badani comprised 0.23% to 46.48% of the daily volume in the said scrip and that of his wife Mrs Manjula S. Badani comprised 7.97% to 37.88% of the daily volume in the scrip. The purchase transactions of his wife Mrs Manjula S. Badani also comprised 0.55% to 24.22% of the daily volume in the said scrip. The sale transactions of Shri Shashikant G Badani had contributed more than 10% of the daily volume in the scrip on 11 out of the 13 trading days. Similarly, on behalf of his wife, the purchases have been more than 10% of the daily volume on 16 out of the 36 days of his trading on the exchange and the sales have crossed the 10% market volume on 14 out of 15 days on which the trading was done on the

exchange. The details of the trading of Shri Shashikant G. Badani and his wife are mentioned as under.

PURCHASES OF SHRI SHASHIKANT G. BADANI IN THE SCRIP OF CYBERSPACE LTD

Date	Exchange	Qty Purchased	Volume	Qty traded as % of volume
31.10.00	NSE	57300	140370	40.82
01.11.00	NSE	16000		
29.11.00	BSE	2304	178594	1.29
30.11.00	BSE	45005	314127	14.33
01.12.00	BSE	22691	287766	7.89
04.12.00	BSE	17200	209918	8.19
05.12.00	BSE	110900	436457	25.41
03.01.01	BSE	17700	248114	7.13
08.01.01	BSE	14000	270462	5.18
11.01.01	BSE	3000	308854	0.97
10.01.01	NSE	48550	272071	17.84
11.01.01	NSE	40000	302454	13.23
28.02.01	BSE	1000	324030	0.31
02.03.01	BSE	74700	334986	22.30
05.03.01	BSE	132852	365011	36.40
07.03.01	NSE	41000	430800	9.52
	TOTAL	644202	4424014	14.56

SALES OF SHRI SHASHIKANT G. BADANI IN THE SCRIP OF CYBERSPACE LTD

Date	Exchange	Qty Sold	Volume	Qty traded as % of volume
17.11.00	BSE	37800	107570	35.14
30.11.00	BSE	35500	314127	11.30
08.12.00	NSE	70000	150605	46.48
11.12.00	NSE	76400	214139	35.68
12.12.00	NSE	51700	182291	28.36
11.01.01	BSE	34000	308854	11.01
12.01.01	BSE	700	181317	0.39
15.01.01	BSE	61800	195103	31.68
16.01.01	BSE	26750	189842	14.09
02.02.01	BSE	74700	334986	22.30
05.03.01	BSE	852	365011	0.23
07.03.01	NSE	78000	430800	18.11
07.03.01	BSE	96000	477449	20.11
	TOTAL	644202	3452094	18.66

Purchases of Smt. Manjula S. Badani in the scrip of Cyberspace Ltd

Date	Exchange	Qty Purchased	Volume	Qty traded as % of Volume
17.10.00	BSE	35000	238460	14.68
18.10.00	BSE	35000	179365	19.51
31.10.00	BSE	43480	260354	16.70
01.11.00	BSE	35100	261925	13.40

02.11.00	BSE	40900	211691	19.32
09.11.00	BSE	34208	141222	24.22
10.11.00	BSE	5792	57180	10.13
13.11.00	BSE	34500	264714	13.03
20.11.00	BSE	65000	424061	15.33
23.11.00	BSE	6500	456856	1.42
15.01.01	NSE	31000	238189	13.01
16.01.01	NSE	2875	205815	1.40
18.01.01	NSE	31425	194090	16.19
08.01.01	BSE	11300	270462	4.18
18.01.01	NSE	10000	194090	5.15
19.01.01	BSE	8700	131306	6.63
19.01.01	NSE	17154	144251	11.89
22.01.01	BSE	7300	192714	3.79
22.01.01	NSE	13500	270478	4.99
23.01.01	BSE	7500	178702	4.20
23.01.01	NSE	16000	213810	7.48
24.01.01	BSE	40000	223755	17.88
25.01.01	NSE	19315	184652	10.46
25.01.01	BSE	5150	165125	3.12
29.01.01	NSE	1109	199878	0.55
29.01.01	BSE	6700	192730	3.48
30.01.01	NSE	13500	198215	6.81
30.01.01	BSE	5650	115874	4.88
31.01.01	BSE	3000	179800	1.67
01.02.01	BSE	52000	240140	21.65
08.02.01	BSE	13400	219659	6.10
19.02.01	BSE	21000	307646	6.83
20.02.01	BSE	4600	224818	2.05
21.02.01	NSE	26240	223760	11.73

22.02.01	NSE	12060	270905	4.45
26.02.01	NSE	28000	327773	8.54
	TOTAL	743958	8004465	9.29

SALES OF SMT MANJULA S. BADANI IN THE SCRIP OF CYBERSPACE LTD

Date	Exchange	Qty sold	Volume	Qty traded as % of Volume
20.10.00	BSE	35000	188926	18.53
23.10.00	BSE	35000	439234	7.97
02.11.00	BSE	43480	211691	20.54
07.11.00	BSE	74100	219076	33.82
13.11.00	BSE	76400	264714	28.86
27.11.00	BSE	71500	442208	16.17
18.01.01	BSE	31000	261510	11.85
23.01.01	BSE	27300	178702	15.28
24.01.01	BSE	60300	223755	26.95
01.02.01	NSE	50000	209135	23.91
01.02.01	BSE	54578	240140	22.73
02.02.01	BSE	80000	211201	37.88
21.2.01	BSE	39000	213250	18.29
23.2.01	BSE	38300	238955	16.03
26.02.01	BSE	28000	272115	10.29
	TOTAL	743958	3814612	19.50

10. It is noted from the above trading details that Shri Shashikant G Badani had purchased 13,88,160 shares and sold 13,88,160 shares within a time span of 52 trading days. All the purchases of Shri Shashikant G. Badani had been through CCL as a client. But all the sale transactions of Shri Shashikant G. Badani had been through other brokers of BSE and NSE. Moreover, Shri Shashikant G Badani had got the payment before the payout date for the sale

transactions done by him through the BSE broker viz. M/s ACK Capital Management Pvt Ltd. The contention of Shri Shashikant Badani that he had traded in the shares of 103 companies during the investigation period is not convincing inasmuch as his role in the manipulation of the price of the said scrip is highly detrimental to the integrity of the market. The submission of Shri Shashikant G. Badani that his total market volume for the trades executed in the said scrip for the period from 23.10.00 to 14.3.2001 aggregated to Rs. 612,69,20,338 is not tenable inasmuch as the total market volume, as confirmed by BSE vide its letter dated 09.02.04 and NSE vide its letter dated 11.2.04, was Rs. 654,33,60,668 and the trading done / carried out by him in the said scrip during the said period was Rs. 20,72,67,624 i.e 3.17% as against his contention of 3.38% of the total market volume. I find that Shri Shashikant G Badani 's unusual high contribution to the daily market volume and the circuitous manner of trades indicate that Shri Shashikant G Badani had acted in concert with Shri Arvind Johari in creating a false impression of trading and also an artificial market in the scrip.

11. It is observed that Shri Shashikant G Badani, in his written statement, admitted that he was sharing 10% of the profit with Shri Ajay Gupta who had advised him to trade in the scrip of Cyberspace Ltd and Shri Ajay Gupta used to buy on behalf of Shri Shashikant G Badani through CCL. Shri Shashikant G Badani also stated that Shri Ajay Gupta had convinced him of the opportunity of profit from trading in this fashion and had told Shri Shashikant G Badani about the company viz. Cyberspace Ltd. I am convinced that based on the facts and circumstances of the case, Shri Shashikant G Badani knew that the promoters of Cyberspace Ltd were the same as those of CCL i.e both the companies belonged to Shri Arvind Johari. I am also convinced that Shri Shashikant G Badani was fully aware of the market manipulation and price rigging being done by Shri Arvind Johari of CCL and Shri Shashikant Badani was knowingly and actively helping him in the market manipulation of the scrip of Cyberspace Ltd.

12. In view of the above, I do not find merit in the contentions of Shri Shashikant G. Badani in this regard. I conclude that Shri Shashikant G Badani had acted in a manner so as to create an artificial market and disturb the market equilibrium in the scrip of Cyberspace Ltd which is detrimental to the stability of the securities market. I also conclude that Shri Shashikant G Badani aided and abetted the promoters of CCL and Cyberspace Ltd in the market manipulation of the scrip of Cyberspace Ltd. Therefore, I find that Shri Shashikant G Badani is guilty of violating the provisions of Regulation 4(a), (b) and (c) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 which reads as under :

“4. No person shall –

(a) effect, take part in, or enter into, either directly or indirectly, transactions in securities, with the intention of artificially raising or depressing the prices of securities and thereby inducing the sale or purchase of securities by any person ;

(b) indulge in any act, which is calculated to create a false or misleading appearance of trading on the securities market.

(c) indulge in any act, which results in reflection of prices of securities based on transactions that are not genuine trade transactions”

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13. I note that Regulation 13 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 reads as under :-

“Repeal and savings

13. (1)The Securities and Exchange Board of India ((Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 is hereby repealed.

- i. Notwithstanding repeal of the Securities and Exchange Board of India ((Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995, any violation of regulations 3, 4, 5 and 6 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 shall be investigated and proceeded against in accordance with the procedure laid down in these regulations.
- ii. Notwithstanding repeal of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995, any investigation pending, at the commencement of these regulations shall be continued and disposed of in accordance with the procedure laid down in these regulations.”

14. I find that Shri Shashikant G. Badani is responsible for creating false and misleading appearance of trading and artificial price rise in the scrip of Cyberspace Ltd. Innocent investors would be induced to trade by such false appearance of trading in the securities market, unless these unscrupulous activities are prevented / contained in the securities market. In view of my findings mentioned hereinabove, I find that it is a fit case for issue of directions against Shri Shashikant G. Badani whose conduct is detrimental to the interest of investors and the securities market.

15. Therefore, in exercise of the powers conferred upon me by virtue of Section 19 read with Sections 11 and 11B of the Securities and Exchange Board of India Act, 1992 read with Regulations 11 and 13 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market)

Regulations, 2003, I hereby direct that Shri Shashikant G. Badani be restrained from associating with any corporate body in accessing the securities market and prohibited from buying, selling or dealing in securities, directly or indirectly, for a period of one year. This direction shall come into force with immediate effect.

A.K BATRA

MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA

DATE: 26th February, 2004

PLACE: MUMBAI