

SECURITIES AND EXCHANGE BOARD OF INDIA

DIRECTION UNDER SECTION 11B READ WITH SECTION 11 (4) (b) OF SECURITIES AND EXCHANGE BOARD OF INDIA, ACT, 1992 READ WITH REGULATION 11 AND 12 OF SEBI (PROHIBITION OF FRAUDULANT AND UNFAIR TRADE PRACTICES RELATING TO SECURITIES MARKET) REGULATIONS, 2003 AGAINST MS. MONICA PATEL IN THE MATTER OF M/S. MAGIC TRADING AND AGENCIES LTD.

BACKGROUND

1. M/s Magic Trading and Agencies Ltd (hereinafter referred to as MTAL) which is listed and traded only on The Stock Exchange, Mumbai (hereinafter referred to as BSE) was incorporated as a Public Limited Company in the year 1981. The main objects of the company as per its Memorandum of Association is to carry on trade, occupation or business as general merchants, concessionaires, exporters, importers etc.,
2. As per the distribution schedules submitted to BSE, the issued capital of the company as on September 30, 1999 was found to be Rs.50,00,000/- divided into 5,00,000 shares of Rs.10/- each. As of 30.09.99, Ms. Monica Patel along with her family members, was holding 1,34,350 shares, which works to around 26.9% of the entire share capital of the company.
3. On the basis of the profit & loss account of MTAL for the year ended March 31, 2000, it was observed that around 80.0% of the total income i.e. Rs.5.46 lakhs came from interest and profit on the sale of investments. By virtue of the same, it appears that the company is mainly an investment company rather than a trading company.
4. Until February 2000, the scrip of the company was not actively traded and was very illiquid. During the years 1998 and 1999, only three trades took place for a total volume of 900 shares.
5. On 17th February, 2000, the first trade was noticed at a price of Rs.28.25 after a gap of nearly 11 months with volumes of about 4,500 shares. The price of the scrip slowly fell down from Rs.28.25 in February 2000 to reach Rs.9/- by the end of August, 2000. Further the scrip never witnessed an upward movement during the period February 2000 to August 2000. The total trading volume noticed during the period 17.02.00 to 05.11.00, was to the extent of 36,650 shares.
6. The Registrar of Companies, (hereinafter referred to as RoC) Chennai in the second week of December, 2000 received several anonymous complaints. Among other things, the complainants alleged that MTAL which was taken over by M/s. QPRO IT Services Pvt. Ltd. (hereinafter referred to as QPRO) was planning to go for a private placement of shares to the tune of Rs.10 crores and that the management of QPRO comprising Mr. Madhusudan Khemka and Ms. Geeta Sundaresh were involved in many criminal cases, FERA violations etc. It was also alleged that the promoters who were trying to create a big market for the shares and off load their shares in the market, had indulged in insider trading by reducing the price and thereby cheating the innocent public. Hence, the ROC, Chennai forwarded these complaints to the southern regional office of the Securities and Exchange Board of India (hereinafter referred to as the SEBI), which in turn forwarded the same to the Head office of SEBI, at Mumbai for further action.
7. Based on the request of SEBI to look into the allegations raised by the complainants, BSE carried out a preliminary investigation and thereafter informed SEBI that MTAL had initiated amalgamation proceedings with another unlisted company namely QPRO under section 395 of the Companies Act, 1956 and had applied for listing of equity shares issued on amalgamation. It was stated that the said scheme of amalgamation did not involve the court procedures and pursuant to the scheme, MTAL had allotted 50,00,000 equity shares of Rs.10/- each to the share holders of QPRO in the ratio of 1:1 with a share holders base of around 269. The Listing Committee, BSE came to the conclusion that the ratio of allotment of shares was not correct and that it was arrived at by hammering the share price on the exchange and therefore the listing application in respect of the additional shares was sought to be rejected.
8. It was further stated that after the investigation carried out by BSE for the time period February, 2000 to November, 2000, it appeared that the price manipulation in the scrip had taken place before convening the Extra-ordinary General Body Meeting of MTAL to obtain the approval for the amalgamation scheme and exchange ratio of shares from the shareholders and that persons relating to the company circle had acted in concert and manipulated the price of the scrip.
9. In view of the same, SEBI undertook preliminary investigations in respect of the case during the month of April, 2001 and collected necessary information from the trading members who traded actively during the above period. After analysis of the information so collected, the Chairman, SEBI, in exercise of his powers under section 4(3) of the SEBI Act, 1992 (hereinafter referred to as the Act) vide an order dated 15th November, 2001, ordered a formal investigation into the affairs relating to the buying, selling or dealing in the shares of MTAL and thereafter submit the report to the Board.
10. Accordingly during the investigation process, the persons connected with the trading in the scrip, including the brokers who had traded in the scrip were questioned by the investigating officer. Upon the conclusion of the said proceedings and after recording the submissions made by all the concerned persons, the investigating officer submitted his report by taking into consideration, the said submissions as well as the facts and the circumstances of the case and the material available on record.
11. In the report, it was inter alia noted that while the trading in the scrip became active from February 17, 2000 onwards, after a period of nearly one year, during the said period two brokers of BSE had primarily contributed towards the exchange volumes i.e. about 96.0% of the total volumes in the scrip. These brokers were JRM Share and Stock Brokers Pvt. Ltd and MJP Share and Stock Brokers Ltd (hereinafter referred to as JRM and MJP respectively) The report further noted that on the basis of the evidence gathered during the investigation, not only were JRM and MJP

found to be acting in concert with each other, but the management of these two broking entities were also related to the erstwhile management of MTAL. These two entities were found to have managed between themselves, four clients namely Ms. Monica Patel, Mr. Dinesh Shah, Mrs. Usha Shah and Mr. Sushil Motishaw who besides being inter related, actively traded in MTAL scrip. These entities were matching orders amongst themselves within seconds.

SHOW CAUSE NOTICE AND HEARING

12. Pursuant to the investigation, a show cause notice dated 22.09.03 was issued to Ms. Monica Patel asking her to show cause as to why a suitable direction under Section 11B read with Section 11 (4) (b) of SEBI Act including a direction prohibiting her from dealing in securities for a particular period, should not be issued. It was also mentioned that if she failed to submit any reply within the stipulated period of 21 days then, it would be presumed that she had nothing to say in the matter and SEBI would be free to take such action as deemed fit in the matter. Ms. Monica Patel vide her letter dated 15.10.03 requested SEBI for additional time for filing her reply. SEBI vide its letter dated 13.11.03 acceded to the request of Ms. Monica Patel and advised her to submit her reply latest by 17.11.03.
13. Ms. Monica Patel submitted a reply vide her letter dated 19.11.03 to the said show cause notice dated 22.09.03. An opportunity of being heard was given to Ms. Monica Patel on 13.01.04, on which date she appeared before me and made her submissions. I proceed further taking into consideration the written and the oral presentations made before me.

ISSUES FOR CONSIDERATION AND FINDINGS

14. I came to understand that most of the trades executed in the scrips of MTAL resulted in deliveries and Ms. Monica Patel, a major shareholder in the erstwhile management of the company (as on 30.09.99, as per the Distribution Schedule submitted to the BSE, Ms. Monica Patel and her family members were holding 1,34,350 shares which works out to around 26.9% of the entire share capital and she was holding 1,14,250 shares of the company as on February 01, 2000), was the main person who had delivered these shares in the market.
15. The trading pattern suggested that the shares sold by Ms. Monica Patel were once again bought out, either by persons associated with her and/or the entities in which she was interested. It was further noted that the shares delivered in the market by Ms. Monica Patel were constantly circulated in the market and along with other clients (Mr. Dinesh Shah, Mrs. Usha Shah and Mr. Sushil Motishaw), she indulged in rampant circular trading in the scrip in such a way that she was selling the shares and placing the transactions consistently at the lower end of the circuit filter, which later on hammered the share price down.
16. Ms. Monica Patel's contribution towards the volumes at the Exchange has been substantial. Of the total volume of 36,650 shares traded during the period 17.02.00 to 05.11.00, Ms. Monica Patel had sold 21,300 shares as follows:

Name of TM	Purchases	Sales	Gross	Net
MJP Shares & tock Brokers	NIL	6,100	6,100	6,100
JRM Share & Stock Brokers	NIL	15,200	15,200	15,200

1. Most of the sales made by her took place at a price less than the last traded price. These shares offloaded in the market were circulated among a select few.
2. The replies given by Ms. Monica Patel in writing and during the personal hearing regarding the above were:
 - a. Trading done in the scrip of MTAL was in the ordinary course of trading in scrips and no manipulation in the price or distortion of market equilibrium was intended. Also, the decision regarding the sale of the scrip was independent without prior information.
 - b. Sale of scrips at a price relatively lower than the previous one was due to market expectations and the prevailing market conditions.
 - c. Having resigned from the Board of MTAL in the year 1992, Ms. Monica Patel had no association with the management thereafter and thereby the question of having any information on the proposed merger does not arise.
 - d. Charges of indulgence in circular trading in the scrip of MTAL have been denied.
1. Further Mr. Sourabh Shah, authorized representative of Ms. Monica Patel has submitted the following before the investigating officer:
 - a. Ms. Monica Patel was holding 1,14,250 shares of MTAL as on February 01, 2000 and she sold the scrip as a part of investment portfolio management efforts.
 - b. Though MJP and JRM were Ms. Monica Patel's family concerns, the trading in the scrip of MTAL, through these broking firms was in the ordinary course of trading and that Ms. Monica Patel had no intention to distort the market equilibrium.
 - c. As regards the contribution made by Ms. Monica Patel in her individual capacity towards the sale of shares at the stock exchange, it was submitted that she resorted to sell the shares of MTAL since she

was holding a huge stock of its shares and that she did not have any prior information in relation to the merger of the company with QPRO because she had resigned from the board of MTAL in the year 1992 and not associated with its management consequently.

1. Taking into account Ms. Monica Patel's relationship with MTAL as described earlier and with the managements of both MJP (her husband Mr. M. J. Patel, and her son Mr. Mehul Patel, both of whom are Directors of MJP and her daughter Mrs. Meghana Patel was a regular client of MJP through a sub broker M/s. JP Merchant & Co.) & JRM (she is the main Director of JRM) which were operating from the same premises, as well as the fact that no other entity was evincing any interest in MTAL's scrip, Ms. Monica Patel's explanation that sale of MTAL's shares being an independent decision without any prior information cannot be accepted.
2. As Ms. Monica Patel was appearing as the largest share holder in the company during the period under consideration (as on 01.02.00, she was holding 1.14 lakh shares which works out to around 22.9% of the paid up capital of the company) she had a substantial control over the administration of the management of the company, although not appearing in the list of Directors of the company during the period under consideration. The highest net seller of MTAL's shares during the period under consideration she sold the shares in the secondary market at a price lower than the last traded price consistently, (on most of the occasions) thereby inducing the other clients to purchase the shares of MTAL.
3. The volumes contributed by Ms. Monica Patel constituted a substantial part of the entire volumes of the trades in the shares of MTAL during the period under consideration.
4. From the above I conclude that Ms. Monica Patel in her individual capacity, played a major role in the price manipulation of MTAL's scrips. She has aided and abetted the price manipulation of the MTAL's scrip and is guilty of violating the provisions of Regulation 4 (a), (b) (c) and (d) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 which read 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 ;

(d) enter into a purchase or sale of any securities, not intended to effect transfer of beneficial ownership but intended to operate only as a device to inflate, depress or cause fluctuations in the market price of securities;

(e).....

5. 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.

(2) 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.

(3) 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."

6. I find that Ms. Monica Patel is responsible for creating false and misleading appearance of trading and manipulation in the scrip of M/s. Magic Trading and Agencies 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 Ms. Monica Patel whose conduct is detrimental to the interest of investors and the securities market.
7. 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 Regulation 4 (a), (b) (c) and (d) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 and Regulation 13 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003, I hereby direct that Ms. Monica Patel be:

a. restrained from associating with any corporate body in accessing the securities market and

b. 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.

DATE : May 06, 2004

PLACE: Mumbai

A.K BATRA

MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA