

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER SECTIONS 11 AND 11B OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 AND REGULATION 11 OF THE SEBI (PROHIBITION OF FRAUDULENT AND UNFAIR TRADE PRACTICES RELATING TO THE SECURITIES MARKET) REGULATIONS, 2003.

AGAINST SHRI MUKESH CHOKSI, IN THE MATTER OF M/S RASHEL AGROTECH LTD.

BACKGROUND

1. Rashel Agrotech Ltd. (hereinafter referred to as "RAL") is a company incorporated under the Companies Act, 1956 and promoted by Shri H P Saboo, Shri Rajkumar Maheshwari, Shri Nalin Gagrani and Shri Anil Khandelwal. The shares of RAL are listed on the Stock Exchange, Mumbai (hereinafter referred to as "BSE") and Madhya Pradesh Stock Exchange.
2. BSE conducted an internal investigation into the trading of the shares of RAL on the exchange, for the period 3.4.2000 to 6.10.2000. In its report, submitted to the Securities and Exchange Board of India (hereinafter referred to as "SEBI") on 25.6.2001, BSE observed that during the said period, major sellers were persons connected to the company. BSE also observed that the gross sales of these persons amounted to 40% of the gross sales on the exchange and their net sales amounted to 74.86% of the net sales on the exchange.
3. Based on the said report of BSE, SEBI initiated an investigation into the trading of the shares of RAL, for the period 3.4.2000 to 6.10.2000. During the course of the investigation, it was observed, from the information submitted by BSE, that Shri Mukesh Choksi appeared as client on both the sale and purchase side, for a transaction of 100 shares.
4. It was also observed that Shri Choksi had bought 1100 shares of RAL and sold 200 shares through sub-broker, M/s Allwyn Securities, during the period under investigation. Details of his trades are as under:

Sr. No.	Broker	Sub-broker	Settlement	Buy	Sell
1	Joindre Services Ltd. Capital	Allwyn Securites	16	500	0
2	Joindre Services Ltd. Capital	Allwyn Securites	17	200	0
3	Joindre Services Ltd. Capital	Allwyn Securites	18	400	0
4	Joindre Services Ltd. Capital	Allwyn Securites	20	0	200

5. In his statement before the Investigating Authority on 7.1.2003, Shri Choksi has submitted that he had traded in the scrip of RAL through M/s Allwyn Securities Limited, a sub-broker registered with SEBI and that he had purchased 900 shares and sold 200 shares during the said period.
6. Shri Choksi further submitted that he had requested Shri Nemiraj Ballson, one of the employees in his accounting firm Mukesh M Choksi & Co, to sell the shares of RAL so that he could purchase the same. He also submitted that he had requested M/s Allwyn Securities to purchase shares on his behalf, but they had declined on the ground that there were no sellers in the shares of RAL. Hence, he had requested Shri Nemiraj Ballson to purchase the shares of RAL through another sub-broker M/s Maulik Investments, and had financed the said purchase.
7. Shri Nemiraj Ballson, in his statement before the investigating authority on 7.1.2003, admitted that he had purchased around 2000 shares and that he did so upon the request of Shri Mukesh Choksi and that Shri Mukesh Choksi had made payment for those shares. He also submitted that Shri Mukesh Choksi placed the sell order for the shares that he purchased on the same day and thus squared off the transaction and hence there was no delivery of shares. Details of the trades of Shri Ballson are as under:

Sr. No.	Broker	Sub-broker	Settlement	Buy	Sell
1	Deepak Vora	Maulik Investments	10	200	0
2	Deepak Vora	Maulik Investments	11	600	0
3	Deepak Vora	Maulik Investments	12	700	0
4	Deepak Vora	Maulik Investments	13	100	500
5	Deepak Vora	Maulik Investments	14	500	0
6	Deepak Vora	Maulik Investments	15	300	0

8. It was also observed from the details submitted by BSE that there were instances of matched trades between Shri Choksi and Shri Ballson in settlement No. 15. Details of the same are as under:

Trade No.	Order No.	Order Time	Mem Code	Counter Party Code	Qty	Price	B/S	Client	Trade date Time	Client
26	89032000000003812	2000-07-07:10:46:04	D0089	D0153	100	54.2	B	C	07/07/2000 10:46:05AM	M.CHOKS

26	15300400000008897	2000-07-07:09:40:26	D0153	D0089	100	54.2	S	C	07/07/2000 10:46:05AM	N. Ballson
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SHOW CAUSE NOTICE AND HEARING

9. In view of the above findings, show cause notice was issued to Shri Mukesh Choksi on 21.11.2003, alleging that he had executed fictitious transactions in the shares of RAL and had thereby violated Regulations 4 (c), (d) and (e) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to the Securities Market) Regulations, 1995 (hereinafter referred to as the "FUTP Regulations"). He was advised to show cause as to why action, including debarring him from the securities market for a particular period, should not be taken against him.
10. Shri Mukesh Choksi submitted his reply to the said notice vide his letter dated 6.12.2003. In his reply, he submitted as under:
 - i. All the transactions done by him were genuine and in the normal course of his trading activities.
 - ii. All payments were made against purchases and deliveries were taken.
 - iii. Shri Nemiraj Ballson was his employee and was delegated to make purchases and sale of his choice and that M/s Maulik Investments was his previous employer.
 - iv. Shri Nemiraj Ballson had traded 200 shares through Allwyn Securities Limited and 600 shares with Maulik Investments and made a gain of Rs.1085/-.
 - v. They had effected transfer and obtained delivery of the shares of RAL and that their volumes were too small to play any role in determining the price of the share.
 - vi. They had not violated the provisions of Regulation 4 (c), (d) and (e) of the FUTP regulations.
11. As desired by him, an opportunity of personal hearing was granted to Shri Mukesh Choksi on 8.1.2004. Shri Choksi attended the hearing and re-iterated the submissions made by him vide letter dated 06.12.03.

CONSIDERATION OF ISSUES

12. I have considered the facts of the case, the reply and submissions made by Shri Mukesh Choksi and other material on record. My findings in this regard are as under.
13. I note that there were instances where Shri Mukesh Choksi has been shown on the buy side as well as the sell side of the transactions, in the scrip of RAL, during the period under investigation.
14. I also note that Shri Choksi, in his statements before the Investigating Authority, had admitted to have directed his employee, Shri Nemiraj Ballson to purchase shares and that the funds for such purchases by Shri Ballson were provided by him. This submission was also supported by the statements of Shri Ballson before the Investigating Authority, wherein he had admitted that he entered into the transactions upon the instructions of Shri Choksi.
15. I find that Shri Mukesh Choksi had entered into buy and sell transactions in the scrip of RAL at the same time, with the help of Shri Nemiraj Ballson. I note that Shri. Choksi has not denied the same and has in fact submitted in his reply that these transactions were made with a profit motive and that he had made a gain of Rs.1085/-. I have also noted that Shri Choksi has financed the transaction of Shri Nemiraj Ballson in the shares of RAL. Shri Choksi has not submitted any reasonable explanation for these actions.
16. Hence, I am of the view that Shri Choksi had entered into certain fictitious transactions, as above, with Shri Nemiraj Ballson. Therefore, I hold him guilty of having violated Regulations 4(d) and (e) of the FUTP Regulations.
17. As regards the quantum of trading, I have observed that the volume and value of these transactions were not large enough to impact the price of the scrip or to create an artificial market for the scrip of RAL. Nevertheless, I am convinced that transactions of the nature described above ought to attract suitable penalty, so as to serve as a warning to the perpetrators and to dissuade them from indulging in such acts in their future dealings in the securities market.

ORDER

18. In view of the above, in exercise of the powers conferred upon me by Section 19, read with Section 11(4)(b) and 11B of the SEBI Act, 1992 and Regulation 11 of the FUTP Regulations, 2003, I hereby direct that Shri Mukesh Choksi be prohibited from associating with any corporate body in accessing the capital market and also be prohibited from buying, selling or dealing in securities, directly or indirectly, for a period of three months.
19. This order shall come into force with immediate effect.

PLACE : MUMBAI

DATE : July 21, 2004

A.K.BATRA

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA

