

SECURITIES AND EXCHANGE BOARD OF INDIA

DIRECTION UNDER SECTION 11B READ WITH SECTION 11(4) OF SECURITIES AND EXCHANGE BOARD OF INDIA, ACT, 1992, READ WITH REGULATION 11 OF SEBI (PROHIBITION OF FRAUDULANT AND UNFAIR TRADE PRACTICES RELATING TO SECURITIES MARKET) REGULATIONS, 2003.

AGAINST SHRI KIRAN J DESAI, IN THE MATTER OF M/S. GREENFIELD TRADING AND FINANCE LIMITED.

BACKGROUND

1. The shares of M/s Greenfield Trading and Finance Ltd. (hereinafter referred to as "GTFL") were listed on The Stock Exchange, Mumbai. (hereinafter referred to as "BSE"). As per BSE, the capital of GTFL was Rs. 99.66 lacs, comprising 9.96 lac equity shares of Rs. 10 each.
2. The price of the shares of GTFL, which was quoting at around Rs.52/- at BSE, as on 16.01.96, with a volume of 600 shares, moved up from this level and reached Rs.210/- as on 22.02.96, with a volume of 1,46,750 shares. On account of the sudden increase in volume and price, BSE had suspended trading in the scrip of GTFL on 24.01.96, 30.01.96 and 08.02.96. The share price came down to Rs.122/- by 15.03.96. However, the volumes were on the higher side, with the average daily volume being more than 1.50 lakh shares. The share price started moving up once again and reached to Rs.450/- by 16.05.96, with a volume of 18,600 shares. The last quotation was Rs. 420, on 06.06.96, after which the scrip was placed under indefinite suspension by BSE.
3. The paid up equity capital of GTFL comprised only 9.96 lakh shares, with very low floating stock with the general public. Considering the low floating stock and the not-too-encouraging fundamentals of the company, it appeared that the increase in price and volumes in the scrip, observed during the aforesaid period, did not reflect genuine investment buying, but appeared to be intended to manipulate the market and to make abnormal gains.
4. A letter dated 04.06.96 was received from BSE, requesting Securities and Exchange Board of India (hereinafter referred to as "SEBI") to give permission for indefinite suspension in trading of GTFL scrips. According to BSE, GTFL had shown unusual price rise since March 1996, despite suspension of trading and imposition of special margins from time to time. Even though the special margins were enhanced to 100.0% from 30.05.96, the price movement had not abated. It was submitted that preliminary investigations by BSE revealed that the huge price movement of GTFL was not justified and did not serve any purpose of the general investor as the company was closely held with a very low equity base. BSE was of the view that although the company declared a 1:1 bonus in the month of April 1996, the general fundamentals of the company was not good for investors to make an investment in the scrip of GTFL.
5. In view of the above, after a preliminary enquiry and based on the findings of BSE, SEBI initiated an investigation, vide order dated 7th October, 1999, into the affairs relating to dealing in the scrip of GTFL, during the period January-June, 1996.
6. During the course of the investigations it was observed that Shri Kiran J Desai was one of the key players in the price manipulation in the shares of GTFL.

SHOW CAUSE NOTICE AND HEARING

7. Pursuant to the investigation, a show cause notice dated 30.09.03 was issued to Mr. Kiran J. Desai asking him to show cause as to why a suitable direction under Section 11B read with Section 11(4) 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 15 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. Mr. Kiran J. Desai has not submitted any reply to the show cause notices issued by SEBI.

8. Thereafter, in the interest of natural justice, SEBI vide its letter dated 20.01.04 granted an opportunity of being heard to Mr. Kiran J. Desai before me on 05.02.04. However, the said date of hearing was rescheduled for 16.02.04. Mr. Kiran J. Desai appeared before me on the specified day and made his submissions. I proceed further based on the material available on record and the submissions made by Mr. Kiran J. Desai at the time of hearing.

FINDINGS

9. Having examined the material available on record, I have observed that investigations have revealed the role of the promoters/directors of GTFL in the price manipulation of the company's shares. I have also observed that Mr. Kiran J. Desai was acting as a front entity to the company and was acting in concert with them, thereby enabling them to carry out market manipulation in the scrip of GTFL smoothly. It was seen that Shri Kiran Desai traded in the shares of GTFL through many brokers and sub-brokers, in substantial quantities, during the investigation period.
10. Investigations revealed that the entire exercise of manipulation in the company's shares was controlled and co-ordinated by the promoters/directors of GTFL. The various operations undertaken by the promoters/directors in this regard are enumerated below:

- a. Appointment of persons like Mr. Prakash Pandya, Mr. KJ Desai, Mr. Viral Dave etc., to look after the day to day market operations of the scrip.
- b. Appointment of sub-brokers and getting them registered with various Trading Members of the stock exchange.
- c. Appointment of the clients with these brokers/sub-brokers (connected/related to GTFL or the Directors).
- d. Arrangement for introduction of these clients to various brokers and sub brokers of BSE.
- e. Arrangement for putting orders (both buy and sell) in the name of the various clients through various brokers so as to create artificial volumes/liquidity in the counter.
- f. Rigging up the scrip price by giving quotes at higher prices.
- g. Arrangement by giving shares/ shares certificates towards the sale positions of the clients with various brokers.
- h. Arrangement of funds to meet the pay in obligations of the various clients with various brokers and sub brokers.
- i. Appointments of financiers like Mr. Sanjay Fathepuria to meet the pay in obligation of funds of the clients through spot sales.
- j. Shifting the positions through unauthorized badla transactions from one settlement to another settlement with the help of the financier Mr. Sanjay Fathepuria.
- k. Delivering the shares of GTFL in the auctions conducted by the stock exchange, when the general investors failed to meet the pay in obligation of shares.
- l. Arrangements for collecting the contract notes, bills, cheques, delivery of shares(for the purchase position) etc., Similar arrangements were also made to issue cheques, delivery of shares (for the sale position) to the brokers.
- m. Arrangements for depositing the cheques issued by the brokers, favoring the clients appointed, towards the sale of GTFL shares in the respecting bank accounts.
- n. Arrangements for withdrawing the amount in cash terms after collection of the cheques.
- o. Co-ordination between the above mentioned entities, appointed for the exclusive purpose of manipulating the scrip price.

11. I have also observed that :

- a. Mr. KJ Desai and Mr. Prakash Pandya, having connections with the management of GTFL and Mr. Arun Gandhi, one of the Directors of GTFL, wanted to create market for an illiquid scrip.
- b. Mr. KJ Desai was offered good commission for allowing the use of his name to do the transactions. The records indicated that he was enrolled as client to numerous brokers as regards GTFL.
- c. Around 1,50,000 shares were given by the management of GTFL to Mr. KJ Desai and Mr. Prakash Pandya for market operations. [This was admitted by Mr. KJ Desai in his sworn statement given to the investigating team.]
- d. On behalf of the management of the GTFL some clients like M/s. Umi Investments, Mr. Manish Pancholi, M/s. BNP Securities, Mr. Girish Shah of M.P. Investments, Mr. Viral Dave of Niyati Investments, Mr. Rajan Bhuchar, Mr. Jaspalsingh Matta, Mr. Naren Shah etc., traded through various brokers.
- e. The clients were introduced to many of the brokers by Mr. Prakash Pandya, who according to some of the clients was the primary person behind this manipulation exercise.
- f. The price of the scrip was manipulated by increasing the buy quotes continuously.
- g. During the period of investigations the volumes in the scrip were contributed essentially due to trading activity in the scrip by the aforementioned clients spearheaded by Mr. Prakash Pandya.
- h. To support the continuous price rise, the artificial volumes were created by buying and selling operations from various Trading Members in the names of common clients.
- i. To meet the pay in obligation, funds were borrowed from the financiers such as M/s. Fathepuria Enterprises and the arrangement/management of funds were mainly looked after by the management of the company with the help of Mr. Prakash Pandya, Mr. KJ Desai, Mr. Viral Dave etc.
- j. The main financier for the operations was Mr. Sanjay Fathepuria of M/s Fathepuria Enterprises.
- k. Mr. Sanjay Fathepuria used to enter into unauthorised badla transactions with the clients who have traded in the scrip of GTFL.

12. To meet the pay in obligations of the clients, who were merely acting at the behest of the promoters/directors, the services of Shri Fatehpuria, a financier, were used. In those cases where the "clients" had pay-in obligation of funds to the exchange, Mr. Fathepuria, the financier appointed by the company, used to bail out these clients by buying the shares from them on spot basis and advancing them the money. On the same day Mr. Fathepuria would place the second leg of the transaction, by

reversing the deal in the regular segment. Towards this, Mr. Sanjay Fathepuria got enrolled as an unregistered sub-broker to various brokers of BSE. The modus operandi adopted for this purpose was as follows :

- The shares were sold on spot basis to Mr. Sanjay Fathepuria on behalf of the common clients (mostly Mr. KJ Desai) before the pay in day of funds.
- The bills were raised in the name of Mr. Fathepuria and the share certificates were handed over.
- Mr. Fathepuria used to verify the authenticity of share certificates and transfer deeds before releasing the funds.
- Later, on the same day when Mr. Fathepuria used to reverse the transaction at a slightly higher rate (to take into account the badla charges) in the regular market segment. This leg of the transaction was mostly done through his broker M/s. Vinod Kumar Roongta.
- For the second leg of the transaction, buyers of the shares were arranged by the management of GTFL and they were mostly the same common clients who have sold the shares on spot basis to Mr. Sanjay Fathepuria.
- After confirming that the shares were sold in regular market, Mr. Fathepuria used to release funds to the sellers in the spot transactions.
- With the funds received from Mr. Fathepuria, the common clients used to meet their pay in obligation.
- In most of the cases, these cheques were issued by Mr. Fathepuria as per the instructions of Mr. Prakash Pandya, Mr. Viral Dave and Mr. KJ Desai. These cheques were favouring those BSE members through whom the common clients have traded/registered as clients.
- Mr. Fathepuria used to receive the payments from Mr. Vinod Kumar Roongta after the payout of the settlement (regular). The amount received from Roongta included the "badla charges" (Finance charges).

13. Mr. KJ Desai and Mr. Prakash Pandya used to look after whole of the market operations and coordinated the entire exercise. In the process artificial market was created and circular trading was taking place as the buying and selling clients were the same parties. By this procedure, the scrip price was also moved up gradually.

14. It is clear from the material available on record that Mr. Kiran J. Desai was one of the major clients in the scrip of GTFL and had traded in that scrip by enrolling as common clients to various brokers of BSE. He was also one of the important persons who had carried out the manipulations in the scrip of GTFL. He had been employed as a front entity to the management of GTFL and had acted in concert with them. He had traded in the scrip of GTFL through many brokers as well as sub-brokers in substantial quantities during the period under consideration.

15. On being queried about his role in the price manipulation of the shares of GTFL, Mr. Kiran J. Desai had inter alia made the following submissions:

- He was impressed by the fundamentals of the company and Mr. Arun Gandhi, Director of GTFL has apprised him about GTFL verbally.
- He was introduced to the brokers such as M/s. U M Kamdar, Kantilal Chhaganlal, P R Shah etc. by Mr. Prakash Pandya, who was his neighbour for many years.
- Mr. Pandya had impressed him about the performance of GTFL and had offered good commission (2.0% for the transactions) for usage of Mr. Desai's name for trading in the scrip of GTFL.
- He was aware of the connections Mr. Prakash Pandya had with the management of GTFL.
- Mr. Prakash Pandya/ Mr. Arun Gandhi had set the preconditions to be abided by Mr. Desai during the market operations as follows:
 - Mr. Desai will not interfere into their dealings with the brokers
 - An account with Vijaya Bank, Fort branch was opened by Mr. Desai exclusively for the purpose of dealing in the shares of GTFL
 - He will give blank signed cheques of the abovementioned account
 - Mr. Prakash Pandya/ Mr. Arun Gandhi will arrange funds and deposit in Mr. Desai's account
 - They will directly place orders with the brokers

- They will directly deliver and receive shares on behalf of Mr. Desai during the pay-in and pay-out days
- The cheques received will be deposited directly into Mr. Desai's account
- Amounts will be withdrawn from these accounts though the pre-signed blank cheques
- Mr. Desai signed several blank cheques and deposited them with Mr. Prakash Pandya who filled up the names in the cheques to be issued.
- Mr. Desai had also signed some cheques at the specific instructions of Mr. Prakash Pandya favoring brokers such as Kantilal Chhaganlal, PR. Shah etc.
- Mr. Prakash Pandya used to arrange funds to meet the margin requirements which were directly credited into the account of Mr. Desai.

16. Mr. Desai had during his submissions, admitted that he had agreed to lend his name to various brokers/sub brokers for the monetary gains promised. Mr. Prakash Pandya and Mr. Arun Gandhi had offered attractive commissions of about 2.0% against the total volumes that Mr. Desai transacted in the scrip of GTFL. Thus, it is clear that Mr. Desai had knowledge of Mr. Prakash Pandya and Mr. Arun Gandhi's intention to create artificial/false market in the scrip of GTFL by using various names including his own. In this connection Mr. Desai had also stated that:

- He never received any contract notes from the brokers through whom trading was carried on in the scrip. Bills were issued to Mr. Prakash Pandya directly who also collected the share certificates against the delivery in the market.
- He had signed approximately 30 to 40 blank account payee cheques and handed over the same to Mr. Prakash Pandya on various dates. The details of the amount, the party to whom the instrument has to favour etc were filled up by Mr. Prakash Pandya according to the requirements of the market pay in / pay out schedules.
- Mr. Prakash Pandya collected the cheques towards the sale of shares on Mr. Desai's behalf and deposited them into Mr. Desai's bank account directly.

17. It was also seen that Mr. Desai had received various sums of money from Mr. Fathepuria, the combined details of which are as below:

Cheque Number	Cheque Date	Amount (in Rs.)
426970	26.06.96	42,50,000
426981	03.07.96	3,50,000
426984	15.07.96	2,00,000
521439	15.07.96	1,00,000
Total		49,00,000

The above mentioned amounts have been received by Mr. Desai allegedly for the purpose of reviving the trading in the scrip of GTFL which was indefinitely suspended with effect from 07.06.96.

18. Taking into consideration the above mentioned factors, I conclude that Mr. Kiran Jivenlal Desai had played a significant role in the price manipulation of GTFL's scrips during the period January to June 1996. He had acted in concert with the management of GTFL and had traded in the scrip of GTFL through many brokers as well as sub-brokers in substantial quantities during the period under consideration. Therefore, I find Mr. Kiran Jivenlal Desai guilty of violating the provisions of Regulation 4(a), (b), (c), (d) and (e) 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"

(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) pay, offer or agree to pay or offer, directly or indirectly, to any person any money or moneys worth for inducing another person to purchase or sell any security with the sole object of inflating,

depressing, or causing fluctuation in the market price of securities."

19. 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."

20. I find that Mr. Kiran Jivenlal Desai is responsible for aiding and abetting the management of GTFL in creating false and misleading appearance of trading and artificial price rise in the scrip of M/s. Greenfield Trading and Finance 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 Mr. Kiran Jivenlal Desai whose conduct is detrimental to the interest of investors and the securities market.

ORDER

21. Therefore, in exercise of the powers conferred upon me by virtue of Section 19 read with Sections 11B and 11(4) of the Securities and Exchange Board of India Act, 1992, read with Regulation 4(a), (b), (c), (d) and (e) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 and Regulations 11 & 13 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003, I hereby direct that Mr. Kiran Jivenlal Desai be restrained from associating with any corporate body in accessing the securities market and be prohibited from buying, selling or dealing in securities, directly or indirectly, for a period of five years.
22. This direction shall come into force with immediate effect.

A.K.BATRA

PLACE : MUMBAI

WHOLE TIME MEMBER

DATE : July 23, 2004

SECURITIES AND EXCHANGE BOARD OF INDIA