

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER REGULATION 13(4) OF SEBI (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002.

AGAINST M/S. DGP SECURITIES LIMITED, MEMBER, NATIONAL STOCK EXCHANGE OF INDIA LTD., IN THE MATTER OF M/S SURYA ROSHNI LTD.

BACKGROUND

1. The shares of M/s Surya Roshni Ltd. (hereinafter referred to as 'SRL') were listed for trading at Delhi Stock Exchange (DSE), National Stock Exchange (NSE), The Stock Exchange, Mumbai (BSE), Bangalore Stock Exchange (BgSE), Ahmedabad Stock Exchange (ASE), Madras Stock Exchange (MSE).
2. A case was initiated by SEBI on January 11, 2001, based on an investigation report submitted by NSE, wherein the trading pattern of SRL for the time period July 26, 2000 to September 05, 2000 was examined. However, in view of large trading volumes prior to this period, NSE was requested to extend the scope of their investigation and forward a comprehensive report. NSE conducted another investigation for the period May 17, 2000 to September 05, 2000 (earlier period included) and submitted the report to SEBI on August 31, 2001. Since the scrip was also listed and traded on BSE, it was also requested to investigate the matter and submit its report to SEBI. BSE submitted its investigation report to SEBI on June 10, 2002.
3. For the same time period i.e. from May 17, 2000 to September 05, 2000, Bangalore, Ahmedabad and Madras Stock Exchange reported nil trading; the trading details received from DSE showed trading to have taken place only on one day i.e. April 18, 2000.

4. Based on the identification of brokers by NSE and BSE in their reports, the trading details of 8 brokers including M/s. DGP Securities Ltd. (hereinafter referred to as 'DGP') were examined. It was found that the said broker had dealt extensively in the shares of SRL, at BSE.

ENQUIRY REPORT AND FINDINGS

5. An enquiry was initiated into the involvement of DGP in trading in the shares of SRL. The Enquiry Officer had submitted his report on the above matter on 20.01.04. The violations, as put forth by the Enquiry Officer in his report, are as follows:

- a) *The DGP executed a series of matched trades with a view to sell the shares bought on spot/off market basis by the client, as well as on proprietary account, thereby creating artificial volumes in the scrip and also aiding and abetting his related clients in creating artificial volumes in the scrip.*
- b) *DGP acted in concert in with its client and thereby misutilised the exchange system, and in the process, put the exchange system to risk.*

6. The Enquiry Officer held DGP guilty of having violated the provisions of Regulation 4(b) and 4(c) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 and Clause A (1) & A (4) of Regulation 7 of the SEBI (Stock Brokers and sub-brokers) Regulations, 1992.
7. In view of the above findings, the Enquiry Officer had recommended suspension of certificate of registration of DGP for a period of two months.

SHOW CAUSE NOTICE AND REPLY

8. Pursuant to the above, a notice dated 11.02.04 was issued to DGP, asking them to show cause as to why a penalty, as considered appropriate, should not be imposed on them.
9. DGP had replied vide its letter dated 26.02.04 to the said show cause notice. The primary contentions put forth by DGP in its reply are as follows:
 - a. The transactions carried out in SRL were all delivery based and had been carried out at the prevailing market price.
 - b. Over the period of three months under consideration, they had transacted in the scrip only for a period of 9 trading days. The transactions amounted to a total of 1.0% of their total business.
 - c. They had no link to the promoters of SRL and had no ulterior motive in doing the said transactions in the shares.
 - d. In transactions of similar nature in earlier matters of VXL instruments limited and CEAT Limited, there was only a warning issued to them to be more cautious in the future.
 - e. They were already penalized by SEBI since their application for the derivatives segment has been put on hold due to the investigation in the matter of SRL.
 - f. They had inadvertently violated certain provisions of SEBI regulations without any malafide intentions and be treated in a manner similar to the other cases as mentioned above.
10. In view of the facts and circumstance of the matter and taking into account the submissions made by the said broker in response to the show cause notice issued to them, it was not deemed necessary to grant a personal hearing to the said broker.

ISSUES FOR CONSIDERATION

11. I note that DGP had executed the following trades, for its clients namely Mrs. Ashadevi Beriwal and DGP Research Account , in the scrip of SRL, during May 17, 2000 to September 05, 2000:

Name of the client	Sett.	Buy	Sell	Net
Ashadevi Beriwal	22	0	135000	-135000
	28	0	10000	-10000
	29	0	84000	-84000
	31	0	239000	-239000
	32	0	10000	-10000
	33	0	186000	-186000
Total		0	664000	-664000
DGP Research Account	32	0	100000	-100000
	34	0	10000	-10000
	35	0	125000	-125000
	36	0	10000	-10000
Total		0	245000	-245000

12. I also noted that the following transactions entered into by DGP on behalf of Ashadevi Beriwal and DGP Research Account, have matched with CFL Securities Ltd. (hereinafter referred to as CFL):

Order Date	Order Trade	Qty.	Buy Order Time	Order No.	Buying TM	Buy Order Vol.	Buy Order Price	Sell Order Time	Sell order no.	Selling TM	Sell Order Vol.	Sell Order Price
29/5/00	340419	50000	13:12:56	200005290513010	CFL	50000	20.25	13:12:29	200005290512988	DGP	50000	20.25
29/5/00	340742	50000	13:13:09	200005290513534	CFL	50000	20.25	13:13:09	200005290513542	DGP	50000	20.25
29/5/00	341306	35000	13:13:22	200005290513965	CFL	35000	20.25	13:22:22	200005290513977	DGP	35000	20.25
5/7/00	579729	10000	15:12:47	200007050870156	CFL	10000	19.80	15:12:46	200007050870133	DGP	10000	19.80
12/7/00	143449	42000	11:05:13	200007120250951	CFL	42000	19.80	11:05:12	200007120250941	DGP	42000	19.80
12/7/00	143832	42000	11:05:31	200007120251615	CFL	42000	19.80	11:05:31	200007120251612	DGP	42000	19.80
26/7/00	101330	50000	10:21:55	200007260157869	CFL	50000	18.00	11:21:54	200007260157840	DGP	50000	18.00
26/7/00	102005	50000	10:22:11	200007120259012	CFL	50000	18.20	10:22:09	200007120258858	DGP	50000	18.20
26/7/00	102582	50000	10:22:24	200007260159890	CFL	50000	18.30	10:22:24	200007260159855	DGP	50000	18.30
26/7/00	103448	36000	10:22:43	200007260161156	CFL	50000	18.40	11:22:44	200007260161210	DGP	50000	18.40
26/7/00	104230	10000	10:23:04	200007260162561	CFL	39000	18.50	11:23:04	200007260162533	DGP	39000	18.50
2/8/00	90150	50000	10:36:50	200008020172443	CFL	10000	18.40	10:36:49	200008020172399	DGP	10000	18.40
8/8/00	202846	50000	11:26:08	200008080328773	CFL	50000	16.80	11:26:07	200008080328747	DGP	50000	16.80
8/8/00	203792	50000	11:26:37	200008080330097	CFL	50000	16.85	11:26:37	200008080330092	DGP	50000	16.85
18/8/00	331042	50000	13:23:42	200008180563562	CFL	10000	16.80	13:23:42	200008180563535	DGP	10000	16.80
23/8/00	677449	39000	15:17:20	200008230978216	CFL	25000	16.85	15:17:20	200008230978195	DGP	25000	16.85
23/8/00	678057	50000	15:17:32	200008230978939	CFL	25000	16.90	15:17:32	200008230978961	DGP	25000	16.90
23/8/00	678654	50000	15:17:44	200008230979678	CFL	25000	16.80	15:17:44	200008230979636	DGP	25000	16.80
23/8/00	679346	10000	15:18:01	200008230980657	CFL	25000	16.85	15:18:00	200008230980633	DGP	25000	16.85
23/8/00	699290	10000	15:25:14	200008231004932	CFL	25000	16.85	15:25:14	200008231004919	DGP	25000	16.85
30/8/00	623836	25000	14:54:22	200008300921685	CFL	10000	17.85	14:54:22	200008300921659	DGP	10000	17.85

13. On an analysis of the above tables, I could understand the following:
- a. DGP had entered into 25 structured/matched transactions with CFL for which the orders were placed at approximately the same time, at the same price and for the same quantity.
 - b. M/s Harbinger Trading Co. Pvt. Ltd. (hereinafter referred to as Harbinger) is the ultimate client of CFL for all the transactions mentioned above.
 - c. CFL and Harbinger are related to each other.
 - d. The demat statement of Mrs. Ashadevi Beriwalā revealed that she had received the shares from CFL Securities Ltd., member, NSE, M/s Tropical Securities & Investment Pvt. Ltd., member, BSE and Harbinger and that she had sold the same shares in secondary market through a related broker – DGP.
14. I also note that DGP was related to the clients on whose behalf it had dealt in the shares of SRL and that they had carried out transactions that were not in the normal course of business, as follows:
- a. Mrs. Ashadevi Beriwalā is the mother of Shri Mukund Beriwalā, who is Chief Executive Officer (CEO) of M/s DGP.
 - b. DGP Research account is the proprietary trading account of DGP.
 - c. Mrs. Ashadevi Beriwalā and DGP Research Account were found to have received direct deliveries from Harbinger, CFL and M/s Tropical Securities & Investment Pvt. Ltd. It is seen from the trading details submitted by Mrs. Ashadevi Beriwalā and DGP Research Account that the purchases have been shown as purchases on spot basis.
 - d. DGP has accepted the deliveries on behalf of Mrs. Ashadevi Beriwalā and DGP Research account directly from third parties viz. CFL, Harbinger etc.

- e. DGP had made payments to third party viz. Mrs. Aditi Dalal, the proprietor of M/s Aditi A Dalal; member ASE by debiting the account of Mrs. Ashadevi Beriwal.
- 15. I have noted that transactions of CFL, counterparty broker to all trades of DGP on NSE were also investigated during the course of investigations in the scrip of SRL and their statement was recorded for the same. The statement of DGP as also that of its related client - Mrs. Ashadevi Beriwal - has to be read in light of the statement made by CFL. The submissions of CFL regarding the transactions in the shares of SRL were as under :
 - i. The purpose behind these transactions was to raise temporary funds for meeting the pay0in obligations of NSE/BSE and not to create artificial volumes.
 - ii. CFL had a block of (Approx. 2,35,000) shares of SRL and instead of selling them in the open market, they had arranged funding through several entities who had arranged spot funding for them. These entities then sold the shares bought by them from CFL, through various brokers of BSE/NSE, back to CFL itself, through matched transaction of the nature mentioned at para 12 above.
 - iii. Thus, CFL had rotated the same shares again and again for temporary funding.
- 16. In the said case also, the transactions at para 12 were trades done to mirror the off market transactions of DGP/related entities with CFL. The funds for off market transactions were arranged by Mrs. Asha Beriwal who issued cheques/pay order to one M/s. Aditi Dalal for the spot sales made by Aditi Dalal to Mrs. Asha Beriwal/ DGP Research Account. M/s. Aditi Dalal in turn, issued cheques to CFL/ M/s Tropical Securities and Investment Pvt. Ltd. (client of CFL) for meeting their pay-in obligations. Thus, DGP had funded the pay-in

obligations of CFL/Tropical Securities and Investments Pvt. Ltd., through off market transactions in the shares of SRL.

17. The transactions, I understand, were of the following nature:

- a. CFL and M/s. Tropical Securities & Investment Pvt. Ltd. were in need of funds. At the same time, these related entities, who had a block of shares of SRL, did not want to loose control over their holding.
- b. As a means to arrange finance, these entities would sell shares as “spot/off-market deals” to various other entities and receive funds immediately. The entities, who bought these shares on “spot/off-market” would, in turn, sell these shares on the exchange, thereby creating an obligation on CFL to return their monies through the exchange mechanism. This method would also safeguard their interests as they would get covered by the settlement guarantee fund of the exchange. In most of these trades, the purchasing counter party has been found to be one of the three related entities, who had initially sold the shares on a spot/off market basis.
- c. This cycle of sale on spot/off market basis, subsequent sale by the purchasing entities on the market by entering into matched/structural with the entities, on spot/off market basis, continued settlement after settlement during the time period of investigation.
- d. Thus, the trading which took place on the exchanges, during the time period of investigation, was mirroring the financing arrangements which had crystallized outside the exchange as spot/off market deal. Most of the transactions, which took place during this time period, were matched /structured between broking entities, who were directly/indirectly a party to the financing transactions.
- e. At NSE, the major concentration of such trades took place between CFL in conjunction with its related client - Harbinger-on one hand and DGP acting on behalf of its client- Mrs. Ashadevi Beriwalla, who is mother of the CEO of DGP.

18. In view of the above, I find that there has been a violation by the member on the following counts:

- a) Execution of a series of matched trades with a view to sell the shares bought on spot/off market basis by the client as well as on proprietary account, thereby creating artificial volumes in the scrip and also aiding and abetting their related clients in creating artificial volumes in the scrip.
- b) Acting in concert in with its client and thereby (i) misutilising the exchange system and (ii) putting the exchange system to risk, in an inappropriate manner, by utilizing the comfort cum security of the Settlement Guarantee Fund of the exchange, which is intended for genuine trade transactions.

19. The above acts attract the provisions of Regulation 4(b) and (c) of SEBI (prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995, which read as under:

"No person shall-

- a)*
- 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)"*

20. Regulation 7 of the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992, which provides that the stock broker holding the certificate of registration shall

at all times abide by the Code of Conduct as specified in Schedule II. Further, Schedule II Clause A provides that:

- 1) *A stock broker shall maintain high standard of integrity, promptitude and fairness in the conduct of all his business.*
- 2)
- 3)
- 4) *A Stock Broker shall not create false market either singly or in concert with others or indulge in any act detrimental to the investors interest or which leads to interference with the fair and smooth functioning of the market. A stock broker shall not involve himself in excessive speculative business in the market beyond reasonable levels not commensurate with his financial soundness.*

21. In view of the findings detailed in the above paragraphs, I conclude that DGP is guilty of having violated:

(a) the provisions of Regulations 4(b) and (c) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 and

(b) the provisions of clauses A(1) and (4) of the Code of Conduct as specified in Schedule II read with Regulation 7 of SEBI (Stock Brokers and Sub-brokers) Regulations, 1992.

22. Under section 11 of the SEBI Act, SEBI can take measures to protect the interests of investors and to regulate the securities market inter alia by registering and regulating the working of stock brokers. If the regulatory requirements are violated by the stock brokers without attracting any action, the measures taken by SEBI for regulation of the stock brokers would be rendered

nugatory and the regulatory function would be jeopardized. It is to be noted that indulgence of the said broker in the transactions of the type mentioned above cannot be allowed; as such transactions are likely to have a detrimental effect on the functioning of the securities market.

23. I find that DGP has been responsible in creation of artificial volumes in the shares of M/s Surya Roshni Ltd., as observed above and has not taken due care and diligence in observance and compliance of the statutory requirement in conduct of its business as a stock broker. Looking into the violations committed by the said broker, I am satisfied that it is necessary to impose a penalty on the said broker. The same also becomes necessary given that the said broker has already been cautioned on two earlier occasions regarding his lack of compliance with respect to the code of conduct and was also advised to ensure strict compliance with the same.
24. I have noted that the enquiry officer has recommended imposition of a penalty of suspension of two months on the said broker. However, considering the submissions made by the said broker that the transactions were not substantial and also that prima facie price manipulation of the scrip has not taken place, I feel a penalty of one month, as against the two months, as suggested by the Enquiry Officer, will meet the ends of justice.

ORDER

25. Therefore, in exercise of the powers conferred upon me by virtue of Section 19 of the Securities and Exchange Board of India Act, 1992 read with Regulation 13 (4) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, I hereby order that the certificate of Registration of M/s. DGP Securities Ltd., member, National Stock Exchange, be suspended for a period of one month.

26. This order shall come into force on expiry of three weeks from the date of the order.

PLACE : MUMBAI
DATE : SEPTEMBER 30, 2004

A.K.BATRA
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA