

SECURITIES AND EXCHANGE BOARD OF INDIA**ORDER****UNDER REGULATION 13(4) OF SECURITIES AND EXCHANGE BOARD OF INDIA (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002.****AGAINST HARVIC MANAGEMENT SERVICES LTD, SUB-BROKER TO M/S B M GANDHI SECURITIES PVT. LTD., MEMBER, THE STOCK EXCHANGE, MUMBAI, IN THE MATTER OF SAWACA BUSINESS MACHINES LTD. (EARLIER KNOWN AS SAWACA FINANCE LTD)****BACKGROUND**

1. The shares of Sawaca Business Machines Ltd (earlier known as 'Sawaca Finance Ltd' and hereinafter referred to as 'SFL') were listed on The Stock Exchange, Bombay (hereinafter referred to as 'BSE') and Ahmedabad Stock Exchange.
2. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') conducted an investigation into the alleged price manipulation in the scrip of SFL, during the period October – December, 1999. It was seen that there was unusual upward price movement in the shares of SFL during this period, the price having moved up from Rs. 8 to a high of Rs. 38. Similarly, it was also seen that the volumes in the shares, which were traded a total of 7 times in the whole year, prior to 26.10.99, went up significantly during the investigation period.
3. Investigations revealed that one Shri Mahendra Shah, who was subsequently appointed the Managing Director of the company, was the largest seller during the investigation period. It was observed that Shri Shah, along with Harvic Management Services Ltd. (hereinafter referred to as 'HMSL'), among others, had created artificial volumes in the shares of SFL and had then offloaded a large quantity of shares in the market. It was also seen that Shri Shah had put in large buy orders to influence the price of the scrip and had created false/misleading appearance of demand/interest in the shares of SFL, thereby influencing the share price of the scrip.
4. HMSL, registered as a sub-broker to BM Gandhi Securities Pvt. Ltd, (hereinafter referred to as "BMGSPL"), a corporate member of BSE, had traded in the scrip of SFL on behalf of Sri Mahendra Shah (hereinafter referred to as "Shri Shah"). The details of trading done by HMSL on behalf of Shri Shah are as under:

Sett. No.	Purchases	Sales	Gross	Net
32	0	200	200	-200
35	100	8900	9100	-8800
36	0	100	100	-100
37	0	800	800	-800
38	20300	20300	40600	0
39	500	600	1100	-100
40	2500	2700	5200	-200
TOTAL	23400	33600	57000	-10200

5. In addition, HMSL had placed large orders on behalf of Shri Shah on several occasions, details of which are given as under:

Bro	Ter	B/S	Rate	Qty	Disclosed	Add/Del	Date	Time	Client
73	10	B	10	30500	30500	A	01-11-99	12:42:34	1007
73	10	B	12.5	20000	20000	A	18-11-99	10:21:59	1007
73	10	B	12.4	20000	20000	A	18-11-99	10:22:06	1007
73	10	B	12.45	0	20000	U	18-11-99	10:24:37	1007
73	10	B	0	20000	20000	D	18-11-99	14:28:31	

73	10	S	12.45	10000	10000	A	18-11-99	14:31:21	1007
73	10	S	24	1500	1500	A	06-12-99	10:19:09	1007
73	10	S	26.45	1200	1200	A	06-12-99	10:21:16	1007
73	10	B	26.45	9600	9600	A	06-12-99	14:44:26	1007

5. It was alleged that the trades done by HMSL, through BMGSPL, on behalf of Shri Shah, were in violation of Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair trade practices relating to securities market) Regulations, 1995 (hereinafter referred to as "FUTP Regulations").
6. It was further alleged that HMSL, having dealt with Shri Shah, who was one of the entities responsible for manipulation in the shares of SFL, had violated the Code of Conduct prescribed for sub-brokers laid down under the Securities and Exchange Board of India (Stock Brokers and Sub Brokers) Regulations, 1992 (hereinafter referred to as "Brokers Regulations").

ENQUIRY PROCEEDINGS

7. Having considered the investigation report, Chairman, SEBI, vide order dated 24th July 2003, appointed an Enquiry Officer (hereinafter referred to as "Enquiry Officer") to enquire into the alleged violations committed by HMSL.
8. As per the provisions of Securities and Exchange Board of India (Procedure for holding Enquiry by Enquiry Officer and imposing penalty) Regulations, 2002 (hereinafter referred to as "the Regulations"), the Enquiry Officer, having given an opportunity of hearing to HMSL, submitted a report dated 25th February 2004, to SEBI, with the recommendation that a major penalty of cancellation of certificate of registration of HMSL be imposed on HMSL.

SHOW CAUSE NOTICE AND REPLY

9. On receipt of the Enquiry Report, a show cause notice dated 3rd March 2004, was issued to HMSL, advising them to show cause as to why the penalty, as recommended by the Enquiry Officer, should not be imposed on them.
10. HMSL did not respond to the said show cause notice.

CONSIDERATION OF ISSUES AND FINDINGS

11. I have carefully considered the facts of the case, the findings of the Enquiry Officer and other material on record. My findings with respect to the allegations against HMSL are as under.
12. As already stated at para 2 above, SEBI had observed unusual price movement in the shares of SFL during the period October-December, 1999. Investigations revealed that Shri Mahendra Shah, along with HMSL, among others, were predominant traders in the shares of SFL and their trading had largely contributed to the price rise in the scrip. It was observed that once investor interest was created in the shares of SFL, Shri Shah and other connected entities had offloaded the shares held by them.
13. HMSL was one of the entities responsible for the sudden price rise in the scrip of SFL, along with Mayekar Investment Private Limited (hereinafter referred to as "MIPL"), Shri Pankaj Desai, (who had introduced Sri Shah to HMSL) and Shri Shah himself. HMSL had put in large buy orders to influence the price of the scrip and also created artificial/false appearance of market in the scrip. SFL was more or less dormant till September 1999 and volumes had started to pick up only when Shri Shah and others (HMSL & MIPL) had started trading in the scrip. All the trades of HMSL, as reproduced at para 4 above, were on behalf of Shri Shah.
14. I have also observed that SFL had allotted shares on a preferential basis to HMSL and its related entities, namely, Havmore Financial Services (P) Ltd., Aroma Fashions Ltd., Kalpesh Chawla and Kirtida P Desai, on 05.01.2000. I have noted that HMSL had denied having received any shares from SFL on preferential basis. However, they have not submitted any proof to the contrary (despite follow-up by SEBI), particularly as the allottee list of SFL contains all these names. It also seems unlikely that a company would show names of companies/persons as allottees, without there being an adequate explanation for the same, the most obvious being that these persons were indeed the allottees.
15. I have observed that HMSL had had a gross position 57000 shares and net sale position of 10200 shares in 7 settlements, during the period under consideration. I have also noted that it had put major buy orders, one of the buy order being to the tune of 30,500 shares. If the intention was just to earn brokerage, as claimed by HMSL, there was no need to have put such orders (which are quite opposite to their net position), an act that raises lot of questions. The actions of HMSL are contrary to its claimed intentions.

16. Taking into consideration the low liquidity in the scrip and lack of fundamental reasons for any interest in the scrip, it can be assumed that such large orders would have influenced the price of the scrip. There is no merit in the contention of HMSL that their trades accounted for 1% of the total equity of SFL. I have also observed that the orders entered by HMSL were not executed. Thus, it appears that the intention was not to execute the orders but to merely show artificial depth in the market, which might persuade other investors to invest in the scrip. As such, the submission of HMSL that the trading was done only to earn brokerage on the transactions done for the clients is not acceptable.
17. Shri Shah, client of HMSL, had traded only in the shares of SFL, which was an illiquid scrip. I find that HMSL had traded in the shares of SFL in seven settlements, gross volume being 57000 shares, in a scrip which was largely illiquid before the relevant period, having been traded only 7 times in the year, before 26.10.99. The scrip of SFL had been made liquid by putting artificial volumes and price by certain connected clients, including Shri Shah, client of HMSL, who had entered into continuous speculative transactions without any genuine interest in giving or taking delivery of shares. This had resulted in creation of artificial volumes and price rise in the scrip which otherwise had no interest from the general investors. The conduct of HMSL amounts to aiding and abetting the market manipulation, which is a violation of regulation of 4 (b) of FUTP Regulations.
18. In view of the circumstances surrounding the trades in SFL, any prudent sub-broker should have doubted the intentions of the client and stopped trading for them. In having allowed Shri Shah to trade in the shares of SFL across eight settlements, in significant quantities, HMSL has facilitated Shri Shah in creation of false market in the scrip of SFL. Thus, HMSL had aided and abetted Shri Shah in the price manipulation of SFL's shares. By dealing with such clients, HMSL has violated the provisions of regulation of 4 (b) of FUTP Regulations.
19. Unsuspecting innocent investors would be trapped by such false appearance of trading in securities. This manner of trading, resulting in artificial volumes, is detrimental to the interest of investors and the orderly development of the securities market. Being a registered intermediary, HMSL is under positive obligation to be more diligent while dealing with clients. Having failed to check the manipulative trading of Shri Shah in SFL's shares, I find that HMSL failed to exercise due skill and care as required under Clause A (2) of the Code of Conduct prescribed for sub brokers, in Schedule II in terms of Regulation 7 of Securities and Exchange Board of India (Stock Brokers and Sub-brokers) Regulations, 1992.
20. In view of the above findings, I do not have any hesitation in agreeing with the recommendations of the Enquiry Officer.

ORDER

21. Therefore, in exercise of powers conferred upon me in terms of Section 19 of the Securities and Exchange Board of India Act, 1992, read with regulation 13 (4) of Securities and Exchange Board of India (Procedure for holding Enquiry by Enquiry Officer and imposing penalty) Regulations, 2002, I hereby impose a penalty of cancellation of certificate of registration of Harvic Management Services Ltd., sub-broker to M/s B M Gandhi Securities Pvt. Ltd., broker, BSE, having SEBI registration number INS010496938.
22. This order shall come into effect on expiry of three weeks from the date of this order.

Place: Mumbai
Date: October 7th, 2004

A K Batra
Whole Time Member
Securities and Exchange Board of India