

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Order under Section 11B and Section 11(4)(b) read with Section 4(3) 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, 1995 against Manoj Kumar Tibrewal in the matter of DSQ Industries Limited

CO/79/ISD/11/2004

1.0 Background

1.1 DSQ Industries (now known as "Jardine Overseas Limited") is a company listed on the Calcutta Stock Exchange (hereinafter referred to as "CSE") and was formerly known as Lexus Overseas Limited.

1.2 During the period January 2, 2000 to March 14, 2000 the price of the scrip of DSQ Industries on the CSE witnessed a sharp spurt. During the said period, the scrip was thinly traded with average daily volumes being only around 500 shares. The above factors led to a suspicion of price manipulation and creation of artificial market. Therefore, the Securities and Exchange Board of India (hereinafter referred to as "SEBI") called for details of trading from the stock exchange and also conducted an investigation into the matter.

1.3 In the course of investigation, it was observed that a few brokers of CSE traded among themselves mostly through cross deals increased the price of the scrip from Rs.104/- on January 6, 2000 to Rs.428/- on March 14, 2000. It was also observed that all the transactions are synchronized deals. It was further observed that almost all the transactions were done for DSQ group entities and hence the price rise was not only artificial but also tantamount to creation of artificial market and circular trading.

1.4 An analysis of the trading details of March 16, 2000 revealed that the following trades were undertaken by Manoj Kumar Tibrewal (hereinafter referred to as "the said stock broker") a stock broker registered with SEBI under certificate of registration No. INB 030809417 and a member of Calcutta Stock Exchange:

Trade Date	Time	Member Name	Buy or Sell	Qty	Price	Counter Party Name
16.03.2000	12:57:49 PM	M. Tibrewal & Co.	S	10000	424	M. Tibrewal & Co.
16.03.2000	12:57:49 PM	- do -	B	10000	424	- do -
16.03.2000	12:58:40 PM	- do -	B	10000	424	- do -
16.03.2000	12:58:40 PM	- do -	S	10000	424	- do -
16.03.2000	12:59:35 PM	- do -	B	10000	424	- do -
16.03.2000	12:59:35 PM	- do -	S	10000	424	- do -
16.03.2000	1:00:02 PM	- do -	S	10000	424	- do -
16.03.2000	1:00:02 PM	- do -	B	10000	424	- do -
16.03.2000	1:00:29 PM	- do -	B	10000	424	- do -
16.03.2000	1:00:29 PM	- do -	S	10000	424	- do -
16.03.2000	1:00:50 PM	- do -	B	10000	424	- do -
16.03.2000	1:00:50 PM	- do -	S	10000	424	- do -
16.03.2000	1:01:08 PM	- do -	S	10000	424	- do -
16.03.2000	1:01:08 PM	- do -	B	10000	424	- do -
16.03.2000	1:02:08 PM	- do -	B	10000	424	- do -
16.03.2000	1:02:08 PM	- do -	S	10000	424	- do -
16.03.2000	1:02:26 PM	- do -	B	10000	424	- do -
16.03.2000	1:02:26 PM	- do -	S	10000	424	- do -
16.03.2000	1:02:45 PM	- do -	S	10000	424	- do -
16.03.2000	1:02:45 PM	- do -	B	10000	424	- do -

It was alleged that the above transactions on March 16, 2000 were in the nature of synchronized deals

1.5 It was observed that the said broker did not respond to summons by SEBI and has not given any clarification regarding the said trades.

2.0 Show Cause Notice and Hearing

2.1 In the light of the above, a show cause notice dated 19.2.2004 was issued to the said broker. They submitted their reply vide letter dated 5.3.2004 and made the following submissions:

- (a) That, they are a small time broker operating from the contingency pool of CSE and have no private place of business.
- (b) That, in the course of business on March 16,2000, they had traded in 1,50,000 shares of DSQ Industries Ltd on the CSE on behalf of Hulda Properties and Trades Ltd as seller and Greenfield Investments Pvt. Ltd as buyer.
- (c) That, the said trades were conducted through the online trading and hence there could not have been any malpractice in order to create an artificial market.
- (d) That, their sole intention in carrying out the above transactions was to earn brokerage and not to create any artificial market.

The said broker was also given an opportunity for personal hearing on 2.9.2004; however, the said broker did not avail of the said opportunity and vide letter dated 28.8.2004 again submitted that:

- (a) They were only a small time broker and they had executed the said trades purely to earn brokerage.
- (b) They had executed said trades on the online trading system of CSE and the same were settled by way of delivery and payment.
- (c) They had not indulged in creating any artificial market in the scrip.

3.0 Consideration of Issues

3.1 I have considered the facts of the matter, the reply and submissions of the said broker and other material on record. I find that the following issues arise for consideration:

- (a) Whether the said broker had through the trades on 16.3.2000 created or sought to create an artificial market for the shares of DSQ Software
- (b) Whether in view of the above, the said broker has violated the provisions of Regulation 4 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to the Securities Market) Regulations, 1995 (hereinafter referred to as "FUTP Regulations")

The said issues are dealt with as under:

(a) Whether the said broker had through the trades on 16.3.2000 created or sought to create an artificial market for the shares of DSQ Software

I note that on 16.3.2000, the said broker entered into a number of cross deals on behalf of Hulda Properties and Trades Ltd (hereinafter referred to as "Hulda") as seller and Greenfield Investments Pvt. Ltd (hereinafter referred to as "Greenfield") as buyer. I further note that the said cross deals were entered through the online trading system of CSE. Although I find that the trades themselves may not be manipulative, it is significant that the trades were executed on behalf of entities that were connected to each other.

I note that the registered office address of Hulda is at 11/1A, Chowringhee Terrace, Calcutta – 700 020 which is the same that of the Registered office of DSQ Industries. Hulda is also one of the promoters of DSQ Software Ltd. DSQ Industries is also one of the promoter entities of DSQ Software and has its corporate office address at 407-408, G.R. Complex, Anna Salai Nandanam, Chennai – 600 035 which is also the address of the corporate office of DSQ Software Ltd. Thus, I find that Hulda and DSQ Industries Ltd are part of the same group.

I also note that Greenfield Investments which is an OCB registered in Mauritius has its India office at Unit 7, 3rd Floor, Appasaheb Marathe Marg, Prabhadevi, Mumbai 400025, which was the former office of DSQ Industries. Further, I note that one Mr. Annamalai was the contact person for Greenfield Investments and he was also the contact person for all companies of the DSQ Group including DSQ Industries and Hulda. Thus, I find that Greenfield can be considered as part of the DSQ Group.

In the light of the above findings, I find that the said broker had done cross deals for entities that were part of the same group and also connected with DSQ Industries. Although the trades of the said broker may appear to be in order when considered in isolation, I note that when read in the context of the sudden spurt in the price of the scrip of DSQ Industries during the period January to March 2000, the trades assume the color and flavour of manipulative trades.

I note that the said broker has in their reply stated that they had entered into the said trades only with the objective of earning brokerage and not with the intention of manipulating the price of the scrip or of creating an artificial market. In this regard I find that although it may be true that the said broker is not aware of the manipulative intent behind the transactions that they undertook on behalf of their clients, as stock brokers they were required to be aware particularly when they were executing cross deals, of the identity of the clients and relationship if any with them. Such awareness would have warned them of the possible manipulation. I find that the said broker had not exercised due diligence in this regard.

(b) Whether in view of the above, the said broker has violated the provisions of Regulation 4 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to the Securities Market) Regulations, 1995 (hereinafter referred to as "FUTP Regulations")

Regulation 4 of the FUTP Regulations prohibits market manipulation. Regulation 4 provides as under:

Prohibition against Market Manipulation

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 money's worth for inducing another person to purchase or sell any security with the sole object of inflating, depressing, or causing fluctuations in the market price of securities.

I find that the said broker has indulged in acts which led to the creation of an artificial market and also artificially raised the price of the shares of DSQ Industries Ltd. In view of the above, I find that the said broker has violated the prohibition under Regulation 4 (a) and (b) of the FUTP Regulations.

The transactions entered into by the said broker have interfered with the normal price discovery mechanism of the stock exchange in so far as they have created an artificial market for the scrip. Further, the actions of the said broker have led to a situation which has eroded the credibility and posed a threat to the integrity of the securities market. It is necessary in the interest of the investors and for the safety and integrity of the securities market that persons particularly intermediaries who indulged in such fraudulent and manipulative practices be restrained from accessing the securities market and from dealing in securities.

4.0 Order

In view of the above findings I, in exercise of powers conferred upon me under Section 4(3) of the SEBI Act, read with Section 11 and 11B of the said Act and Regulation 11 of the FUTP Regulations, 2003 do hereby restrain M/s Manoj Kumar Tibrewal, Member of Calcutta Stock Exchange and Stock Brokers registered with SEBI under Certificate of Registration No. INB 030809417 from accessing the securities market and from dealing in securities for a period of 2 years.

This order shall come into effect immediately.

DATED : 8th November, 2004

PLACE : MUMBAI

G N BAJPAI

CHAIRMAN

SECURITIES AND EXCHANGE BOARD OF INDIA