

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER REGULATION 13(4) SEBI (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002, IN THE MATTER OF SHRI BALLABH DAS DAGA.**1.0 BACKGROUND**

- 1.1 Ballabh Das Daga (hereinafter referred to as the Broker) is a member of the Calcutta Stock Exchange (hereinafter referred to as CSE) and is registered with the Securities and Exchange Board of India (hereinafter referred to as SEBI) vide registration no INB030492218.
- 1.2 An investigation was conducted by SEBI into buying, selling and dealings in the scrip of M P Investment & Consultancy Services Ltd. (MPICS). Investigation, inter alia, revealed that the Broker has contravened the provisions of SEBI Act,1992 , SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 and SEBI (Stock Brokers and Sub Brokers) Rules and Regulations, 1992. Pursuant to the findings of the investigation in terms of Regulation 5(1) of SEBI(Procedure for Holding enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as "the said Regulations") read with Regulation 13 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 [hereinafter referred to as SEBI (FUTP) Regulations], an Enquiry Officer was appointed vide order dated 21.08.2003 to enquire into the alleged contravention, if any, by the Broker.

2.0 ENQUIRY REPORT AND RECOMMENDATION :

- 2.1 The enquiry officer, after conducting the enquiry as per the procedure laid down in the said Regulations submitted a report dated 29.06.2004.
- 2.2 The Enquiry Officer (EO) found that there were many cross deals wherein both the buyer and seller belonged to the Broker and there was complete matching of the order price, quantity and order time. The EO also found that the Broker had undertaken transactions in large scale only with a view to earn brokerage. In the light of the above , EO recommended a minor penalty of the suspension of the certificate of registration of the Broker for a period of one month.

3.0 SHOW-CAUSE NOTICE AND HEARING :

- 3.1 Pursuant to the above a Show Cause Notice dated 13.07.2004 was issued to the Broker along with a copy of the enquiry report, wherein he was called upon to show cause in terms of Regulation 13(2) of the Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 as to why action as considered appropriate should not be taken against him.

4.0 REPLY TO THE SHOW CAUSE NOTICE :

- 4.1 The broker submitted a reply vide letter dated 11.08.2004 stating that he had already given an undertaking vide his letter dated 11.02.04 that he is only concerned with earning brokerage and he had only executed the buy and sale orders given by his clients. He further stated that he is not very conversant with SEBI's Guidelines which were violated by him. He also gave an assurance that he will not indulge in the impugned transactions in future and pleaded to reduce the minor penalty of suspension of the certificate of registration for a period of one month to the minor penalty of warning.

5.0 CONSIDERATION OF ISSUES AND FINDINGS :

- 5.1 I have considered the facts of the case, the findings of the Enquiry Officer, the reply of the Broker to the show cause notice and other material on record.
- 5.2 I find that between July 2001 and October 2001, the Broker along with other two brokers of CSE generated maximum volumes in the scrip of MPICS. In all, 18,27,060 shares of MPICS were traded at CSE during the said period and the Broker had transacted 4,03,800 shares between settlements number 2002117 to 2002121 and 2002126 constituting 22.10% of the volumes at CSE. During this period the price of the scrip of MPICS declined by 68% from Rs. 45.25 to Rs. 14.30. The details are as under :

Settlement No.	Date	Buy Qnt.	Sale Qnt.	Total Qnt.	High (Rs.)	Low (Rs)	Avg Price (Rs)	Delivery
2002115 /CSE	02/07/01 -06/07/01	78000	78000	156000	44.00	40.50	42.25	0
2002116 /CSE	09/07/01 – 13/07/01	41000	41000	82000	45.00	44.00	44.5	0
2002117 /CSE	16/07/01 – 20/07/01	106200	106200	212400	46.50	44.00	45.25	0

2002118 /CSE	23/07/01 – 27/07/01	125200	125200	250400	45.50	40.00	42.75	0
2002119 /CSE	30/07/01 – 03/08/01	71200	71200	142400	43.00	43.00	43.00	0
2002120 /CSE	06/08/01 – 10/08/01	53500	53500	107000	43.00	39.60	41.30	0
2002121 /CSE	13/08/01 – 17/08/01	237800	237800	475600	42.00	33.60	37.80	0
2002122 /CSE	20/08/01 – 24/08/01	85000	85000	170000	41.50	36.00	38.75	0
2002123 /CSE	27/08/01 – 31/08/01	3000	3000	6000	34.10	31.50	32.80	0
2002124 /CSE	03/09/01 – 07/09/01	110030	110030	220060	36.00	33.30	34.65	0
2002125 /CSE	10/09/01 – 14/09/01	300	300	600	31.50	29.00	30.25	0
2002126 /CSE	17/09/01 – 21/09/01	300	300	600	27.00	25.10	26.05	0
2002127 /CSE	24/09/01 – 28/09/01	400	400	800	23.10	21.30	22.20	0
2002128 /CSE	1/10/01 – 05/10/01	600	600	1200	19.60	17.10	18.35	0
2002129 /CSE	08/10/01 – 12/10/01	1000	1000	2000	15.80	12.80	14.30	0
TOTAL		913530	913530	1827060				

5.3 I find that most of the transactions were cross deals wherein the ordered quantity, price and time were matched and there was no delivery obligation to the Exchange. The details of such transactions by the Broker is as under:

OrderNo	OrderDate& Time	Qty	Price	Buy/ Sell	TradeNo	Trade Time	Counter PartyCode
31552761	7/16/01 2:24 PM	7000	45	S	1230	2:24:31 PM	D0477
31552764	7/16/01 2:24 PM	7000	45	B	1230	2:24:31 PM	D0477
61394090	7/19/01 2:48 PM	7200	45	B	1232	2:49:07 PM	D0477
61394083	7/19/01 2:48 PM	7200	45	S	1232	2:49:07 PM	D0477
31568687	7/25/01 1:50 PM	10000	45.5	B	1242	1:50:16 PM	D0477
31568674	7/25/01 1:48 PM	10000	45.5	S	1242	1:50:16 PM	D0477
31568675	7/25/01 1:49 PM	10000	45.5	S	1243	1:50:23 PM	D0477
31568688	7/25/01 1:50 PM	10000	45.5	B	1243	1:50:23 PM	D0477
31568690	7/25/01 1:50 PM	3800	45.5	B	1244	1:50:30 PM	D0477
31568678	7/25/01 1:49 PM	3800	45.5	S	1244	1:50:30 PM	D0477
31568690	7/25/01 1:50 PM	6200	45.5	B	1245	1:50:30 PM	D0477
31568680	7/25/01 1:49 PM	6200	45.5	S	1245	1:50:30 PM	D0477
31568680	7/25/01 1:49 PM	3800	45.5	S	1246	1:50:37 PM	D0477
31568692	7/25/01 1:50 PM	3800	45.5	B	1246	1:50:37 PM	D0477
31568692	7/25/01 1:50 PM	200	45.5	B	1247	1:50:37 PM	D0477
31568681	7/25/01 1:49 PM	200	45.5	S	1247	1:50:37 PM	D0477
31568693	7/25/01 1:50 PM	7800	45.5	B	1248	1:50:48 PM	D0477
31568681	7/25/01 1:49 PM	7800	45.5	S	1248	1:50:48 PM	D0477
31568681	7/25/01 1:49 PM	2000	45.5	S	1249	1:50:57 PM	D0477
31568695	7/25/01 1:50 PM	2000	45.5	B	1249	1:50:57 PM	D0477
31568695	7/25/01 1:50 PM	3800	45.5	B	1250	1:50:57 PM	D0477
31568682	7/25/01 1:49 PM	3800	45.5	S	1250	1:50:57 PM	D0477
31568695	7/25/01 1:50 PM	4200	45.5	B	1251	1:50:57 PM	D0477
31568685	7/25/01 1:50 PM	4200	45.5	S	1251	1:50:57 PM	D0477
31568685	7/25/01 1:50 PM	4200	45.5	S	1252	1:51:06 PM	D0477
31568698	7/25/01 1:51 PM	4200	45.5	B	1252	1:51:06 PM	D0477
121083372	7/30/01 1:08 PM	6100	43	B	1267	1:08:03 PM	D0477
121083329	7/30/01 1:04 PM	6100	43	S	1267	1:08:03 PM	D0477
121083336	7/30/01 1:04 PM	3900	43	S	1268	1:08:03 PM	D0477
121083372	7/30/01 1:08 PM	3900	43	B	1268	1:08:03 PM	D0477
121083373	7/30/01 1:08 PM	2200	43	B	1269	1:08:09 PM	D0477
121083336	7/30/01 1:04 PM	2200	43	S	1269	1:08:09 PM	D0477
121083373	7/30/01 1:08 PM	4900	43	B	1270	1:08:09 PM	D0477
121083338	7/30/01 1:04 PM	4900	43	S	1270	1:08:09 PM	D0477
121083358	7/30/01 1:06 PM	2900	43	S	1271	1:08:09 PM	D0477
121083373	7/30/01 1:08 PM	2900	43	B	1271	1:08:09 PM	D0477
121083379	7/30/01 1:09 PM	4400	43	B	1272	1:09:51 PM	D0477
121083358	7/30/01 1:06 PM	4400	43	S	1272	1:09:51 PM	D0477

121083379	7/30/01 1:09 PM	5600	43	B	1273	1:09:51 PM	D0477
121083361	7/30/01 1:09 PM	5600	43	S	1273	1:09:51 PM	D0477
121083361	7/30/01 1:09 PM	4400	43	S	1274	1:09:58 PM	D0477
121083383	7/30/01 1:09 PM	4400	43	B	1274	1:09:58 PM	D0477
121083383	7/30/01 1:09 PM	300	43	B	1275	1:09:58 PM	D0477
121083363	7/30/01 1:06 PM	300	43	S	1275	1:09:58 PM	D0477
121083383	7/30/01 1:09 PM	5300	43	B	1276	1:09:58 PM	D0477
121083365	8/6/01 2:42 PM	5300	43	S	1276	1:09:58 PM	D0477
121083365	8/14/01 12:54 PM	2000	43	S	1277	1:10:23 PM	D0477
121083386	7/30/01 1:10 PM	2000	43	B	1277	1:10:23 PM	D0477
121083386	7/30/01 1:10 PM	7300	43	B	1278	1:10:23 PM	D0477
121083368	7/30/01 1:07 PM	7300	43	S	1278	1:10:23 PM	D0477
121083386	7/30/01 1:10 PM	700	43	B	1279	1:10:23 PM	D0477
121083369	7/30/01 1:07 PM	700	43	S	1279	1:10:23 PM	D0477
121083369	7/30/01 1:07 PM	3700	43	S	1280	1:10:34 PM	D0477
121083388	7/30/01 1:10 PM	3700	43	B	1280	1:10:34 PM	D0477
121083388	7/30/01 1:10 PM	6300	43	B	1281	1:10:34 PM	D0477
121083370	7/30/01 1:07 PM	6300	43	S	1281	1:10:34 PM	D0477
121083391	8/17/01 2:16 PM	2900	43	B	1282	1:10:45 PM	D0477
121083370	7/30/01 1:07 PM	2900	43	S	1282	1:10:45 PM	D0477
181127613	8/6/01 2:42 PM	3500	43	S	1285	2:42:45 PM	D0477
181127614	8/6/01 2:42 PM	3500	43	B	1285	2:42:45 PM	D0477
121096933	8/14/01 1:47 PM	5500	38.5	B	1396	1:47:21 PM	D0477
121096710	8/14/01 12:54 PM	5500	38.5	S	1396	1:47:21 PM	D0477
121097131	8/14/01 3:17 PM	6800	39.2	B	1397	3:17:41 PM	D0477
121097126	9/25/01 3:52 PM	6800	39.2	S	1397	3:17:41 PM	D0477
121097128	8/14/01 3:17 PM	3200	39.2	S	1398	3:17:41 PM	D0477
121097131	8/14/01 3:17 PM	3200	39.2	B	1398	3:17:41 PM	D0477
121097132	8/14/01 3:17 PM	3600	39.2	B	1399	3:17:47 PM	D0477
121097128	8/14/01 3:17 PM	3600	39.2	S	1399	3:17:47 PM	D0477
121097132	8/14/01 3:17 PM	5400	39.2	B	1400	3:17:47 PM	D0477
121097129	8/14/01 3:17 PM	5400	39.2	S	1400	3:17:47 PM	D0477
91347562	8/17/01 3:11 PM	2500	38.5	B	1463	3:11:02 PM	D0477
91347330	8/17/01 2:15 PM	2500	38.5	S	1463	3:11:02 PM	D0477
91347562	8/17/01 3:11 PM	2500	38.5	B	1464	3:11:02 PM	D0477
91347332	8/17/01 2:15 PM	2500	38.5	S	1464	3:11:02 PM	D0477
91347333	8/17/01 2:15 PM	2500	38.5	S	1465	3:11:02 PM	D0477
91347562	8/17/01 3:11 PM	2500	38.5	B	1465	3:11:02 PM	D0477
91347562	8/17/01 3:11 PM	2500	38.5	B	1466	3:11:02 PM	D0477
91347335	8/17/01 2:16 PM	2500	38.5	S	1466	3:11:02 PM	D0477
91347568	8/17/01 3:11 PM	2500	38.5	B	1467	3:11:50 PM	D0477
91347330	8/17/01 2:15 PM	2500	38.5	S	1467	3:11:50 PM	D0477
91347332	8/17/01 2:15 PM	2500	38.5	S	1468	3:11:50 PM	D0477
91347568	8/17/01 3:11 PM	2500	38.5	B	1468	3:11:50 PM	D0477
91347568	8/17/01 3:11 PM	2500	38.5	B	1469	3:11:50 PM	D0477
91347333	8/17/01 2:15 PM	2500	38.5	S	1469	3:11:50 PM	D0477
91347568	8/17/01 3:11 PM	2500	38.5	B	1470	3:11:50 PM	D0477
91347335	8/17/01 2:16 PM	2500	38.5	S	1470	3:11:50 PM	D0477
91347330	8/17/01 2:15 PM	2500	38.5	S	1471	3:12:06 PM	D0477
91347569	8/17/01 3:12 PM	2500	38.5	B	1471	3:12:06 PM	D0477
91347569	8/17/01 3:12 PM	2500	38.5	B	1472	3:12:06 PM	D0477
91347332	8/17/01 2:15 PM	2500	38.5	S	1472	3:12:06 PM	D0477
91347569	8/17/01 3:12 PM	2500	38.5	B	1473	3:12:06 PM	D0477
91347333	8/17/01 2:15 PM	2500	38.5	S	1473	3:12:06 PM	D0477
91347335	8/17/01 2:16 PM	2500	38.5	S	1474	3:12:06 PM	D0477
91347569	8/17/01 3:12 PM	2500	38.5	B	1474	3:12:06 PM	D0477
91347571	8/17/01 3:12 PM	2500	38.5	B	1475	3:12:30 PM	D0477

91347330	8/17/01 2:15 PM	2500	38.5	S	1475	3:12:30 PM	D0477
91347571	8/17/01 3:12 PM	2500	38.5	B	1476	3:12:30 PM	D0477
91347332	8/17/01 2:15 PM	2500	38.5	S	1476	3:12:30 PM	D0477
91347333	8/17/01 2:15 PM	2500	38.5	S	1477	3:12:30 PM	D0477
91347571	8/17/01 3:12 PM	2500	38.5	B	1477	3:12:30 PM	D0477
91347571	8/17/01 3:12 PM	2500	38.5	B	1478	3:12:30 PM	D0477
91347335	8/17/01 2:16 PM	2500	38.5	S	1478	3:12:30 PM	D0477
210892832	9/18/01 1:15 PM	200	27	S	1581	2:21:04 PM	D0778
121127168	9/24/01 3:26 PM	200	23.1	B	1583	3:26:13 PM	D1004
31661520	9/25/01 3:53 PM	200	21.3	S	1584	3:53:01 PM	D0778
61486722	10/1/01 2:25 PM	200	19.6	S	1585	2:40:16 PM	D1004
31684984	10/3/01 2:22 PM	200	18.1	S	1586	2:31:21 PM	D1004
31696683	10/8/01 1:28 PM	200	15.8	S	1588	1:30:19 PM	D1004
91421508	10/9/01 3:26 PM	200	14.6	S	1589	3:26:10 PM	D1004
31705121	10/10/01 2:39 PM	200	13.6	S	1590	2:39:24 PM	D0213

- 5.4 I further find that the time lag between punching of buy and sell orders was under a few minutes/seconds and almost the same in a number of transactions.
- 5.5 I note that except on 18/9/2001, 24/9/2001, 25/9/2001, 1/10/2001, 3/10/2001, 8/10/2001, 9/10/2001 and 10/10/2001 when the trades were settled through delivery in the clearing house of the Exchange, on other occasions all the buy and sell order were matched with no obligation for delivery to the Exchange. Further all the transactions were for a common set of clients.
- 5.6 I find that the average price of the scrip of MPICS had declined sharply from Rs.45.25 to Rs.14.30, a decrease of more than 68% in settlement No. 2002117 and 2002129. Further, there were no transfer of title in the shares since both the purchase and sell quantities were exactly the same. The value and volume of the impugned transactions were also quite high. The transactions were highly irregular and defeat the purpose of normal order matching mechanism in the price discovery process in the Exchange and hence are violative of Regulation 4 of SEBI (FUTP) Regulations, 1995.
- 5.7 Further the submission of the Broker that he had undertaken the transactions in large scale only with a view to earn brokerage is violative of clause B (4) (a) of the code of conduct for stock brokers as stock brokers should not encourage sales or purchase of securities with the sole object of generating brokerage. Further the statement of the Broker that he is not conversant with SEBI Guidelines can not be taken as an excuse for not complying with the Guidelines. It is well settled proposition that ignorance of law can not be taken as an excuse for non compliance with the same.

6.0 ORDER

- 6.1 In View of the above and considering the gravity of the charges, a minor penalty of suspension of the certificate of registration of the Broker for a period of one month would be adequate. Therefore, I , in exercise of the powers conferred upon me in terms of Section 4(3) of the SEBI Act, 1992 read with Regulation 13(4) of SEBI (Procedure for holding Enquiry by Enquiry Officer and Imposing penalty) Regulations, 2002, hereby suspend the certificate of registration of Shri Ballabh Das Daga for a period of one month.
- 6.2 This order shall come into effect after the expiry of 21 days from the date of this order.

DATE : Dec. 13, 2004

PLACE : MUMBAI.

G. N. BAJPAI

CHAIRMAN

SECURITIES AND EXCHANGE BOARD OF INDIA