

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER REGULATION 13(4) OF THE SEBI (PROCEDURE FOR HOLDING ENQUIRY BY THE ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002 AGAINST M/s NIRAJ KUMAR BALASARIA PRIVATE LIMITED – MEMBER, CALCUTTA STOCK EXCHANGE

1. M/s Niraj Kumar Balasaria Private Limited (hereinafter referred to as NKB) is a member of the Calcutta Stock Exchange (for brevity's sake referred to as the CSE) and registered with the Securities and Exchange Board of India (hereinafter referred to as 'SEBI') as a stock broker. The SEBI registration number of the said broker is INB 030037115.
2. SEBI initiated investigations to investigate the possible violation of the SEBI (Stock Brokers and Sub-brokers) Rules and Regulations, 1992 (hereinafter referred to as the Broker Regulations) and the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 (hereinafter referred to as the FUTP Regulations) by various persons while trading in the scrip of DSQ Industries Limited (DSQ). Investigations inter-alia revealed that although the shares of DSQ Industries Ltd. were not frequently traded and that no major volumes were observed till December 2000 and that significant volumes were observed only during December 6 – 18 and December 20 & 21, 2001, there was a spurt in the price of the said scrip in November 2000 and subsequently the price started moving up from December 19, 2000 onwards. However this price increase was on very low volumes of 100-500 shares. It was also found that the price of the shares increased sharply from levels of Rs.350/- on January 1, 2001 to levels of Rs.450/- on January 8, 2001. Significantly, trading was observed only on 4 days during this period i.e. January 1, 2, 4 and 8, 2001. It was further noted that NKB along with another broker Harish Chandra Biyani had indulged in price manipulation, creation of artificial market, creation of artificial volumes as a result of synchronization/ prior intention to matching orders and price establishment by putting orders at successively higher prices resulting in the possible violation of Regulation 4 (a) (b) (c) and (d) of the FUTP Regulations.
3. Accordingly, an Enquiry Officer was appointed by me vide an order dated July 24, 2003 under Section 4(3) of the SEBI Act, 1992 (hereinafter referred to as the Act) read with Regulation 5(1) of the SEBI (Procedure for Holding Enquiry by the Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as the Enquiry Regulations) to enquire into the possible violations by NKB of the Broker Regulations and the FUTP Regulations.
4. Thereupon, the enquiry officer issued a show cause notice dated November 28, 2003 under Regulation 6 of the Enquiry Regulations, upon NKB, in terms of which NKB was called upon to show cause within 21 days from the date of receipt of the notice as to why action under the provisions of the Enquiry Regulations, should not be initiated against him and he was advised to furnish his reply within 21 days of the receipt thereof. The notice also indicated that in case NKB failed to furnish his reply within the stipulated time, it would be presumed that he had no explanation to offer and that SEBI would take action as it deemed fit. NKB was also advised to specify in his reply if he desired to be heard in person.
5. In reply to the same, NKB vide his letter dated December 24, 2003 stated that as all the transactions done in DSQ were entered on behalf of his client Shri Raj Kumar Sharma, there was no question of his involvement in any kind of manipulation in as much as the orders were placed by him in the normal course of business and executed by him as a broker. It was stated that all transactions in the said scrip were done through the CSE online trading system, in which the counter party broker was not traceable and hence there was no question for any prior understanding with M/s. Harish Chand Biyani. NKB also denied entering into any kind of circular trading or involvement in any kind of price manipulation or volume creation. NKB further submitted that he would submit copies of the following documents by 28th January 2004 :
 - Client Introduction form of Shri Raj Kumar Sharma
 - Transactions done by Shri Raj Kumar Sharma in all the scrips from 1.10.2000
 - Client ledger of Shri Raj Kumar Sharma from 1.10.2000 till the end of the settlement of the referred transaction."

However, NKB failed to submit the said documents and hence based on the evidence on record, the enquiry officer submitted his report dated March 31, 2004 whereby he recommended a penalty of suspension of the certificate of registration granted to NKB for a period of 3 months.

7. Thereafter, a notice dated April 29, 2004, was issued to NKB calling upon him to show cause in terms of Regulation 13 (2) of the Enquiry Regulations as to why the penalty as recommended by the enquiry officer should not be imposed upon him and to reply to the said notice within 15 days of the receipt of the notice failing with SEBI would proceed ex parte. NKB was also asked to indicate whether he desired a personal hearing. In reply to the same, NKB vide his letter dated May 25, 2004 reiterated his submissions made earlier and stated that in terms of the enquiry report, allegedly only one instance of circular trading was found to have taken place and hence a lenient view be taken. Pursuant to the same, although NKB was

granted an opportunity to appear before me for a personal hearing on August 11, 2004, he failed to do so and also failed to send any explanation for his absence. Subsequently vide letter dated August 9, 2004 received on August 12, 2004, NKB submitted that he was not in a position to appear for the said hearing due to his family problems as well as disturbed physical condition and hence requested that SEBI proceed further on the basis of the available facts.

8. I have taken into consideration the facts and circumstances of the case and the material available on record which includes the submissions made by NKB vide its letter dated 24.12.2003.
9. Upon analysing the order log and trade log for the period 01/01/01 to 08/01/01, I have noted the fact that a large number of trades were found to have been carried out primarily between 2 brokers – namely Harish Chandra Biyani and NKB. These orders were found to have been placed at almost the same time by the buying and selling broker as is evident from the tabular column shown below :-

Log analysis of 01/01/01

Date	Time	trd id	order id	Rate	time	Diff (sec)	b/s	mem	Mem	qty	ord. rate (Rs.)
01-01-01	10:58:54	876	61013758	342	10:58:52	****	SELL	35	467	100	342
01-01-01	10:58:54	876	210590148	342	10:58:48	0:00:04	BUY	467	35	100	342
01-01-01	10:59:11	877	61013761	344.8	10:59:10	****	BUY	35	467	100	344.8
01-01-01	10:59:11	877	210590153	344.8	10:59:02	0:00:08	SELL	467	35	100	344.8
01-01-01	11:01:51	878	61013795	347	11:01:51	****	SELL	35	467	100	347
01-01-01	11:01:51	878	210590212	347	11:01:46	0:00:05	BUY	467	35	100	347
01-01-01	11:02:13	879	61013798	349.5	11:02:11	****	BUY	35	467	100	349.5
01-01-01	11:02:13	879	210590216	349.5	11:02:03	0:00:08	SELL	467	35	100	349.5
01-01-01	11:02:28	880	61013799	350.6	11:02:27	****	SELL	35	467	100	350.6
01-01-01	11:02:28	880	210590222	350.6	11:02:18	0:00:09	BUY	467	35	100	350.6
01-01-01	11:02:45	881	61013802	352.8	11:02:44	****	BUY	35	467	100	352.8
01-01-01	11:02:45	881	210590226	352.8	11:02:35	0:00:09	SELL	467	35	100	352.8
01-01-01	11:03:07	882	61013806	353.9	11:03:06	****	SELL	35	467	100	353.9
01-01-01	11:03:07	882	210590229	353.9	11:02:58	0:00:08	BUY	467	35	100	353.9
01-01-01	11:03:22	883	61013808	356	11:03:22	****	BUY	35	467	100	356
01-01-01	11:03:22	883	210590232	356	11:03:13	0:00:09	SELL	467	35	100	356
01-01-01	11:03:38	884	61013811	357	11:03:36	****	BUY	35	467	100	357
01-01-01	11:03:38	884	210590235	357	11:03:29	0:00:07	SELL	467	35	100	357
01-01-01	11:03:55	885	61013813	359.8	11:03:54	****	SELL	35	467	100	359.8
01-01-01	11:03:55	885	210590240	359.8	11:03:44	0:00:10	BUY	467	35	100	359.8
01-01-01	12:32:11	894	61014587	363.1	12:32:10	****	SELL	35	467	100	363.1
01-01-01	12:32:11	894	210591294	363.1	12:32:04	0:00:06	BUY	467	35	100	363.1
01-01-01	12:32:29	895	61014588	363.8	12:32:28	****	BUY	35	467	100	363.8
01-01-01	12:32:29	895	210591295	363.8	12:32:21	0:00:07	SELL	467	35	100	363.8

10. From the above, it is clear that on 01.01.01, NKB first executed a buy order by putting his buy order within a few seconds gap after the sell order was placed by Harish Chandra Biyani. Immediately thereafter, this buy transaction was reversed by NKB by placing a sell order, at a higher rate, within a few seconds gap after the buy order was placed by Harish Chandra Biyani. Almost all the trades were for only 100 shares. Such types of transactions were repeatedly executed, by these two members, at a successively higher price. On 01.01.01, the total volume traded at the exchange was only 2000 shares out of which NKB contributed to a volume of 1200 shares, i.e. about 60% of the total volume on 01.01.01. Thus, the price was artificially taken up from Rs.340/- to Rs.363.8 on very low volumes and the trading was concentrated among 3 brokers, two of whom are Harish Chandra Biyani and Niraj Kumar Balasaria. It is apparent that due to this factor and the illiquid nature of the scrip at the CSE, NKB was able to match his transactions with the desired counter-party broker i.e. Harish Chandra Biyani. NKB, put such type of orders at successively higher price with a volume of just 100 shares, obviously with a prior intention to artificially raise the price of the scrip of DSQ and establish a higher price which undoubtedly resulted in giving an appearance that the said scrip was being frequently traded. It is also evident that these orders were put within a gap of very few seconds by the said brokers for the same quantity and same rate obviously with a prior intention to match the orders to ensure that the buyers got the desired sellers and vice versa. This is nothing but circular trading. Thus by squaring off the earlier open position with the same counter party broker through whom the earlier open position was created, NKB indulged in circular trading wherein he along with Harish Chandra Biyani, artificially raised the price of scrip from Rs.342/- levels to Rs.363.80/- levels on a single day.

11. As regards NKB's submission that such synchronized trading/manipulation is not possible on the CSE online trading system as the counter party broker is not traceable, I am of the opinion that due to the timing of the buy and sell order and also due to the illiquid nature of the scrip, the broker was able to synchronise and match the order with the desired counter party broker.
12. The fact that NKB entered into such trades has not been disputed by him at any point of time. Instead his only defence has been that the said trades were executed by him as a broker on behalf of his client in the ordinary course of business. However, from the modus adopted by him for the purpose of execution of the said trades, it is apparent that the said trades resulted in price establishment by putting orders at successively higher prices, creation of artificial volumes as a result of the synchronised trades and creation of an artificial market by matching orders. Thus NKB was also clearly guilty of market manipulation of the shares of DSQ.
13. By virtue of the same, NKB is guilty of violating Regulation 4(a), (b), (c) and (d) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995.
14. It is to be noted that persons who operate in the market, are required to maintain high standards of integrity, promptitude and fairness in the conduct of the business dealings. People, who operate in a manner otherwise, are not fit or proper persons to operate in the market.
15. It is relevant to note that a certificate of registration granted to a stock broker is granted by SEBI subject to the fulfillment of certain conditions laid down in Rule 4 of the SEBI (Stock Brokers and Sub-brokers) Rules, 1992. Sub-rule (b) of rule 4 of the said Rules, inter alia, provides that the Board may grant a certificate to a stock broker subject to the following conditions, namely :
 - (a) ...
 - (b) He shall abide by the rule, regulations and bye-laws of the stock exchange or stock exchanges of which he is a member."
16. NKB has contravened the provisions as elaborated above, and has thus not complied with one of the conditions under which registration was granted. Further as specified under clause (a) read with clause (d) of Regulation 25 of the Broker Regulations, failure of a stock broker to comply with any of the conditions subject to which registration has been granted, attracts penalty as specified in the Enquiry Regulations.
17. Accordingly, in view of the facts and circumstances of the case, I find that an order suspending his registration for a period of 3 months would be adequate. The passing of such an order would be necessary for the regulation of the persons operating in the capital market and the development thereof as well as the protection of the investors.
18. **In view of the above, in exercise of the powers conferred on me by virtue of sub section (3) of section 4 of the Securities and Exchange Board of India Act, 1992 read with sub regulation (4) of Regulation 13 under the Securities and Exchange Board of India (Procedure for Holding Enquiry by the Enquiry Officer and Imposing Penalty) Regulations, 2002. I hereby direct that the certificate of registration of M/s. Niraj Kumar Balasaria Private Limited, member, CSE, having SEBI Registration No. INB 030037115, be suspended for a period of three months.**
19. This order shall come into effect three weeks of the date of the passing of the order.

DATE : JANUARY 07, 2005

G. N. BAJPAI

PLACE: MUMBAI

CHAIRMAN

SECURITIES AND EXCHANGE BOARD OF INDIA