

SECURITIES AND EXCHANGE BOARD OF INDIA

DIRECTIONS UNDER SECTION 11(4) AND 11B READ WITH REGULATION 11 OF SEBI (PROHIBITION OF FRAUDULENT AND UNFAIR TRADE PRACTICES RELATING TO THE SECURITIES MARKET) REGULATIONS, 2003, AGAINST ARIHANT EXIM SCRIP PVT. LTD. AND DOE JONES INVESTMENTS & CONSULTANTS PVT. LTD.

Arihant Exim Scrip Pvt. Ltd. and Doe Jones Investments & Consultants Pvt. Ltd. were former members of Calcutta Stock Exchange ("CSE") (hereinafter referred to as noticees).

DSQ Industries Ltd. was formerly known as Lexus Exports Ltd. DSQ Industries now known as Jardine Overseas Ltd. is stated to be a group concern of Shri Dinesh Dalmia- main promoter of DSQ Software. Its shares are listed on the Calcutta Stock Exchange. DSQ Industries has its registered office address at 11/1A, Chowringhee Terrace, Calcutta – 700 020 and corporate office address is at 407-408, G.R. Complex, Anna Salai Nandanam, Chennai – 600 035.

SEBI conducted investigation into the trading in the shares of DSQ Industries Ltd. and the following was observed:

The total paid-up share capital of DSQ Industries was Rs. 20,04,29,160 consisting of 2,00,42,916 shares of Rs. 10/- each.

As per the distribution schedule furnished by the company to SEBI, its broad shareholding pattern as on 28/09/2001 was as under:

Particulars	No. of Shares	% of total no. of shares
Foreign Holdings - Non Resident Companies	6,68,516	3.33%

Govt / Govt Sponsored FI's - Mutual Funds	2,76,000	1.37%
Directors and Relatives	1,18,800	0.59%
Promoter Companies	2,22,300	1.11%
Other bodies corporate	1,06,36,700	53.07%
Others	8120600	40.51%
Total	2,00,42,916	100.00%

It was also observed that as per the previous distribution schedule dated 28/09/2000, its shareholding pattern was as under:

Particulars	No. of Shares	% of total no. of shares
Foreign Holdings - Non Resident Companies	95,96,216	47.878%
Govt / Govt Sponsored FI's - Nationalised Banks	53,09,300	26.490%
Directors and Relatives	1,18,800	0.593%
Promoter Companies	27,66,700	13.804%
Other bodies corporate	16,29,400	8.130%
General Public	6,22,500	3.105%
Total	2,00,42,916	100.00%

It was noticed that there were discrepancies in the distribution schedule filed by the company with the CSE and with SEBI. Examination of the distribution schedule dated 28/9/00 filed by the company with the CSE revealed that the Non resident shareholding to be 92,63,916 shares (46.17%), Nationalised Banks shareholding to be 3939300 shares (19.65%), other body corporates to be 62,47,000 shares (31.17%) and shareholding of promoter companies was not stated.

In view of the above, SEBI sought trade log and order log in the scrip of DSQ Industries from CSE. Based on the trade log details about client, client registration form, client agreement form, client ledger, demat statement, payment details, name of the introducer etc. were sought from all the brokers who traded in the scrip of DSQ Industries in excess of 500 shares. In the case of Arihant Exim Scrip Pvt. Ltd. and Doe Jones Investments & Consultants Pvt. Ltd. the letter seeking above information could not be delivered as their offices were shifted or closed/sealed by Police Authorities.

On March 2, 2001, a broker of CSE, namely, Harish Biyani (HB) availed the “Cash on Pay out scheme” (COP) of SHCIL through broker – Biyani Securities Pvt. Ltd. (BSPL). BSPL sold 7,20,000 shares of DSQ Industries for HB. The table showing the details of the transaction is as follows:

Sale Quantity	Selling Broker	Selling Client	Price	Amount (Rs.)	Buying Broker	Quantity
720000	BSPL	HB	340	244800000	HB	220000
					Doe Jones	250000
					Arihant Exim	250000
7,20,000				244800000		720000

A Show Cause Notice dated 19.02.04 was issued to Arihant Exim Scrip Pvt. Ltd. and Doe Jones Investments & Consultants Pvt. Ltd asking them as to why action under section 11 and 11B of the SEBI Act, 1992 read with regulation 11 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 debarring them from dealing in securities for certain period or any other appropriate action should not be taken for the allegations stated therein. Further, it was mentioned in the said show cause notice that if their reply does not reach SEBI within 15 days of the date of receipt of the said notice, it would be construed that Arihant Exim Scrip Pvt. Ltd. and Doe Jones

Investments & Consultants Pvt. Ltd. have no explanation to offer and SEBI would be constrained to proceed, ex-parte.

Although the show cause notice dated 19.2.2004 was issued for the purpose of necessary directions under Regulation 11 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995, the actions are saved under Regulation 13 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003.

Arihant Exim Scrip Pvt. Ltd. and Doe Jones Investments & Consultants Pvt. Ltd. have failed to reply to the said show cause notice although reasonable opportunity was given to them in accordance with principles of natural justice. They were also forewarned that if they fail to submit reply to the show cause notice, the matter would be decided 'ex-parte'.

The investigations by SEBI revealed that there were several trades on 02.3.01 which are synchronized in terms of order quantity, price and time for the buy and sell orders. The order log and trade log are as under :

Date	Trade time	Trd No	Order no	Order time	Diff – sec	B/S	Code	Client	Qty	Rate
02-03-01	15:13:06	145	151168469	15:11:21	***	SELL	545	SELF	10000	340.00
02-03-01	15:13:06	145	180916834	15:13:05	0:01:44	BUY	978	SELF	10000	340.00
02-03-01	15:13:14	146	151168473	15:11:34	***	SELL	545	SELF	10000	340.00
02-03-01	15:13:14	146	180916836	15:13:14	0:01:40	BUY	978	SELF	10000	340.00
02-03-01	15:13:22	147	151168475	15:11:45	***	SELL	545	SELF	10000	340.00
02-03-01	15:13:22	147	180916839	15:13:22	0:01:37	BUY	978	SELF	10000	340.00
02-03-01	15:13:33	148	151168480	15:11:54	***	SELL	545	SELF	10000	340.00
02-03-01	15:13:33	148	180916846	15:13:33	0:01:39	BUY	978	SELF	10000	340.00
02-03-01	15:13:40	149	151168488	15:12:02	***	SELL	545	SELF	10000	340.00
02-03-01	15:13:40	149	180916849	15:13:40	0:01:38	BUY	978	SELF	10000	340.00
02-03-01	15:13:47	150	151168491	15:12:10	***	SELL	545	SELF	10000	340.00

02-03-01	15:13:47	150	180916851	15:13:46	0:01:36	BUY	978	SELF	10000	340.00
02-03-01	15:14:04	151	151168495	15:12:19	***	SELL	545	SELF	10000	340.00
02-03-01	15:14:04	151	180916856	15:14:04	0:01:45	BUY	978	SELF	10000	340.00
02-03-01	15:14:09	152	151168499	15:12:28	***	SELL	545	SELF	10000	340.00
02-03-01	15:14:09	152	180916859	15:14:09	0:01:41	BUY	978	SELF	10000	340.00
02-03-01	15:14:16	153	151168501	15:12:37	***	SELL	545	SELF	10000	340.00
02-03-01	15:14:16	153	180916861	15:14:16	0:01:39	BUY	978	SELF	10000	340.00
02-03-01	15:14:22	154	151168503	15:12:45	***	SELL	545	SELF	10000	340.00
02-03-01	15:14:22	154	180916865	15:14:22	0:01:37	BUY	978	SELF	10000	340.00
02-03-01	15:14:35	155	151168510	15:13:17	***	SELL	545	SELF	10000	340.00
02-03-01	15:14:35	155	180916869	15:14:35	0:01:18	BUY	978	SELF	10000	340.00
02-03-01	15:14:42	156	151168514	15:13:25	***	SELL	545	SELF	10000	340.00
02-03-01	15:14:42	156	180916872	15:14:42	0:01:17	BUY	978	SELF	10000	340.00
02-03-01	15:14:48	157	151168518	15:13:33	***	SELL	545	SELF	10000	340.00
02-03-01	15:14:48	157	180916873	15:14:47	0:01:14	BUY	978	SELF	10000	340.00
02-03-01	15:14:51	158	151168521	15:13:40	***	SELL	545	SELF	10000	340.00
02-03-01	15:14:51	158	180916874	15:14:51	0:01:11	BUY	987	SELF	10000	340.00
02-03-01	15:14:56	159	151168523	15:13:47	***	SELL	545	SELF	10000	340.00
02-03-01	15:14:56	160	151168525	15:13:54	***	SELL	545	SELF	10000	340.00
02-03-01	15:14:56	159	180916879	15:14:56	***	BUY	978	SELF	10000	340.00
02-03-01	15:14:56	160	180916880	15:14:56	***	BUY	987	SELF	10000	340.00
02-03-01	15:15:00	161	151168528	15:14:01	***	SELL	545	SELF	10000	340.00
02-03-01	15:15:00	162	151168532	15:14:08	***	SELL	545	SELF	10000	340.00
02-03-01	15:15:00	162	180916885	15:15:00	0:00:52	BUY	978	SELF	10000	340.00
02-03-01	15:15:00	161	180916883	15:14:59	***	BUY	987	SELF	10000	340.00
02-03-01	15:15:04	163	151168533	15:14:15	***	SELL	545	SELF	10000	340.00
02-03-01	15:15:04	163	180916886	15:15:03	0:00:48	BUY	987	SELF	10000	340.00
02-03-01	15:15:07	164	151168535	15:14:22	***	SELL	545	SELF	10000	340.00
02-03-01	15:15:07	164	180916887	15:15:07	0:00:45	BUY	987	SELF	10000	340.00
02-03-01	15:15:09	165	151168537	15:14:29	***	SELL	545	SELF	10000	340.00
02-03-01	15:15:09	165	180916889	15:15:09	0:00:40	BUY	978	SELF	10000	340.00
02-03-01	15:15:14	166	151168543	15:14:39	***	SELL	545	SELF	10000	340.00
02-03-01	15:15:14	166	180916890	15:15:14	0:00:35	BUY	978	SELF	10000	340.00

02-03-01	15:15:15	167	151168548	15:14:46	***	SELL	545	SELF	10000	340.00
02-03-01	15:15:15	167	180916891	15:15:14	0:00:28	BUY	987	SELF	10000	340.00
02-03-01	15:15:18	168	151168554	15:14:55	***	SELL	545	SELF	10000	340.00
02-03-01	15:15:18	168	180916892	15:15:17	0:00:22	BUY	987	SELF	10000	340.00
02-03-01	15:15:20	169	151168557	15:15:03	***	SELL	545	SELF	10000	340.00
02-03-01	15:15:20	169	180916893	15:15:19	0:00:16	BUY	978	SELF	10000	340.00
02-03-01	15:15:21	170	151168561	15:15:09	***	SELL	545	SELF	10000	340.00
02-03-01	15:15:21	170	180916894	15:15:21	0:00:12	BUY	987	SELF	10000	340.00
02-03-01	15:15:25	171	151168565	15:15:16	***	SELL	545	SELF	10000	340.00
02-03-01	15:15:25	171	180916896	15:15:25	0:00:09	BUY	978	SELF	10000	340.00
02-03-01	15:15:26	172	151168567	15:15:23	***	SELL	545	SELF	10000	340.00
02-03-01	15:15:26	172	180916897	15:15:25	0:00:02	BUY	987	SELF	10000	340.00
02-03-01	15:15:41	173	151168572	15:15:31	***	SELL	545	SELF	10000	340.00
02-03-01	15:15:41	173	180916903	15:15:41	0:00:10	BUY	987	SELF	10000	340.00
02-03-01	15:15:45	174	151168576	15:15:37	***	SELL	545	SELF	10000	340.00
02-03-01	15:15:45	174	180916905	15:15:45	0:00:08	BUY	978	SELF	10000	340.00
02-03-01	15:16:08	175	151168587	15:15:46	***	SELL	545	SELF	10000	340.00
02-03-01	15:16:08	175	180916914	15:16:08	0:00:22	BUY	978	SELF	10000	340.00
02-03-01	15:16:13	176	151168595	15:15:53	***	SELL	545	SELF	10000	340.00
02-03-01	15:16:13	176	180916915	15:16:13	0:00:20	BUY	978	SELF	10000	340.00
02-03-01	15:16:20	177	151168598	15:16:00	***	SELL	545	SELF	10000	340.00
02-03-01	15:16:20	177	180916916	15:16:20	0:00:20	BUY	987	SELF	10000	340.00
02-03-01	15:16:23	178	151168603	15:16:09	***	SELL	545	SELF	10000	340.00
02-03-01	15:16:23	179	151168608	15:16:16	***	SELL	545	SELF	10000	340.00
02-03-01	15:16:23	178	180916917	15:16:23	***	BUY	978	SELF	10000	340.00
02-03-01	15:16:23	179	180916918	15:16:23	***	BUY	987	SELF	10000	340.00
02-03-01	15:16:26	180	151168614	15:16:23	***	SELL	545	SELF	10000	340.00
02-03-01	15:16:26	180	180916921	15:16:26	0:00:03	BUY	987	SELF	10000	340.00
02-03-01	15:16:31	181	151168616	15:16:30	***	SELL	545	SELF	10000	340.00
02-03-01	15:16:31	181	180916922	15:16:29	0:00:01	BUY	978	SELF	10000	340.00
02-03-01	15:16:49	182	151168619	15:16:38	***	SELL	545	SELF	10000	340.00
02-03-01	15:16:49	182	180916924	15:16:48	0:00:10	BUY	987	SELF	10000	340.00
02-03-01	15:16:50	183	151168623	15:16:44	***	SELL	545	SELF	10000	340.00

02-03-01	15:16:50	183	180916926	15:16:50	0:00:06	BUY	978	SELF	10000	340.00
02-03-01	15:16:53	184	151168632	15:16:51	***	SELL	545	SELF	10000	340.00
02-03-01	15:16:53	184	180916927	15:16:52	0:00:01	BUY	987	SELF	10000	340.00
02-03-01	15:17:02	185	151168635	15:16:58	***	SELL	545	SELF	10000	340.00
02-03-01	15:17:02	185	180916930	15:17:02	0:00:04	BUY	987	SELF	10000	340.00
02-03-01	15:17:10	186	151168640	15:17:05	***	SELL	545	SELF	10000	340.00
02-03-01	15:17:10	186	180916933	15:17:10	0:00:05	BUY	987	SELF	10000	340.00
02-03-01	15:17:18	187	151168649	15:17:13	***	SELL	545	SELF	10000	340.00
02-03-01	15:17:18	187	180916937	15:17:18	0:00:05	BUY	987	SELF	10000	340.00
02-03-01	15:17:22	188	151168654	15:17:19	***	SELL	545	SELF	10000	340.00
02-03-01	15:17:22	188	180916939	15:17:22	0:00:03	BUY	987	SELF	10000	340.00
02-03-01	15:17:30	189	151168659	15:17:25	***	SELL	545	SELF	10000	340.00
02-03-01	15:17:30	189	180916946	15:17:29	0:00:04	BUY	987	SELF	10000	340.00
02-03-01	15:17:36	190	151168664	15:17:32	***	SELL	545	SELF	10000	340.00
02-03-01	15:17:36	190	180916948	15:17:36	0:00:04	BUY	987	SELF	10000	340.00
02-03-01	15:17:43	191	151168666	15:17:39	***	SELL	545	SELF	10000	340.00
02-03-01	15:17:43	191	180916954	15:17:43	0:00:04	BUY	987	SELF	10000	340.00
02-03-01	15:17:48	192	151168669	15:17:45	***	SELL	545	SELF	10000	340.00
02-03-01	15:17:48	192	180916956	15:17:48	0:00:03	BUY	987	SELF	10000	340.00
02-03-01	15:17:56	193	151168671	15:17:52	***	SELL	545	SELF	10000	340.00
02-03-01	15:17:56	193	180916960	15:17:56	0:00:04	BUY	987	SELF	10000	340.00
02-03-01	15:18:01	194	151168674	15:17:59	***	SELL	545	SELF	10000	340.00
02-03-01	15:18:01	194	180916961	15:18:01	0:00:02	BUY	987	SELF	10000	340.00
02-03-01	15:18:21	195	61197636	15:18:20	***	BUY	35	SELF	10000	340.00
02-03-01	15:18:21	195	151168684	15:18:10	0:00:10	SELL	545	SELF	10000	340.00
02-03-01	15:18:27	196	61197640	15:18:27	***	BUY	35	SELF	10000	340.00
02-03-01	15:18:27	196	151168688	15:18:18	0:00:09	SELL	545	SELF	10000	340.00
02-03-01	15:18:40	197	61197648	15:18:40	***	BUY	35	SELF	10000	340.00
02-03-01	15:18:40	197	151168692	15:18:26	0:00:14	SELL	545	SELF	10000	340.00
02-03-01	15:19:38	198	120952423	15:19:38	***	BUY	35	SELF	10000	340.00
02-03-01	15:19:38	198	151168696	15:18:34	0:01:04	SELL	545	SELF	10000	340.00
02-03-01	15:19:43	199	61197683	15:19:42	***	BUY	35	SELF	10000	340.00
02-03-01	15:19:43	199	151168724	15:19:40	0:00:02	SELL	545	SELF	10000	340.00

02-03-01	15:19:47	200	61197687	15:19:47	***	BUY	35	SELF	10000	340.00
02-03-01	15:19:47	200	151168727	15:19:47	0:00:00	SELL	545	SELF	10000	340.00
02-03-01	15:19:55	201	61197695	15:19:55	***	BUY	35	SELF	10000	340.00
02-03-01	15:19:55	201	151168733	15:19:53	0:00:02	SELL	545	SELF	10000	340.00
02-03-01	15:20:08	202	61197706	15:20:08	***	BUY	35	SELF	10000	340.00
02-03-01	15:20:08	202	151168739	15:20:02	0:00:06	SELL	545	SELF	10000	340.00
02-03-01	15:20:13	203	61197710	15:20:13	***	BUY	35	SELF	10000	340.00
02-03-01	15:20:13	203	151168741	15:20:09	0:00:04	SELL	545	SELF	10000	340.00
02-03-01	15:20:18	204	61197714	15:20:18	***	BUY	35	SELF	10000	340.00
02-03-01	15:20:18	204	151168746	15:20:17	0:00:01	SELL	545	SELF	10000	340.00
02-03-01	15:20:35	205	61197725	15:20:35	***	BUY	35	SELF	10000	340.00
02-03-01	15:20:35	205	151168751	15:20:29	0:00:06	SELL	545	SELF	10000	340.00
02-03-01	15:20:41	206	61197728	15:20:41	***	BUY	35	SELF	10000	340.00
02-03-01	15:20:41	206	151168757	15:20:38	0:00:03	SELL	545	SELF	10000	340.00
02-03-01	15:20:47	207	61197730	15:20:47	***	BUY	35	SELF	10000	340.00
02-03-01	15:20:47	207	151168764	15:20:45	0:00:02	SELL	545	SELF	10000	340.00
02-03-01	15:20:59	208	61197740	15:20:58	***	BUY	35	SELF	10000	340.00
02-03-01	15:20:59	208	151168770	15:20:52	0:00:06	SELL	545	SELF	10000	340.00
02-03-01	15:21:08	209	61197745	15:21:08	***	BUY	35	SELF	10000	340.00
02-03-01	15:21:08	209	151168776	15:21:00	0:00:08	SELL	545	SELF	10000	340.00
02-03-01	15:21:27	210	61197756	15:21:27	***	BUY	35	SELF	10000	340.00
02-03-01	15:21:27	210	151168784	15:21:21	0:00:06	SELL	545	SELF	10000	340.00
02-03-01	15:21:33	211	61197759	15:21:33	***	BUY	35	SELF	10000	340.00
02-03-01	15:21:33	211	151168785	15:21:29	0:00:04	SELL	545	SELF	10000	340.00
02-03-01	15:21:50	212	61197766	15:21:50	***	BUY	35	SELF	10000	340.00
02-03-01	15:21:50	212	151168788	15:21:36	0:00:14	SELL	545	SELF	10000	340.00
02-03-01	15:21:56	213	61197767	15:21:55	***	BUY	35	SELF	10000	340.00
02-03-01	15:21:56	213	151168792	15:21:42	0:00:13	SELL	545	SELF	10000	340.00
02-03-01	15:22:01	214	61197768	15:22:01	***	BUY	35	SELF	10000	340.00
02-03-01	15:22:01	214	151168794	15:21:52	0:00:09	SELL	545	SELF	10000	340.00
02-03-01	15:22:09	215	61197771	15:22:09	***	BUY	35	SELF	10000	340.00
02-03-01	15:22:09	215	151168796	15:21:59	0:00:10	SELL	545	SELF	10000	340.00
02-03-01	15:22:21	216	61197777	15:22:20	***	BUY	35	SELF	10000	340.00

02-03-01	15:22:21	216	151168800	15:22:13	0:00:07	SELL	545	SELF	10000	340.00
----------	----------	-----	-----------	----------	---------	------	-----	------	-------	--------

I also note that when BSPL sold 7,20,000 shares, on the buying side, its associate broker – Harish Biyani purchased 2,20,000 shares. The balance 5,00,000 shares were purchased by the noticees who were brokers at the relevant time and belonged to the D K Singhania group (2,50,000 shares each) i.e. Arihant Exim Scrip Pvt. Ltd. and Doe Jones Investments & Consultants Pvt. Ltd.

I further note that CSE had expunged the entire transactions of 7,20,000 shares on the ground that they were non genuine transactions. As far as the transactions of 5,00,000 shares between the Biyani group of brokers and the noticees viz. Arihant Exim Scrip Pvt. Ltd. and Doe Jones Investments & Consultants Pvt. Ltd. are concerned, I observe from the order and trade log that both Arihant Exim Scrip Pvt. Ltd. and Doe Jones Investments & Consultants Pvt. Ltd. indulged in creation of artificial market and volumes as a result of synchronization of trades as aforesaid. . The ordered quantity, price and time were matched. The time lag in the placement of orders was just under few seconds. The counterparty broker was BSPL and the buy and sell orders for the same quantity of shares were placed almost simultaneously. The value and volume of such transactions are also quite high. Instead of entering the order in the system and allow it to match with other orders pending in the market , the noticees and the counterparty broker had punched the orders almost simultaneously in the system so that they are matched in terms of price , quantity and timing etc.

In appeal no 54 of 2002 – Nirmal Bang Securities Pvt. Ltd V/S SEBI, the Hon''ble Securities Appellate Tribunal has held as under with regard to synchronized deals

“BEB has been charged for synchronized deals with First Global. I have examined the data provided by the parties on this issue. I find many transactions between BEB and FGSB. There are many instances of such transactions. I find the scrip, quantity and price for these orders had been synchronized by the counter party brokers. Such transactions undoubtedly create an artificial market to mislead the genuine investors. Synchronized trading is violative of all prudential and transparent norms of trading in securities. Synchronized trading on a large scale can create false volumes. The argument that the parties had no means of knowing whether any entity controlled by the client is simultaneously entering any contra order elsewhere for the reason that in the online trading system, confidentiality of counter parties is ensured, is untenable. It was submitted by the Appellants that it was not possible for the broker to know who the counter party broker is and that trades were not synchronized but it was only a coincidence in some cases. Theoretically this is OK. But when parties decide to synchronize the transaction the story is different. There are many transactions giving an impression that these were all synchronized, otherwise there was no possibility of such perfect matching of quantity price etc. As the Respondent rightly stated it is too much of a coincidence over too long a period in too many transactions when both parties to the transaction had entered buy and sell orders for the same quantity of shares almost simultaneously.”

Such transactions wherein the buy and sell orders were entered almost simultaneously and the time lag is just under few seconds as aforesaid and the transactions are matched in terms of order quantity, price and time are highly irregular and defeat the purpose of normal order matching system in the price discovery process in the exchanges and would also be in violation of Regulation 4 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to securities market) 1995 which reads as under:-

Prohibition against market manipulation.

4. No persons 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 markets;
- (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 fluctuation in the market price of securities;

As already noted above, when BSPL sold 7.2 lac shares of DSQ Industries, its associate broker, Harish Biyani purchased 2.2 lac shares and the rest were purchased by the noticees.

Acting in concert is something about which actual evidence is normally difficult to come. The Supreme Court had dealt with the issue in the case of CIT vs East Coast Commercial Co.Ltd. AIR (1967) SC 768 (Kedia Family case) in the context of Section 23A of the Indian Income Tax Act, 1922 wherein the question was whether Kedia family had acted in concert to control the affairs of the concerned company. In the facts of that case, there was no evidence of any overt act showing that they were acting in concert and thereby constituted and acted as a block.

In para 14 of the judgement, the SC observed as follows:

“..... It is sufficient, if having regard to their relation, etc., their conduct and their common interest, that it may be inferred that they must be acting together, evidence of actual concerted acting is normally difficult to obtain, and is not insisted upon.” (p.772)

Under the circumstances, it is concluded that BSPL and the noticees who purchased 5,00,000 shares in transactions which are termed as synchronized transactions in terms of order time, quantity and price as discussed above were acting in concert with each other in the synchronized deals.

Hence, it is clear from the above that Arihant Exim Pvt. Ltd. and Doe Jones Investments Pvt. Ltd. had together indulged in creation of artificial market, artificial price rise, giving misleading appearance of trades and hence have violated Regulation 4 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 as aforesaid.

In a situation where BSPL had sold 7.2 lac shares on the buying side, its associate broker Harish Biyani purchasing 2.2 lac shares and the noticees purchasing 5 lac shares in synchronized deals, the evidence of connected circumstances and preponderance of probabilities, common course of natural events and combination of facts creating network and artificial volumes gives rise to a reasonable inference that the noticees did not act in good faith and without negligence when they had executed these transactions.

The standard of proof required in a proceeding of this nature is at variance with the standard of proof required in criminal cases. It is sufficient if the preponderance of probabilities suggests towards the indulgence of the delinquent in the misconduct. The strict rules of Evidence Act and proof beyond reasonable doubt are not applicable to a proceeding of this nature. The Supreme Court's decision in Gulabchand vs Kudilal AIR, 1966, SC 1734 and the decision of the Special Court for trial of offences relating to transactions in securities in the matter of National Housing Bank versus ANZ Grindlays Bank, 1998 (2) LJ 153 is relied upon in this regard.

ORDER

Now, therefore, having regard to the nature and gravity of the charges established against the noticees, I hereby, in exercise of powers under Section 11(4), 11B of SEBI Act, 1992, and Regulation 11 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003, prohibit Arihant Exim Pvt. Ltd. and Doe Jones Investments Pvt. Ltd. to buy, sell or deal in the securities market for a period of 2 years.

This order shall come into force with immediate effect.

G N BAJPAI
CHAIRMAN

SECURITIES AND EXCHANGE BOARD OF INDIA

Place : Mumbai

Date : January 19, 2005