

SECURITIES AND EXCHANGE BOARD OF INDIA

Directions under Section 11, 11 (4), 11 B of the SEBI Act, 1992 read with Regulations 11 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 and Regulation 10 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 in the case of M/s. Majestic Industries Ltd.

BACKGROUND

Majestic Industries Ltd. (hereinafter referred to as 'MIL/Company') had approached the capital market with a rights-cum-public issue during February-March 1996. The Rights issue consisted of 62,00,000 equity shares of Rs.10/- each (on 2:1 basis) for cash at a premium of Rs.10/- per share aggregating to Rs.1240 lacs. The Rights issue opened on 29.02.1996 and closed on 10.04.1996, even though as per letter of offer the Rights issue was scheduled to close on 29.03.1996. The public issue consisted of 28,00,000 equity shares of Rs.10/- each for cash at a premium of Rs.50/- per share aggregating to Rs.16,80,00,000. The public issue opened on 14.03.1996 and closed on 19.03.1996.

The Bankers to the Rights Issue were Punjab National Bank, State Bank of Patiala and Vysya Bank.

SEBI had conducted an investigation into the price rigging in the share of MIL during 1996-97. During the course of investigation and analysis of the bank statements of MIL, its directors and their associates, it emerged that MIL had shown subscription in the Rights Issue through fraudulent means.

FINDINGS OF INVESTIGATION

Opening of Bank Accounts

The bank accounts of M/s Bhatia Financiers and M/s. Goyal Finance & Investment Co were opened at PNB Sector 9 Branch on the introduction of M/s Majestic Securities Ltd, an associate company of MIL. The accounts were opened on 10.4.96 the day the issue closed.

Financing of the applications by directors etc. after closure by diverting money of the company

- As per the final bank collection schedule the subscription in the rights issue was mainly on account of applications submitted at the bank branches at Chandigarh (Punjab National Bank, Sector 9 and State Bank of Patiala). It appeared that the cheques accompanied with applications made by directors and their associates were not sent for clearing presumably the account on which these cheques were issued did not have sufficient balance on the date of issue of cheques. It is also possible that these applications were deposited in the branches after the issue closing date.
- That as the issue was heavily undersubscribed, funds were transferred from MIL to M/s Goyal Finance and Investment Co and M/s Bhatia Financiers whose bank accounts were opened on the closure date of the rights issue. These entities after receiving money from MIL transferred money to the accounts of directors of MIL and others who used it for applying in the rights issue.
- An amount of Rs. 2,49,90,000/- was transferred from PNB The Mall, Shimla and Rs. 65,00,000/- through Transfer Payment Order from PNB Distt Ambala, in the bank accounts of MIL. This money was deposited in the account of MIL (PNB A/c No. 953) on 11.4.1996 & 13.4.1996 i.e. after the issue closing date.
- The sequence of events resulting in achievement of minimum subscription as emerged during investigation is as below:-
 - MIL transferred Rs.14,75,000/- to the account of M/s Bhatia Financiers (PNB Sector 9 A/c 988) on 11.4.96 and after receiving this amount M/s Bhatia Financiers paid Rs. 14,60,000/- into the account of Smt. Indu Gupta who used this money to submit her application form in State Bank of Patiala.
 - Subsequently, Rs. 2,10,08,000/- were transferred from the account of MIL (PNB A/c No. 953) to the account of M/s Bhatia Financiers (PNB Sector 9 A/c 988) & Rs. 90,05,000/- were transferred to the account of M/s Goyal Finance & Investment Co. (PNB Sector 9 A/c No. 988) on 15.4.96.
 - M/s. Bhatia Financiers transferred Rs. 2,10,00,000/- from their account (PNB Sector 9 A/c No. 988) to the account of Shri Subhash Gupta (PNB Sector 9 A/c 2368) on 15.4.96 and M/s. Goyal Financiers transferred Rs. 90,00,000/- from their account (PNB A/c No. 989) to the account of M/s. Majestic Metaliks Pvt. Ltd. on 15.4.96.
 - Sh. Subhash Gupta later submitted his application form at State Bank of Patiala, Chandigarh Branch on 10.04.1996 with Cheque No. 489324 for Rs 2,10,00,000/- drawn on his PNB A/c No. 2368.
 - M/s. Majestic Metaliks Pvt. Ltd. also submitted its application form at State Bank of Patiala, Chandigarh Branch on 10.04.1996 accompanied with Cheque No. 732207 for Rs 90,00,000/- drawn on their account (PNB A/c No. 302).
 - Rs. 2,10,00,000 was debited from the account of Sh. Subhash Gupta (PNB A/c No. 2368) on 15.4.96 and Rs. 90,00,000 were debited to the account of M/s. Majestic Metaliks Pvt. Ltd. (PNB A/c No. 302) on 15.4.96. The amount was credited to the State Bank of Patiala rights issue collection account on the same day i.e. 15.4.96.
 - State Bank of Patiala, Chandigarh, then issued a Banker's cheque No. 869470 for Rs. 3,20,00,000 in favour of MIL Ltd. on 17.4.96. This amount of Rs. 3,20,00,000 included the application money of Sh Subhash Gupta and M/s Majestic Metaliks Pvt Ltd and money from earlier deposited applications
 - This Bankers Cheque issued by State Bank of Patiala, Chandigarh was deposited in the account of MIL (PNB A/c No. 953 on 18.4.96). Thereafter, Majestic Industries Ltd. transferred Rs 3,35,50,000 to the account of M/s. Goyal Finance on 19.4.96.

- M/s. Goyal Finance transferred Rs. 3,35,00,000 to the account of Sh. Vidya Sagar Gupta on 19.4.96 at Bank of India, Sector 17, Chandigarh. Subsequently Sh. Vidya Sagar Gupta deposited his application with Cheque No. 276336 dated 10.4.1996 in PNB Sector 9. (As per letter dated 4.9.2003 received from PNB Sector 9 the application was dated 10.4.1996. They have also confirmed that Cheque No. 276336 was sent for clearing on 22.4.1996 and realized on the same day).
- Rs 3,40,00,000 was transferred from MIL Rights Issue Collection Account (PNB, Sector 9 A/c No. 580) to MIL Rights Issue Main Account Collection Account (PNB, Sector 9 A/c No. 580) on 23.4.96 where collections made at various branches were being accumulated. On the same day i.e. Rs.3,53,00,000 was transferred to the account of MIL (PNB Sector 9 A/c No. 953).
- MIL then released Rs. 4,08,00,000 from its account (PNB Sector 9 A/c No. 953) to the account of M/s Bhatia Financiers (PNB Sector 9 A/c No. 988) on 24.4.96.
- M/s Bhatia Financiers used this amount of Rs 4,08,00,000 to transfer the following amounts to the following persons as per details given below :-

Name	Date of transfer	Amount (in Rs)	Cheque No.
Seema Gupta	24.4.96	412000	851163
Kamlesh Gupta	24.4.96	1060000	851162
N.K. Gupta	24.4.96	13100000	851160
G.K. Gupta	24.4.96	13100000	851159
Vinod Gupta	24.4.96	13100000	851158

- All of them deposited these applications in PNB, Sector 9.

SHOW CAUSE NOTICES AND REPLIES TO THE SHOW CAUSE NOTICES

The above findings of the investigation conducted by SEBI were taken up with the MIL and directors of MIL and the associated entities that applied in the rights issue vide Show Cause Notices dated 25/06/2004. Show cause notice was not issued to Shri Subhash Gupta as he was then deceased.

There was no response to the show cause notice from Smt. Seema Gupta, M/s. Bhatia Financiers and M/s. Goyal Finance and Investment Co. The show cause notice sent to Prof. R K Gupta was received undelivered. The replies received from MIL and other entities are being analysed herebelow:

Vide letter dated 8.7.04 Shri Amit Gupta has stated that he was never associated with the company except as a shareholder nor did his name figure in the flow/chain of funds as depicted in the show cause notice. It was further stated that he had subscribed to the rights issue out of his own resources.

As per the replies dated 8.7.04 and 9.7.04 of the promoter directors viz , Sh. V.S. Gupta, Sh. N.K. Gupta, Shri G.K. Gupta and Sh.Vinod Gupta, besides relatives of directors viz Smt. Kamlesh Gupta and Smt. Indu Gupta, which are more or less identical, following submissions have been made:

1. That they were under an obligation to subscribe to the shares offered to them in the rights issue and had to arrange the funds from genuine sources.
2. That during the period reported in the show cause notice they had not purchased or sold any shares from the market except the subscription to rights offer
3. That they had deposited their application on or before the closure of the rights issue and never issued any instruction to the collecting bankers for not presenting or presenting the accompanied cheque later.

Reply of the company

Submissions made by the company vide its reply dated 8.7.04 are briefly stated hereunder:

1. That the transactions in the show cause notice had nothing to do with the company and it had no knowledge about them.
2. It was denied that the directors of the company financed the applications or that company received any funds from the financiers.
3. It was denied that the company had closed the rights issue after the expiry of the given schedule, in violation of the terms of offer letter and the related provisions of the Act.
4. That the company's instructions to bankers were limited only to the extent of receiving applications along with instrument of payments.
5. It was not aware of any investigation regarding subscription / under subscription.
6. That all agencies, which handled the issue were registered with SEBI and the bankers were under the control of higher authorities. The transactions between the banks, financiers, subscribers had no concern with the company and the company had never been a party to the reported transactions. The company did not have any access to the bank record.
7. That LSE never pointed out any shortcoming.

8. That due reference had not been given to the submissions made by the company earlier and appearance of the subject by the authorized officials before the concerned authorities.
9. It was denied that the company had ever funded/supported the market price of its shares. The subscription of shares could not be construed as price rigging by the company or its directors and its associates.
10. That SEBI had proceeded with the enquiry without giving them an opportunity of being heard.
11. It was denied that the collection account in the name of the company was opened after the closure of the rights issue.

Submissions of M/s. Majestic Metaliks Pvt. Ltd.

In their reply dated 14.8.2004 M/s. Majestic Metaliks Pvt. Ltd. has made following submissions:

1. That they had no association with MIL since 1998 due to division and restructuring of the group companies and as such had no access to the records of the company.
2. That they had subscribed to the shares offered to them on rights basis by MIL. At that time they had routine commercial dealings with the company and the financial transactions were a part of the routine dealings.
3. That during the period in the show cause notice they had never purchased or sold any shares of MIL from the market except the subscription to the rights issue.
4. That they had deposited the applications on or before the closure of the rights issue and never issued any instructions to their collecting bankers for not presenting or presenting the accompanied cheque after the closure of the issue.

PERSONAL HEARING AND SUBMISSIONS

Personal hearing was granted to the company, its directors and the associates on 11.11.04. None of the parties appeared on the said date. Some of them expressed their inability to attend and requested for another date of hearing. Accordingly another opportunity of personal hearing was granted to them on 30.11.04 when Shri N K Gupta, Managing Director of MIL accompanied by Shri M R Chechi, practicing Company Secretary represented the company and the Managing Director. During the said hearing no further submissions were made and they requested SEBI to consider their submissions made vide their earlier letters dated 8.7.04. There was no representation on behalf of the other directors.

CONSIDERATION OF THE ISSUES AND FINDINGS

1. On 10.04.96 current accounts of M/s Goyal Finance and Investment Co (A/c No. 989) and M/s Bhatia Financiers (A/c No. 988) were opened at PNB, Sector-9, Chandigarh with a cash deposit of Rs.500 on the introduction of Majestic Securities Ltd. an associate company of the Majestic Industries Ltd. Applications accompanied with cheque no. 851176 issued by M/s. Goyal Finance and Investment Co for Rs.16830800/- and cheque no. 851152 issued by M/s Bhatia Financiers for Rs.17048400/- were deposited at State Bank of Patiala on 10.04.96. These cheques were returned unpaid on 11.04.96 as these entities did not have requisite balance. These cheques were drawn on their accounts at PNB which were opened on 10.4.1996.
- It is clear that the amount of these cheques which were returned unpaid subsequently was taken into consideration by the Registrar to the Issue in arriving at the subscription figures for the purpose of giving the certificate of subscription to the lead manager who in turn submitted the 3 day report to the stock exchange and SEBI enabling the company to withdraw the proceeds of the right issue on receipt of 90% subscription.
- The fact that the bank accounts were opened by MIL on 10.04.96 with a view to help the company to show full subscription is reinforced by the fact that the two Cheque Nos. 851152 & 851176 together accounted for 27.32% of the issue size and the subsequent applications were routed through these accounts goes to prove the motive and the collusion of the intermediaries with the company.
- Therefore, it is clear that the company in connivance with the Registrars, Bankers, Lead Managers to the Issue showed that the issue had been subscribed to the extent of 94.35.
- It is also possible that these applications may have been deposited by the last closing date (10.4.96) and the company and the directors connived with the bank to get them to delay sending the cheque for clearing. As these were high value cheques they should have been credited in the same day i.e.10.04.1996.
- It was admitted by State Bank of Patiala during the enquiry proceedings against them that the company opened collection account on 30.3.1996 with them. It was explained by the bank that no application was received directly at the branch or from any other collecting branch till 30.03.96 and as such the company's account which was meant only for collecting the amount of Rights Issue was opened on 30.03.96. It was only after the application was received at the branch, the account of collection was opened and the amount received credited to the account.
- This is rather surprising as the issue was earlier to close on 29.3.96 and it becomes clear that no application money was received by State Bank of Patiala till 29.03.96. It appears that the issue had remained undersubscribed till 29.03.96 and the company extended the closing date to 10.4.96.

2. REPLIES OF THE DIRECTORS

- The replies of the directors of MIL are not satisfactory. It is apparent they have agreed that they had received funds from the financiers/genuine sources. But they have been silent on the issue as to how the financiers had received the money.
- SEBI investigations have clearly shown that these financiers received money from the company after the issue closed. The reply of the directors that they were under no obligation to keep funds in their bank when cheques are deposited in the

collecting bank appears to be an after thought. The above events show that the entire sequence was carefully managed to show the issue as fully subscribed.

- The contention that the cheques were presented by Lead Bankers and the directors did not have access to collection figures cannot be accepted. The cheques have been presented on the dates when the funds were organised. For instance the cheque issued by Shri V S Gupta was presented when his bank account had received funds from the financier who had in turn received it from the company.
- The charge being made out in show cause notice is not that the directors had financed the applications, but that the financing of their applications was done by diverting funds of the company.

3. REPLY OF THE COMPANY

- That the transactions in the show cause notice had nothing to do with the company is also not acceptable as the transactions described in the show cause notice could not have taken place without the active involvement of the company.
- SEBI has proof of applications made by promoter directors of MIL and their relatives and Majestic Metaliks Pvt. Ltd. The company cannot deny knowledge of these applications, as the concerned RTI would have furnished this information to the company at the time of the allotment process. Though the investigation was carried out to look into the charges of price rigging it was never a charge made against the company. During the said investigation, it emerged that the company had financed its rights issue by fraudulent means, which is the charge made against them in the present proceedings.
- The bank statement received from SBOP clearly shows that the aforesaid two cheques of Rs. 1,70,48,400 and Rs. 1,68,30,800 were deposited at SBOP and then returned unpaid. Both the entities who opened the account with PNB, Sector 9, Chandigarh did so on 10.4.96 the closing date of the rights issue. The accounts of both these entities were introduced by Majestic Securities Ltd, which is an associate company of MIL, which clearly shows the linkage between these two entities and the company. Later on, these two entities had received funds from the company which were used to transfer money to directors and their relatives.
- The contention of the company that the company's instructions to bankers were limited only to the extent of receiving applications along with instrument of payments cannot be accepted. The transactions described in SEBI show cause notice clearly showed that there was a well thought out plan to route money from the company to Bhatia Financiers and Goyal Finance & Investment Co. to be used to finance the applications by directors.
- As regards the issue of bankers acting on instructions given by the company, it is clear that the opening of accounts of financiers on the closing day of the issue, on the introduction of Majestic Securities Ltd. and subsequent fund transfers is not a mere co-incidence and on the other hand clearly shows the modus-operandi in the issue.
- The company's contention of not being aware of any investigation regarding subscription / under subscription has no merit. Transactions reported in the show cause notice may have taken place after the closure of the issue and before allotment, but the events clearly indicate the plan to route money to show adequate subscription.
- As regards, the issue of LSE approving the basis of allotment or that LSE did not point out any shortcoming the matter has already been taken up with LSE. However, SEBI investigation have shown the role, the applicants, the company, the bankers and other intermediaries in the issue had in getting LSE clearance for release of funds and allotment. The fact that LSE never pointed out any shortcoming is not a sufficient explanation or justification of the violations committed by the company, its directors and associates. RTI and the Banker to the Issue and Lead Manager are being proceeded against separately under their respective Regulations.
- The contention of the company "that it is wrong to allege that company received any funds from the financiers" is side tracking from the issue. It was alleged by SEBI that the financiers received money from the company and then transferred this money to the applicants, who then applied to their rights share. The reply of the company that the company had no banking records, which might prove the fact that the cheques were issued by the applicants or someone else had issued a cheque is also misleading.
- The company has contented that all agencies, which handled the issue were registered with SEBI and the bankers were under the control of higher authorities. While SEBI has taken up the issue of irregularities with the RTI, LM, and bankers the role of the company and its directors and associates it is clear that these agencies could not have acted on their own without the insistence/involvement of the company, as the company clearly benefited from their actions.
- The company has stated in its reply that the issue was closed under the terms and conditions of document and only after receiving authenticated information from RTI. It has been clearly stated in the SEBI show cause notice that the RTI certificate was fraudulent, as most of the entities did not have sufficient funds to clear their cheques accompanied with their rights issue application forms.
- It is wrong to say that due reference has not been given to the submissions made by the company earlier and appearance of the subject by the authorized officials before the concerned authorities. The show cause notice itself referred to the replies received from the directors.

4. REPLY OF M/S. MAJESTIC METALIKS PVT. LTD.

- Now dealing with the reply of M/s. Majestic Metaliks Pvt. Ltd. statement that they had routine commercial dealings with the company and the financial transactions were a part of the routine dealings cannot be accepted . It is clearly pointed out in the show cause notice that Majestic Metaliks Ltd received Rs 90.00 lacs on 15.4.1996 from M/s Goyal Finance & Investment Co who had received Rs 90.50 lacs by bank transfer from Majestic Industries Ltd. This money was used to finance its application in the rights issue accompanied with cheque no. 851181 drawn on PNB. If their application were to be accepted before or on the closure of the issue, their bank account did not have the requisite funds.
 - The argument that they were only aware of the deposit of cheque and had no knowledge of subsequent events is not borne by the facts pointed out in the investigation
5. None of the directors or the entities has commented on the flow of cheques. In the circumstance that the findings of the investigations have not been rebutted, I am of the view that the company and its promoters/directors and associate entities are guilty of financing the applications after the closure of the issue, by diverting the money of the company.
6. Amit Gupta's contention is accepted as his name does not figure in the list of entities who have routed money to invest in the rights issue. In view of the submissions made by Shri Amit Gupta, I discharge him from the present proceedings.

CONCLUSION

In light of the aforesaid facts and circumstances it is clear that MIL, its directors and their associates namely Shri VS Gupta, Shri N K Gupta, Shri Vinod Gupta, Shri Subhash Gupta, Shri G K Gupta, Prof. RK Gupta, Smt Indu Gupta, Seema Gupta, Kamlesh Gupta, Amit Gupta and M/s Majestic Metaliks Pvt Ltd., M/s. Bhatia Financiers, M/s. Goyal Finance & Investment Co.) have committed fraud as defined under Regulation 2(c) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995. Apart from this, their aforesaid acts of omission and commission were in violation of Regulation 3, 5, 6(a) and 6(d) of the said Regulation.

In view of the above and as a remedial measure, in exercise of powers conferred upon me under Section 4(3) of the Securities and Exchange Board of India Act, 1992 read with Section 11(4) and 11B of the said Act and further read with SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 and SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003, I hereby restrain Majestic Industries Ltd. and its directors and their associates namely Shri VS Gupta, Shri N K Gupta, Shri Vinod Gupta, Shri G K Gupta, Prof. RK Gupta, Smt Indu Gupta, Seema Gupta, Kamlesh Gupta and M/s Majestic Metaliks Pvt Ltd., M/s. Bhatia Financiers, M/s. Goyal Finance & Investment Co. from accessing the securities market and also prohibit them from being associated with the securities market in any manner whatsoever to buy, sell or deal in securities for a period of 5 years from the date of the order.

This order shall come into force with immediate effect.

G.N. BAJPAI

CHAIRMAN

SECURITIES AND EXCHANGE BOARD OF INDIA

Place: Mumbai

Date: February 18 , 2005