

SECURITIES AND EXCHANGE BOARD OF INDIA**ORDER****UNDER SECTIONS 11B AND 11(4) OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 IN THE MATTER OF****CONSORTEX KARL DOELITZSCH (INDIA) LTD. (FORMERLY ANDHRA PRADESH POWER TOOLS LTD.)****1. Background**

- 1.1 Andhra Pradesh Power Tools Ltd. was originally incorporated as Indo Hacks Power Tools Ltd. in September 1984; subsequently its name was changed to Andhra Pradesh Power Tools Ltd in 1986. Andhra Pradesh Industrial Development Corporation Ltd. APIDC (A corporation of Government of Andhra Pradesh) participated in the equity capital by investing Rs 80 lakh in 8,00,000 equity shares of Rs 10 each. These shares were held in physical form initially. The company changed its name once again to Consortex Karl Doelitzsch (India) Ltd., (hereinafter referred to as "Consortex") in August 1998. Shares of Consortex are listed on Hyderabad Stock Exchange, Bombay Stock Exchange Ltd. and the National Stock Exchange.
- 1.2 SEBI received a complaint dated September 5, 2005 from APIDC that their request for dematerialisation of their full holdings of 8 lakh equity shares held in physical form, which were submitted to the share transfer agent of Consortex viz. Ikon Vision Pvt. Ltd., (Ikon) through UTI Securities Ltd., Hyderabad, the depository participant for APIDC, (vide request form no. 180087 dated July 8, 2005) was rejected. The rejection was on the ground that "security certificates received not available for demat" while advising in the footnote "contact the company for exchange of shares". APIDC also alleged in their complaint that Consortex "had indulged in fraudulent practice through dematerialisation of their shares prior to December 2002".
- APIDC has stated in their letter to SEBI that upon their enquiry with IKON, they were informed by Ikon that the shares carrying distinctive numbers of shares submitted by APIDC for dematerialization have already been dematerialized prior to December 2002 itself.
- 1.3 Another complaint was received by SEBI on 26/9/2005 from one Ms. Mohanamma of Nellore stating that her request for demat of 3600 shares of Consortex in DRN no. INE 870 01018 dated June 7, 2005 sent through SHCIL, Nellore has not been acted upon, for want of instructions from M/s. Consortex.
- 1.4 Further to the complaint of APIDC, SEBI sought certain clarifications from Consortex and Ikon, vide letter dated September 8, 2005.
- 1.5 Consortex in their response dated September 13, 2005 to SEBI stated that APIDC has entered into a promotional agreement with Consortex, on December 5, 1998 and also participated in the equity by investing a sum of Rs. 80 lacs for 8,00,000 equity shares of Rs. 10/- each in Consortex during the financial years 1988-89 and 1989-90. The promoters of the company executed a buy back agreement with APIDC dated January 20, 1996. Subsequently, the name of the company, Andhra Pradesh Power Tools Ltd., was changed to Consortex w.e.f. August 24, 1998. The company had issued public notice dated October 22, 1999 which was published in all leading newspapers asking the shareholders of the company to surrender old share certificates for exchange of new share certificate to the Registrar and Share Transfer Agent on or before December 6, 1999. Consortex also furnished the shareholding pattern of the company as on June 30, 2005 to the stock exchanges showing APIDC's holding as 8,00,000 shares. Consortex further stated in their reply that they had requested APIDC to surrender the old share certificates of Andhra Pradesh Power Tools Ltd. for exchange of new share certificates of M/s. Consortex. Further Consortex refuted the allegation of fraud made by APIDC while alleging that APIDC, contrary to the information given by Ikon, had never contacted the company for exchange of share certificates. Consortex also stated that they have neither done any fraud nor sold the certificates of APIDC.
- 1.6 SEBI wrote to IKON on September 8, 2005, seeking details of dematerialisation of the physical shares held by APIDC. In response to SEBI's letter, Ikon stated that they are unable to provide the copy of DRN and other details of dematerialisation, as "full record" has not been submitted by Consortex. Further, they informed that the share folio no. 00008 of APIDC in their records showed Nil holding.
- 1.7 Since inconsistency was observed in the replies of Consortex and the Ikon in the matter of shareholding by APIDC in Consortex, additional information was sought from Consortex, Ikon and the HSE. While HSE and Ikon have submitted the information, Consortex is yet to furnish the additional information sought. A preliminary investigation into the matter was conducted. The findings of the preliminary investigation are given below.

2. Preliminary Findings

- 2.1 Consortex is having registered office at Sri Fort, Sadhbhavana Nagar, Balampally Village, Hindupur, Ananthapur Dist., A.P.
- 2.2 The company's Annual Report for the year 2004-05, shows the Board of Directors of the company as follows:
- | | | |
|--------------------------|---|-------------------|
| Shri M.Sudhakar Rao | - | Managing Director |
| Shri V.Manohar | - | Director |
| Shri K.Satyanarayan | - | Director |
| Shri S.Surya Prakasa Rao | - | Director |
| Shfri G.Krishna Mohan | - | Director |

- 2.3 The issued and paid up capital of Consortex comprises of 2,61,39,500 equity shares of Rs.10/- each fully paid up amounting to Rs.26,13,95,000/-
- 2.4 The shares of Consortex are listed in HSE, NSE and BSE. The shares are currently traded at BSE in the range of Rs.10.25 to Rs. 5.37 (September 1 – 27, 2005), with daily volumes in the range of 10,80,585 to 10,564.
- 2.5 Ikon Vision Pvt.Ltd., a SEBI registered Registrar and Share Transfer Agent is acting as Share Transfer Agent for Consortex w.e.f August 1, 2003. Prior to Ikon, Mondkar Computers Pvt.Ltd., 21, Shakti Nivas, Mahakali Caves Road, Andheri (East), Mumbai 400 0093 were the Share Transfer Agents for Consortex.
- 2.6 Shareholding pattern of Consortex as on June 30, 2005 are as under:

Table 1 : Shareholding pattern of Consortex as on June 30, 2005

Particulars	Number of Shares	Percentage
Promoters	71,96,851	27.53
Banks and FIs	8,00,000	3.06
APIDC	8,98,000	3.44
Others		
Pvt Corporate Bodies	33,41,124	12.79
Indian Public	1,38,23,025	52.88
NRI's / OCBs	6,80,500	2.60

Source: Report on shareholding pattern as on 30-6-2005 filed by Consortex with HSE

- 2.7 As per the secretarial audit report dated July 8, 2005 signed by M/s Desu Associates (Company Secretaries) and submitted by the company to HSE, the following are the details of the shares of Consortex held in physical / demat form as on June 30, 2005:

Table 2: Physical and Demat Holding as per company's record

Nature of Holding	Number of shares & percentage
Physical Shares	7,62,500 (2.92%)
Demat – NSDL	1,98,01,777 (75.75%)
Demat – CDSL	55,76,223 (21.33%)
Total	2,61,39,500 (100%)

- 2.8 In the secretarial audit report for the quarter ended June 30, 2005, filed by Consortex with HSE, the number of shares held by various shareholders in physical form is shown at 7,62,500, which is less than the number of shares held in physical form by APIDC i.e. 8,00,000.
- 2.9 Further the details of shares of Consortex held in physical and dematerialized form as appearing in the records of Ikon show a discrepancy which would be evident from the following table 3. Ikon had confirmed the said details as per their records in their letter dated September 27, 2005 addressed to Hyderabad Stock Exchange. In another letter dated September 26, 2005 addressed to Hyderabad Stock Exchange Ikon also furnished detailed list of shareholders who are holding shares in physical form, wherein the name APIDC does not figure at all.

Table 3: Physical and Demat Holding as per Ikon's record

Nature of Holding	Number of shares
Physical Shares	7,76,500
Demat – NSDL	1,99,66,310
Demat – CDSL	61,62,890
Total	2,69,05,700

- 2.10 The physical holdings of APIDC according to their own record intimated to SEBI by their letter dated September 9, 2005, evidencing their holding of 8 lakh shares is given below.

Table 4: Physical and Demat Holding as per APIDC's own record

Folio Number	Certificate. Nos	Dist. Nos.	No. of shares
		From To	
8	8	0000071 0320470	3,20,400
8	9	0320471 0427270	1,06,800
8	42	0986201 1086200	1,00,000
8	43	1086201 1186200	1,00,000
8	44	1186201 1359000	1,72,800
Total			8,00,000

- 2.11 Ikon in its letter dated September 20, 2005 addressed to Hyderabad Stock Exchange has stated the following:

- Consortex unit was transferred to Ikon on August 1, 2003.
- Since August 1, 2003, APIDC shareholding was nil.
- Ikon has not dispatched annual reports to APIDC in the last 2 years.

- Consortex did not collect the shareholding pattern from Ikon since the date of their takeover as Share transfer agent.
- 2.12 APIDC is currently holding 8,00,000 shares of Consortex, in physical form, while the records of Ikon reveal that shareholding of APIDC is nil. APIDC does not figure in the list of shareholders holding shares of Consortex in physical form, as furnished by Ikon.
- 2.13 The above details disclosed by Consortex to the stock exchange relating to nature of holding are an eye opener, in as much as the total physical shares reported at a number 7,62,500 is less than the holding of one single entity viz. APIDC of 8 lakh shares, while it is safe to conclude that the reported figure of 7,62,500 shares in physical shares related to other entities. This yawning gap in the total number of physical shares of Consortex which should be in the region of 15,62,500, on their own admission gives the lie to the shareholding pattern reportedly submitted by Consortex to Hyderabad Stock Exchange as on June 30, 2005 which is supposed to include APIDC's holding of 8 lakh shares in physical form.
- Going by the data available with Consortex and Ikon in the matter of nature of holding, the one inescapable conclusion is that the physical shares reported by both of them are much less than 8 lakh shares held by one single entity namely APIDC. In view of that, no store can be set on the disclosures made by Consortex to Hyderabad Stock Exchange or to the details of nature of holding as available in the records of Ikon. However, it is a matter of record that both Consortex and Ikon have reckoned without the 8 lakh number of physical shares held by APIDC and to that extent the aggregate tally of the number of shares in Consortex has to be marked up which would go beyond the paid up shares of 2,61,39,500. This leads to the only possible inexorable finding in the material circumstances of the case where the records are totally unreliable that duplicate/fake shares might have been issued by Consortex and that it is equally likely that the same might have found its way into the market in the course of trading. As a matter of fact in the complaint of APIDC there is a specific mention to the effect that they were informed by Ikon that the shares carrying distinctive numbers of shares submitted by APIDC for dematerialization have already been dematerialized prior to December 2002 itself. Based on the same which is the only definite indicator in a welter of numbers abounding in contradiction and discrepancy, it is not only a distinct possibility but also can be a matter of fact that fake shares have been issued by Consortex and dematerialized earlier for trading in the market.
- 2.14 The reply given by the Consortex vide its letter dated September 09, 2005 is far from convincing. Consortex has not yet furnished additional information called for by SEBI vide letter dated September 13, 2005. A reminder letter was also sent on September 22, 2005 which has not yet been responded to.
- 2.15 The additional complaint from an investor, one Ms. Mohanamma of Nellore, stating that she too has not received 3600 shares sent to the company for dematerialisation, further strengthens the view that there has been a free wheeling – dealing in physical shares, as if the number never mattered.

3. Conclusion

- 3.1 Issuance of fake share certificates is a serious offence both under the SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulation and under the Companies Act. Besides circulation of fake shares in the market seriously affects trading in the share and market integrity and endangers the safety. It is therefore detrimental to the interests of investors in the securities market.
- 3.2 Reconciliation of records of dematerialized securities with all the securities issued by the issuer has not been done by Consortex nor by Ikon, on a daily basis as required, under Regulation 55 of SEBI (Depositories and Participants) Regulations, 1996. Further, the differences observed in the issue listed and the capital held by depositories in dematerialized form, does not appear to have been brought to the notice of depositories or the Stock exchanges, thereby, violating 55A(3) of SEBI (Depositories and Participants) Regulations, 1996, read with Section 17 of Depositories Act, 1996.
- 3.3 Report on shareholding pattern filed by Consortex shows shareholding of APIDC at 8,00,000 shares under the heading "Banks and Financial Institutions", whereas, as per the records of Ikon, the shareholding of APIDC is nil. It is therefore seen that the report on the shareholding pattern for the quarter ended June 30, 2005 filed by Consortex with the exchanges is false and misleading as the same does not tally with records / information furnished by Ikon. This holds them in violation of provisions of listing agreement.
- 3.4 The aforesaid facts also raise serious doubts about the veracity of secretarial audit report issued by Desu Associates dated July 8, 2005.
- 3.5 Prima facie, the aforesaid facts, renders Consortex and its directors guilty of violation of Regulation 3 and Regulation 4 (2)(h) of SEBI (Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003.
- 3.6 The Role of Ikon also appears to be suspect and not in conformity with high standard of diligence and care expected of Ikon as a SEBI Registered Cat – I, RTI & STA, thereby violating Clause 2 and 3 of Schedule 3 of Code of Conduct read with the aforesaid provisions of SEBI (Depositories and Participants) Regulations 1996.
- 3.7 With a view to ascertain the facts of the matter and determine whether the concerned entities have violated the provisions of the Securities Contracts (Regulation) Act, 1956, the Depositories Act, 1996 as well as that of the SEBI Act, 1992 and the rules and regulations made thereunder, SEBI has initiated formal investigations into the matter.
- 3.8 In the light of the above, I find that, prima-facie, the conduct of the above entities is not in conformity with the high standards of integrity, fairness and professionalism expected from securities market participants. Such conduct by the said entities saps the investors' confidence and is detrimental to investor interests as well as the safety and integrity of the securities market.
- 3.9 Issuing fake shares is a major offence. Fake shares will lead to artificial increase in shares of a company available for trading thus seriously impairing the value of securities held by genuine investors. Also fake shares will lead to artificial increase in trading volumes. Fake shares will also undermine the confidence of investors in securities market and seriously hinder the orderly development of securities market.

3.10 In view of the above, I am satisfied that pending inquiry by SEBI, it is necessary to issue an order, under Section 11(4)(b) read with Section 11(1) and 11B of SEBI Act with a view to protect the interest of investors and also the integrity of the securities market.

4. ORDER

4.1 Therefore, in exercise of the powers conferred upon me by virtue of Section 19 read with Section 11(4)(b) and Section 11(1) and 11B of SEBI Act, it is hereby directed, pending investigation, that –

- a) Consortex Karl Doelitzsch (India) Ltd., formerly known as Andhra Pradesh Power Tools Ltd. **and its directors are** directed not to issue any further shares or alter its share capital in any manner till further directions. The company and its directors viz. Shri M.Sudhakar Rao, Shri V.Manohar, Shri K.Satyanarayan, Shri S.Surya Prakasa Rao and Shfiri G.Krishna Mohan are prohibited from accessing capital market or dealing in securities, in any manner, directly or indirectly, till further orders in this regard by SEBI.
- b) Consortex shall submit audit report audited by a qualified Chartered Accountant or a practicing Company Secretary on the reconciliation of the records of dematerialized securities with all the securities issued by Consortex within 15 days from the date of this order.
- c) Ikon Vision Pvt. Ltd. Registrar and Share Transfer Agent is hereby directed not to transfer shares of Consortex held by the above mentioned directors directly or indirectly till further directions.
- d) APIDC (A corporation of Government of Andhra Pradesh) is directed to retain all the original share certificates of Consortex in its possession in safe custody. They are also directed not to part with any of the shares till further directions of SEBI.

4.2 All the above directions shall take effect immediately and shall be in force until further orders.

4.3 The promoters, directors or the company may file their objections, if any to this order within 15 days from the date of this order and, if they so desire, avail themselves of an opportunity of personal hearing at the Securities and Exchange Board of India, Head Office, First Floor, Mittal Court, B Wing, Nariman Point, Mumbai 400 021 on a date and at a time to be fixed on a specific request, to be received in this behalf from the entities within 15 days from the date of this order.

This order shall come into force with immediate effect.

Place: Mumbai

Date: 29-09-2005

G ANANTHARAMAN

WHOLE-TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA