

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under Regulation 13(4) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, against M/S Kushal Securities Private Limited (INB 051003631) Member, Delhi Stock Exchange.

Whereas, Securities and Exchange Board of India (hereinafter referred to as SEBI), pursuant to an investor complaint received in 1998, conducted an investigation into the alleged price manipulation in the scrip of Mefcom Capital Markets Limited (hereinafter referred to as MCML) during the period from January 1994 to February 1995 and the investigation revealed that during the period covered under investigation the price of the scrip moved from Rs. 12/- in January 1994 to about Rs.155/- in January 1995 immediately prior to the public-cum-rights issue which opened on February 01, 1995 without there being any significant change in economic fundamentals of the MCML; and

whereas, the investigation further revealed that the M/s Kushal Securities Private Limited (hereinafter referred to as KSPL) had aided the promoters of the company MCML in price manipulation in the scrip immediately prior to the opening of the public-cum-rights issue, through Mefcom Securities and Stock Brokers Limited (hereinafter referred to as MSSB) which is an associate entity of MCML; and

whereas, an Enquiry Officer was thus appointed by SEBI vide order dated May 13, 2003 under Regulation 5 of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as 'Enquiry Regulations') to enquire into the alleged violations of Securities and Exchange Board of India (Stock Brokers & Sub-Brokers) Regulations, 1992 (hereinafter referred to as Broker Regulations); and

whereas, the Enquiry Officer after conducting the Enquiry in terms of the Enquiry Regulations found that the KSPL had traded in the illiquid scrip of MCML prior to its public-cum-rights issue and 93.55% of buy and 90.63% of sell of KSPL in the scrip of MCML were with the counter party broker MSSB, an associate entity of MCML; and

whereas, the Enquiry Officer also found that the KSPL had traded between 23.06.94 and 23.02.95 when the price of the scrip shot up from Rs 26/- to Rs. 180/- i.e. just around the opening of the public-cum-rights issue of MCML which eventually opened with a premium Rs 60/- per share; and

whereas, the Enquiry Officer further observed that this sudden trading activity with no change in economic fundamentals of the MCML immediately prior to the public issue and the attendant circumstances should have aroused the suspicion of the KSPL as to the motive of the clients particularly when the counter party broker was MSSB, the broker related to the issuer company; and

whereas, the Enquiry Officer also found that in the circumstances, it cannot be said that the KSPL has exercised due skill and diligence for transactions in the scrip of MCML with a counter party broker MSSB, who is an associate of the issuer company, in an open outcry system against the background of the unusual movements in the volumes traded and the prices of the scrip just prior to the public issue of the company; and

whereas, the Enquiry Officer found and concluded that the transactions in question conducted by KSPL resulted in price manipulation and thus KSPL failed to comply with Clause A (1), (3) & (4) of Code of Conduct as specified in Schedule II read with regulation 7 of broker Regulations, and therefore recommended minor penalty of suspension of the Certificate of Registration for a period of 30 days against KSPL; and

whereas, a copy of the said Enquiry Report was forwarded to KSPL along with a show cause notice dated September 21, 2004 advising it to show cause as to why action as may be considered appropriate should not be taken against it; and

whereas, KSPL replied to the said show cause notice vide its letter dated October 04, 2004 and interalia submitted that its dealings were based on genuine orders and to take advantage of price fluctuation in the rising market and it was also submitted that its turnover in the scrip was only 3200 shares during the period under consideration and It did not indulge in any price manipulation in the a said scrip and it was further submitted that the penalty recommended by the Enquiry Officer may be reconsidered; and

whereas, it is observed that the Enquiry Officer having considered these submissions made before him also, recommended minor penalty of suspension of certificate of registration for a period of 30 days

Now therefore,

I, having considered the nature and gravity of the charges established, the facts and circumstances of the case, the recommendation of the Enquiry Officer, the submissions made by KSPL thereto, while agreeing with the findings of the Enquiry Officer, in exercise of powers conferred under Section 19 of the SEBI Act, read with Regulation 13(4) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulation 2002, hereby suspend the certificate of registration of M/s Kushal Securities Private Limited (Reg. No. INB051003631) Member DSE, for a period of 30 days.

This order shall come into force after three weeks from the date of the order.

DATE: 29.12.05
PLACE: MUMBAI

MADHUKAR
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA