

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 KASAT SECURITIES (P) LTD., MEMBER, NSE AND PSE (SEBI REGISTRATION NO. INB 230754633 AND INB 11721034) IN THE CASE OF SNOWCEM INDIA LIMITED.**BACKGROUND:**

1. Kasat Securities (P) Ltd (hereinafter referred to as "the member") is a member of National Stock Exchange (hereinafter referred to as "NSE") and Pune Stock Exchange (hereinafter referred to as "PSE"), registered with Securities and Exchange Board of India (hereinafter referred to as 'SEBI').
2. An internal investigation was conducted from June 3, 1999 to August 10, 1999 by the NSE in the scrip of M/s Snowcem India Ltd (hereinafter referred to as 'SIL') and submitted its report to SEBI. According to the report, there was a major spurt in the total traded volume in the scrip of SIL. From an average volume of 12,521 shares during the period March 1, 1999 to May 25, 1999, it recorded a five-fold increase to record volumes of 68,370 shares a day during the investigation period, which is from June 1999 to August 1999.
3. Thereafter, SEBI carried out a detailed investigation of the dealings in the scrip of SIL. The investigations, inter-alia, revealed that:
 - Kosha Investments Ltd.(hereinafter referred to as 'KIL') was the predominant trader in the scrip during the period of investigations. SIL had re-issued forfeited shares and the same were allotted to one Shri Sourabh Bora (whose name also figured among the top clients during the period of investigations). Shri Sourabh Bora was identified as one of the top clients who had traded in the scrip apart from KIL.
 - The money received by KIL from SIL was time and again utilised for the purpose of making payments to brokers. The timing of the fund transfers from the books of the company to the account of KIL and from KIL to the accounts of the brokers/sub brokers suggested that there were clear- cut intentions on the part of the company to manipulate the scrip price of SIL. The fact that the company was not aware of the details of the funds utilisation by KIL is again without any conviction. In almost all the occasions it was observed that funds were transferred from the account of SIL and credited into the account of KIL prior to their placement of transactions in the scrip of SIL. Moreover, KIL is also the promoter group company of SIL and this has been agreed by the management of SIL.
 - It is observed that KIL was the predominant buyer in the scrip and it was their trading which was responsible for the price movement in the scrip of SIL. From the trading details submitted by the exchanges it appeared that KIL had employed manipulative tactics either to maintain the scrip price and/or to increase the price drastically. In view of the fund transfers which occurred frequently, it appeared that the management of SIL was directly responsible for the price movement in the scrip during the aforementioned period.
 - SIL transferred the funds to the account of KIL, its promoter group company, and on the very same day two other transactions have taken place i.e. one wherein KIL transferred the funds to Shri Sourabh H Bora to enable him to make payments towards the allotment of forfeited shares and second transaction being Shri Sourabh Bora making payments to SIL in respect of the forfeited shares allotted to him. The fund transfers suggest that SIL was very well aware that it has lent the money for the purpose of making payments towards forfeited shares. It should also be borne in mind that although Shri Sourabh H Bora had given cheques during the first week of September 1999 these cheques were presented to the bank for realisation only in the last week of September 99 and the actual realisation of the cheques took place on October 1, 1999 (after the bank account of Shri Sourabh Bora was adequately capitalized by way of transfer of funds from SIL). In addition to the above, the records indicate that Shri Sourabh H Bora still owes more than Rs. 6 crores to KIL, which in turn owes more than Rs. 15 crores to SIL. It is clear that Shri Bora has not made the payments to the company towards the forfeited shares allotted to him and the whole matter was just a book entry and the company has managed to create shares without actual infusion of funds.
4. KIL and Shri Bora indulged in trading in the scrip of SIL, through various brokers of BSE and NSE, including M/s Kasat Securities Pvt. Ltd.(M/s KSL).

Member Name	Exchange	Member Name	Exchange
Indraprastha Holdings Ltd.	NSE	M.J. Patel Share & Stock Brokers Ltd.	BSE
Triveni Management Consultancy Services Ltd.	NSE	Bishwanath M Jhunjunwala	BSE
Master Capital Services Ltd.	NSE	Kaynet Capital Ltd.	BSE
Kasat Sec. (P) Ltd.	NSE	NVS Brokerage (P) Ltd.	BSE
Nariman Finvest (P) Ltd.	NSE	Joindre Capital Services	BSE
		Sovereign Sec. (P) Ltd.	BSE

5. The broker has traded in the scrip of SIL on behalf of the following clients:

- KIL
- M/s. Rajesh Kasat & Co.
- Shri Pravin Panchal
- Shri Sourabh H Bora
- Own account

6. Investigation revealed that the member has entered into transactions for big quantity of shares for its clients through the system. It is pertinent to note that at that time the average daily volume in the scrip was almost equivalent to its order quantity. It was not possible to match such a big quantity time and again. These transactions therefore appear to be synchronized/ structured in nature. The clients of the member have heavily sold the shares of SIL, which was relatively illiquid, however, the member has never asked its clients the reasons behind their selling the shares. The member by virtue of its dealing with KIL and Shri Sourabh H Bora has failed to exercise due skill, care and diligence and therefore has violated the provisions of Clause A (1) to A (4) of the Code of Conduct prescribed under Schedule II of Securities and Exchange Board of India (Stock Brokers and Sub-brokers) Regulations, 1992(hereinafter referred to as 'the said broker regulations')

7. Further, during the period under investigation, the member has also traded heavily in its own account. In addition, it has also traded in the scrip through two brokers of BSE. Further, two other entities viz. Rajesh Kasat and Co and Kaynet Finance Ltd (entities in which the MD of Kasat Securities P Ltd is directly interested) also traded significantly in the scrip during the period of investigations by enrolling as clients to other brokers. It appears that M/s. Kasat Securities P Ltd. has traded in the scrip mainly because it was aware of the fact that KIL and Shri Sourabh Bora, who were the clients for the trades on NSE, were trading heavily in the scrip. KIL is a promoter group company of SIL and Shri Sourabh Bora was acting in concert with both SIL and KIL. In view of the above observations, it appears that M/s. Kasat Securities P Ltd. is guilty of violating the provisions of Regulation 4 (a), (b) & (d) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995.

ENQUIRY REPORT AND RECOMMENDATION :

8. Pursuant to the investigation, an enquiry officer was appointed and after conducting the enquiry as per the procedure laid down under SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 submitted a report dated 01/04/2004. The enquiry officer recommended that the registration of the member be suspended for a period of four months.

SHOW CAUSE NOTICE:

9. Pursuant to the above, a show cause notice dated 06.04.2004 was issued to the member along with a copy of the enquiry report. The member submitted a reply vide letter dated 27.04.2004. I proceed to examine the issues as under:

ISSUES FOR CONSIDERATION :

Allegations

10. It is alleged that the member has indulged in fraudulent, manipulative transactions in the scrip of SIL along with KIL, Rajesh Kasat & Co. and Shri Sourabh H Bora by way of aiding and abetting them in price manipulation by executing orders on their behalf thereby violated the provisions of Regulations 4(a) and (b) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 (hereinafter referred to as the said Regulations). The member has also failed to exercise due skill and care while executing transactions for the above mentioned clients thereby violated the provisions of the Code of Conduct as specified in Schedule II read with Regulation 7 of the said broker Regulations.
11. The member did not collect margin from its clients which is in violation of SEBI circular SMDRP/Policy/Cir-35/98 dated 4/12/1998 and therefore the conduct of the member is found to be in violation of the Code of Conduct as specified in Schedule II of the said regulations.

4.1. Reply

12. The member denied the allegation and submitted that the allegation of aiding and abetting Shri Sourabh Bora in price manipulation was not the subject matter of the enquiry/investigation and this charge is levied for the first time and there is no evidence shown suggesting aiding and abetting.
13. The member further submitted that SEBI had passed an order dated 4/12/2003 prohibiting Shri Rajesh Kasat from operating in the capital market for a period of one year, which was stayed by the Hon'ble Securities Appellate Tribunal. The member further submitted that the order against Shri Sourav Bora was passed by SEBI in November 2003, which was also stayed by the Hon'ble Securities Appellate Tribunal. Therefore, the member submitted that the said orders qua Shri Rajesh Kasat and Shri Sourav Bora were not in operation during the period of investigation, hence, the allegation of failure to exercise due skill and care and also violation of code of conduct is unsustainable.
14. The member stated that collecting of margin from Shri Sourabh Bora and Shri Pravin Panchal does not arise as they were sellers. Shri Kasat had given pre-commencement margin and was punctual in pay-in obligations and Kasat and Kaynet

Finance have pre-transaction history of relation spread over several years running into hundreds of crores and the question of financial solvency does not arise.

Findings

15. I note that Clause A (2), (3) and (4) of Code of Conduct of Broker Regulations and Regulations 4(a) and (b) of the SEBI(Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 read as under:

"A. General

(1)

(2) Exercise of due skill and care: A stock-broker shall act with due skill, care and diligence in the conduct of all his business.

(3) Manipulation: A stock-broker shall not indulge in manipulative, fraudulent or deceptive transactions or schemes or spread rumours with a view to distorting market equilibrium or making personal gains.

(4) Malpractices: A stock-broker shall not create false market either singly or in concert with others or indulge in any act detrimental to the investor's interest or which leads to interference with the fair and smooth functioning of the market. A stock-broker shall not involve himself in excessive speculative business in the market beyond reasonable levels not commensurate with his financial soundness.

(5)".

"4. Prohibition against market manipulation – No person shall buy, sell or otherwise deal in securities in a fraudulent manner:

(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 market."

16. I am not convinced with the contentions of the member. I note that the trading details of KIL through the member are as under:

Sett. #	Purchases	Sales	Gross	Net
23	-	1,02,000	1,02,000	-1,02,000
25	-	95,000	95,000	-95,000
26	-	50,000	50,000	-50,000
27	-	1,00,000	1,00,000	-1,00,000
28	-	1,25,000	1,25,000	-1,25,000
29	-	1,00,000	1,00,000	-1,00,000
Total	-	5,72,000	5,72,000	-5,72,000

Trading details of Shri Rajesh Kasat through the member are as under:

Sett. #	Purchases	Sales	Gross	Net
26	14,900	-	14,900	14,900
27	-	9,200	9,200	-9,200
Total	14,900	9,200	24,100	5,700

Trading details of Shri Praveen Panchal through the member are as under:

Sett. #	Purchases	Sales	Gross	Net
27	-	14,100	14,100	-14,100
29	4,000	-	4,000	4,000
30	6,000	-	6,000	6,000
31	-	300	300	-300
Total	10,000	14,400	24,400	-4,400

Trading details of Shri Sourabh H Bora through the member are as under:

Sett. #	Purchases	Sales	Gross	Net
28	-	32,800	32,800	-32,800
29	-	60,000	60,000	-60,000
30	-	11,500	11,500	-11,500
Total	-	1,04,300	1,04,300	-1,04,300

Trading details of the member in its own account:

Name of Broker	St. #	Purchases	Sales	Gross	Net
Own a/c	28	-	7,500	7,500	-7,500
	29	23,500	-	23,500	23,500
	31	-	100	100	-100
	32	4,100	-	4,100	4,100
Total		27,600	7,600	35,200	20,000

In addition to above, the member was also client of two brokers of BSE, who have given terminal to the member in its Pune Office:

Name of Broker	St. #	Purchases	Sales	Gross	Net
M/s Kaynet Capital Ltd.	16	2,200	1,00,000	1,02,200	- 97,800
	21	-	30,000	30,000	- 30,000
Total		2,200	1,30,000	1,32,200	- 1,27,800
M/s Sovereign Securities	14	-	1,10,000	1,10,000	- 1,10,000
	18	6,700	1,00,000	1,06,700	- 93,300
Total		6,700	2,10,000	2,16,700	- 2,03,300
Grand Total		8,900	3,40,000	3,48,900	- 3,31,100

Following are the extracts of Trade Log of NSE wherein the client of M/s. Kasat Securities Pvt. Ltd. was KIL. It may be noted here that KIL was the ultimate client for the buying brokers as well:

Date '99	Time	Buying Broker	Qty	Rate	Selling Broker
Jun 9	13.39.48	Indraprastha	50,000	50.00	Kasat Securities
Jun 11	10.29.54	Indraprastha	49,800	50.00	Kasat Securities
Jun 24	15.14.01	Indraprastha	50,000	51.00	Kasat Securities
Jun 24	15.14.01	Indraprastha	45,000	51.00	Kasat Securities
Jul 1	10.06.45	Indraprastha	25,000	52.00	Kasat Securities
Jul 1	10.10.19	Indraprastha	25,000	52.00	Kasat Securities
Jul 7	14.11.06	Triveni	25,000	64-65*	Kasat Securities
Jul 7	14.11.46	Triveni	9,700	64-65*	Kasat Securities
Jul 7	14.13.08	Triveni	300	64-65*	Kasat Securities
Jul 7	14.14.13	Triveni	5,000	64-65	Kasat Securities
Jul 14	11.55.57	Indraprastha	25,000	59.00	Kasat Securities
Jul 14	11.57.06	Indraprastha	25,000	59.25	Kasat Securities
Jul 21	11.26.15	Triveni	19,300	57.50	Kasat Securities
Jul 21	12.59.56	Triveni	24,300	57.70	Kasat Securities

*: The rate was ranging between Rs.64/- and Rs.65/-.

17. I find that the member has entered into transactions for big quantity of shares for its clients through the system. It is pertinent to note that at that time the average daily volume in the scrip was almost equivalent to its order quantity. It was not possible to match such a big quantity time and again which indicates that these transactions are synchronized / structured transactions in nature. I also note that the clients of the member have heavily sold the shares of SIL, which was relatively illiquid scrip. The member has never asked its clients about the reasons for selling the shares in an illiquid scrip like SIL thereby failed to exercise due skill, care and diligence and violated the provisions of clause A (2), (3) and (4) of Code of Conduct as specified in Schedule II read with Regulation 7 of the said broker regulations.
18. I also note that the member has also traded heavily in its own account. In addition, it has also traded in the scrip through two brokers of BSE. Further, two other entities viz. Rajesh Kasat and Co and Kaynet Finance Ltd (entities in which the MD of Kasat Securities P Ltd is directly interested) also traded significantly in the scrip during the period of investigations by enrolling as clients to other brokers. I am convinced that the member has traded in the scrip knowing fully aware of the fact that KIL and Shri Sourabh H Bora, who were its clients for the trades on NSE, were trading heavily in the scrip. KIL is a promoter group company of SIL and Shri Sourabh Bora was acting in concert with both SIL and KIL. In view of the above findings, I am convinced that the member is guilty of violating the provisions of Regulation 4 (a) and (b) of SEBI(Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995.
19. I note that SEBI had passed an order dated 04/12/2003 restraining Shri Rajesh Kasat, Proprietor of Rajesh Kasat & Co., from buying, selling or dealing in securities, directly or indirectly, for a period of one year for violating the provisions of the said Regulations. I also note that SEBI had passed an order dated 21/11/2003 restraining Shri Sourabh Bora from buying, selling or dealing in securities, directly or indirectly, for a period of 18 months for violating the provisions of the said Regulations. The said orders were passed for their role in the price manipulation in the scrip of SIL during the period of investigation. The argument of the member that the said orders were not in operation during the period of investigation will not anyway help the member inasmuch as the role of the member in violating the provisions of clause A (2), (3) and (4) of Code of Conduct as specified in Schedule II read with Regulation 7 of the said broker regulations read with the provisions of Regulation 4 (a) and (b) of the said Regulations during the period of investigation is established.

20. I am not convinced with the reply of the member in as much as the broker is required to sell securities on behalf of client only on receipt of a minimum margin of 20% on the price of securities proposed to be sold, unless the member has received the securities to be sold with valid transferred documents to his satisfaction prior to such sale as per the circular no.SMD/SED/CIR/93/23321 dated November 18, 1993. Therefore, I hold the member guilty on this count as he has failed to collect margin from Shri Sourabh Bora and Shri Pravin Panchal.
21. The Broker while replying to the show cause notice had sought for a personal hearing. However, I note that there is no provision for personal hearing under SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002. I have noted that the Enquiry Officer had already heard the Broker in person. In addition, the Broker has been given opportunity to file written submissions to the show cause notice issued along with a copy of enquiry report. Therefore, I find that natural justice requirement has been met with. I do not find any substantive reason / justification furnished by the Broker warranting a personal hearing again.

ORDER:

22. I am satisfied that it is necessary to secure the proper management of the stock broker and also in the interest of the securities market that a major penalty of suspension of certificate of registration of the member for a period of four months as recommended by the enquiry officer is reasonable.
23. Therefore, in exercise of the powers conferred upon me by virtue of section 19 of the Securities and Exchange Board of India Act, 1992 read with regulation 13(4) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, I hereby order that the certificate of registration of M/s Kasat Securities Private Limited, Member NSE and PSE, SEBI Registration No. INB 230754633 AND INB 11721034 be suspended for a period of four months.

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

Place: Mumbai

Date: 25.01.06

MADHUKAR

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA