

SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI**ORDER**

AGAINST M/S. ACME SHARES AND STOCK BROKERS PRIVATE LIMITED, MEMBER, THE STOCK EXCHANGE, MUMBAI (SEBI REGISTRATION NO. INB 010991838) UNDER REGULATION 13(4) OF SEBI (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002, IN THE MATTER OF M/S. SAWACA COMMUNICATIONS LIMITED.

Whereas, an investigation was conducted into the unusual price movement in the scrip of Sawaca Communications Limited (hereinafter referred to as SCL) during the period 01.10.99 to 31.03.00 and it was brought out that the price of the scrip went up from Rs. 19.35/- per share in 01.10.99 to a high of Rs. 106.00/- per share on 04.01.00, and,

whereas, there was nothing in the fundamentals of SCL nor there was any corporate developments which could have justified the steep movement in the scrip of SCL, and,

whereas, M/s. Acme Share and Stock Brokers Pvt. Ltd., Member, The Stock Exchange, Mumbai, (hereinafter referred to as 'the member') had dealt in the scrip of SCL and M/s. Sawaca Finance Ltd. (hereinafter referred to as SFL) for Shri Virag K Gandhi, Khambhat, through its sub-broker M/s. M. S. Consultancy Services (hereinafter referred to as MSCS). In the scrip of SCL, a total of 1,01,700 shares were purchased and 2,11,200 shares were sold through MSCS, and,

whereas, an enquiry officer was appointed vide an order dated 13.05.03 under Regulation 5 (1) of the SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, to inquire into the role of the member for its dealings in the scrip of SCL for its ultimate client, Shri Virag Gandhi through its sub-broker MSCS and to inquire into the violation of the Code of Conduct for Stock Brokers prescribed in Schedule II of Regulation 7 of SEBI (Stock Brokers and Sub-brokers) Regulations, 1992 for failure to exercise due care and skill in its dealing in the scrip of SCL and Regulation 4 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995, and ,

whereas, the enquiry officer after inquiring into the violations of the member had submitted a report dated 20.09.04, concluded that the member has failed to exercise due skill, care and diligence and has therefore violated the Code of Conduct for Stock Brokers prescribed in Schedule II of Regulation 7 of SEBI (Stock Brokers and Sub-brokers) Regulations, 1992. Thus, the enquiry officer recommended that the member be warned, and,

whereas, a show cause notice dated 27.09.04 was issued to the member under Regulation 13 (2) of the SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, annexing a copy of the enquiry report asking it to reply within 15 days or else it would be presumed that the member had no explanation to offer and SEBI would be free to take such action as it deems fit, and,

whereas, no reply has been received from the member in response to the show cause notice issued by SEBI, and,

whereas, the issue for consideration is whether the member is guilty of violating the provisions of the provisions of the Code of Conduct for Stock Brokers prescribed in Schedule II of Regulation 7 of SEBI (Stock Brokers and Sub-brokers) Regulations, 1992, by virtue of its carrying out the deals for its ultimate client Shri Viraj Gandhi.

I note that the member was issued a show cause notice on 27.09.04, annexing therewith a copy of the enquiry report, asking him to reply within a period of 15 days thereof. The member has chosen not to reply to the show cause notice. I am convinced that sufficient opportunity has been accorded to the member to present its reply, in satisfaction of the principles of natural justice.

Now, therefore, I proceed to analyse the issues based on the findings of the enquiry officer in his report dated 20.09.04.

I have seen from the investigations that the member had traded a total of 3,12,900 shares comprising of 1,01,700 shares bought and 2,11,200 shares sold for the ultimate client, Shri Gandhi through its sub-broker, MSCS. The total value of trades by the member in the scrip of SCL was around Rs. 230.82 lakhs. Of this, the value of trades on account of MSCS was around Rs. 140.63 lakhs, which constitutes around 60.93% of the total trade of the member in the scrip of SCL. This is an extraordinary proportion of the trades that the member has allowed the sub-broker to execute, considering the illiquid nature of the scrips before the period of investigation.

Though this does not lead to the conclusion that the member aided and abetted the price manipulation in the scrip of SCL, but this certainly shows the non-exercise of due skill, care and diligence on the part of the member in performing its duties and fulfilling its responsibilities as an intermediary in the stock exchange mechanism.

Therefore, I am inclined to agree with the view of the enquiry officer that the member has violated the Code of Conduct for Stock Brokers prescribed in Schedule II of Regulation 7 of SEBI (Stock Brokers and Sub-brokers) Regulations, 1992 by carrying on transactions in the scrip of SCL for Shri Viraj Gandhi through its sub-broker MSCS.

Now, therefore, in exercise of powers conferred upon me under Section 19 of the Securities and Exchange Board of India Act, 1992 read with regulations 13(4) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, I hereby warn M/s. Acme Share and Stock Brokers Private Limited, member, The Stock Exchange, Mumbai (SEBI Registration No. INB 010991838) to be careful not to carry on activities of the nature executed in the scrip of M/s. Sawaca Communications Limited.

Place: Mumbai
Date:31-01-06

MADHUKAR
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA