

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER SECTIONS 11, 11B AND 11(4) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH REGULATIONS 11 AND 13 OF SEBI (PROHIBITION OF FRAUDULENT AND UNFAIR TRADE PRACTICES RELATING TO THE SECURITIES MARKET) REGULATIONS, 2003 AGAINST MR. PANKAJ A. DESAI, DIRECTOR, MAYEKAR INVESTMENT PVT. LTD., M/S. SHAGUFTA INVESTMENTS PVT. LTD., MR. PRAFUL ANANTRAI DESAI, MR. DARSHAN DESAI IN THE MATTER OF TRADING IN THE SCRIP OF AVINASH INFORMATION TECHNOLOGIES LTD.

1.0 BACKGROUND

- 1.1 Securities and Exchange Board of India (hereinafter referred to as "SEBI") conducted investigations in the scrip of M/s. Avinash Information Technologies Ltd. (formerly known as M/s. Mangalya Exports Ltd. and hereinafter referred to as "AITL") for the period from February 26, 2001 to May 18, 2001.
- 1.2 Investigations revealed that AITL had sales of Rs.4.4 lacs and showed a loss of Rs.5.01 lacs for the year ended March 1999. In the next year i.e. during 1999-2000, AITL showed a loss of Rs.9.67 lacs on a sale of Rs.1.73 lacs. Again, during the year ended March 2001, it showed a loss of Rs.25.89 lacs on sales of Rs.135.02 lacs. For the year March 2002 also the company had shown losses. Thus it was seen that the company was a loss incurring company. Investigation further revealed that during the period February 26, 2001 to April 20, 2001, 2,40,500 shares of the scrip were traded and the price came down from Rs.118 on February 26, 2001 to Rs.,54.15 on April 20, 2001. During the period April 23, 2001 to May 18, 2001 the total volume traded was 1,86,800 shares during which the price went up from Rs.58.45 on April 23, 2001 to Rs.134.65 on May 17, 2001.
- 1.3 Investigation further revealed that Mayekar Investments Pvt. Ltd. (sub broker to R. D. Shah, Member BSE), Shagufta Investments Pvt. Ltd. (both having common director in Mr. Pankaj Desai), Praful Desai and Darshan Desai (hereinafter referred to as "Desai group") had done trading in the scrip of AITL. Details of trading done by Desai group is as under:

FICTITIOUS TRADES DONE BY MAYEKAR INVT. SHAGUFTA INV. PVT. LTD., PRAFUL DESAI AND DARSHAN DESAI

Date	Name of Buy Member	Buy Client	Buy Order			Trade time	Sell Order			Sell Client	Selling Member
			Qty	Rate	Order time		Qty	Rate	Order time		
	Circular Trade										
26.2.01	Geojit Sec. Ltd.	Shagufta Inv. P.Ltd.	1000	115	12:39:21	12:39:22	1000	115	12:38:01	Mayekar Inv	R D Shah
26.2.01	Alpic Sec. Ltd.	Praful Anantrai Desai	1000	116.5	12:41:35	12:41:36	1000	116.5	12:40:00	Shagufta Inv. P. Ltd.	Geojit Sec. Ltd.
26.2.01	R D Shah	Mayekar Investments	1000	114	13:40:12	13:40:12	1000	114	13:39:37	Praful A Desai	Alpic Securities Ltd.
	Total		3000								
	Fictitious Trades										
26.2.01	Alpic Sec. Ltd.	Praful Anantrai Desai	3000	116	13:42:40	13:42:40	3000	116	13:41:37	Shagufta Inv. P.Ltd.	Geojit Sec. Ltd.
26.2.01	Geojit Sec. Ltd.	Shagufta Inv. P.Ltd.	3000	116.5	13:43:23	13:43:23	3000	116.5	13:43:05	Praful A Desai	Alpic Securities Ltd.
	Sub Total		6000								
2.5.01	R D Shah	Mayekar Investments	100	79.8	14:49:52	14:49:53	100	79.8	14:49:44	Darshan P. Desai	Geojit Sec. Ltd.
2.5.01	Geojit Sec. Ltd.	Darshan P. Desai	100	79.95	14:50:18	14:50:18	100	79.95	14:50:06	Mayekar Inv.	R D Shah
2.5.01	Geojit Sec. Ltd.	Darshan P. Desai	200	80.75	14:51:14	14:51:15	200	80.75	14:50:57	Mayekar Inv.	R D Shah
2.5.01	R D Shah	Mayekar Investments	200	80.85	14:51:45	14:51:46	200	80.85	14:51:30	Darshan P. Desai	Geojit Sec. Ltd.
2.5.01	Geojit Sec. Ltd.	Darshan P. Desai	200	80.75	14:59:05	14:59:05	200	80.75	14:58:22	Mayekar Inv.	R D Shah
2.5.01	R D Shah	Mayekar Investments	100	80.9	14:59:43	14:59:43	100	80.85	14:59:35	Darshan P. Desai	Geojit Sec. Ltd.
2.5.01	R D Shah	Mayekar Investments	100	80.85	15:00:05	15:00:06	100	80.85	14:59:35	Darshan P. Desai	Geojit Sec. Ltd.
2.5.01	R D Shah	Mayekar Investments	300	80.8	15:09:45	15:09:46	200	80.85	15:09:39	Darshan P. Desai	Geojit Sec. Ltd.
2.5.01	Geojit Sec. Ltd.	Darshan P. Desai	100	80.85	15:10:16	15:10:16	100	80.85	15:10:03	Mayekar Inv.	R D Shah
2.5.01	Geojit Sec. Ltd.	Darshan P. Desai	100	80.85	15:10:31	15:10:03	100	80.85	15:10:03	Mayekar Inv.	R D Shah
2.5.01	Geojit Sec. Ltd.	Darshan P. Desai	100	80.85	15:10:52	15:10:31	100	80.85	15:10:03	Mayekar Inv.	R D Shah
2.5.01	R D Shah	Mayekar Investments	100	80.9	15:11:21	15:11:21	100	80.85	15:11:10	Darshan P. Desai	Geojit Sec. Ltd.

2.5.01	Geojit Sec. Ltd.	Darshan P. Desai	100	80.85	15:11:46	15:11:47	100	80.85	15:11:41	Mayekar Inv.	R D Shah
2.5.01	Geojit Sec. Ltd.	Darshan P. Desai	100	80.85	15:11:59	15:11:59	100	80.85	15:11:41	Mayekar Inv.	R D Shah
2.5.01	Geojit Sec. Ltd.	Darshan P. Desai	100	80.8	15:14:50	15:14:50	100	80.8	15:14:40	Mayekar Inv.	R D Shah
2.5.01	R D Shah	Mayekar Investments	100	80.85	15:16:02	15:16:02	100	80.85	15:15:25	Darshan P. Desai	Geojit Sec. Ltd.
2.5.01	Geojit Sec. Ltd.	Darshan P. Desai	100	80.7	15:29:53	15:29:53	100	80.7	15:29:40	Mayekar Inv.	R D Shah
3.5.01	R D Shah	Mayekar Investments	100	85.55	9:56:20	9:56:20	100	85.55	9:56:14	Darshan P. Desai	Geojit Sec. Ltd.
Sub Total		2300									
4.5.01	Geojit Sec. Ltd.	Darshan P. Desai	1100	91.45	11:48:29	11:48:30	1100	91.45	11:47:54	Shagufta Inv.	R D Shah
Total of Fictitious Trade		9400									

It was alleged that Desai group had done circular and fictitious trading on certain dates during the investigation period and thereby violated the provisions of Regulation 4 (d) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 1995 (hereinafter referred to as "FUTP Regulations, 1995").

2.0 SHOW-CAUSE NOTICE & REPLY

2.1 A Show cause Notice dated May 24, 2004 was issued to Mr. Pankaj A. Desai, Director, Mayekar Investments Pvt. Ltd., Shagufta Investments Pvt. Ltd., Mr. Praful Anantrai Desai and Mr. Darshan Desai to show cause as to why action under Regulation 11 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations 2003 (hereinafter referred to as "FUTP Regulations, 2003") read with Section 11, 11B and 11(4) of the SEBI Act, 1992 including restraining them from accessing the securities market and prohibiting them from buying, selling or dealing in securities for a certain period should not be initiated for violation of the provisions of Regulation 4 (d) of FUTP Regulations, 1995. They were also asked to indicate in their replies whether they would prefer personal hearing before Whole Time Member, SEBI.

2.2 Mr. Pankaj A. Desai, Director in charge of day to day operations of Mayekar Investments Pvt. Ltd replied to the said show cause notice vide letter dated June 15, 2004 and inter alia , submitted as follows:

- The transactions in AITL scrip were actual and real deals through broker at prevailing market prices in BOLT system, settlement which was completed as per the rules and regulations.
- Their role as an investor was for a limited period and their involvement was miniscule in the AITL scrip trades. The value of their trades in AITL scrip was insignificant.
- The AITL trades- pre-trade, trade and post trade – activities were properly recorded, accounted and settled as per rules and practices. The intra-day trading, which is legally permissible activity, was of insignificant volume/value.
- On account of their trades and deliveries, there was no bad deliveries and no auction took place. They met our pay – in obligations in time. They fulfilled our other commitments also.
- They were not aware of any specific negative information nor knowingly committed any irregularity. The scale of AITL trades and its financial implications were quite miniscule and there was no default by them.
- They were not guilty of conduct which is contumacious or dishonest or acted in conscious disregard of law. They had not acted in defiance of law.
- They had not viewed the regulatory proceedings in a nonchalant manner and submitted all the information and explanation as required.

2.3 Mrs. Kirtida P. Desai, Director, Shagufta Investments Pvt. Ltd replied on behalf of the Company to the said show cause notice vide letter dated June 15, 2004. They, inter alia, submitted that simply because their directors had family relationship and their orders in AITL scrip which were carried by their broker ultimately got matched through anonymous algorithm of BOLT system against orders punched by some other brokers (whose ultimate clients turned out to be some relatives of our director) could not be a basis to draw an adverse conclusion that their trades were artificial.

2.4 Mr. Praful A. Desai vide letter dated June 15, 2004 replied to the said show cause notice and inter alia submitted that he had done few trades on a single day in AITL scrip way back in March 2001. He further submitted that his family relation had nothing to do with personal commercial transaction.

2.5 Mr. Darshan Desai vide letter dated June 15, 2004 replied to the said show cause notice and, inter alia, submitted that as far as his business/ commercial /financial dealings were concerned, those were separate and independent and had nothing to do with Mr. Pankaj A. Desai and that he had not entered into any fictitious transactions.

2.6 Since Mr. Pankaj A. Desai, Director, Mayekar Investments Pvt Ltd., Shagufta Investments Pvt. Ltd and Mr. Darshan Desai by their letters dated June 15, 2004 had sought personal hearing, they were personally heard by the then Whole Time Member, Shri A. K. Batra on August 16, 2004. Mr. Praful A. Desai had not sought any personal hearing in the matter.

2.7 Since the matter was transferred to me, again vide letter dated January 3, 2006 Mr. Pankaj A. Desai, Director of Mayekar Investments Pvt. Ltd., Shagufta Investments Pvt. Ltd and Mr. Darshan Desai were advised to appear for personal hearing on January 17, 2006. Mr. Pankaj A. Desai, Director, Mayekar Investments Pvt Ltd., and Shagufta Investments Pvt. Ltd and Mr. Darshan Desai appeared on January 17, 2006 and reiterated their submissions made vide letters dated June 15, 2004 and inter alia, submitted that in view of miniscule trading done by them a lenient view should be taken.

3.0 CONSIDERATION OF ISSUES AND OBSERVATIONS

3.1 I have carefully considered the facts of the case, show cause notices, written submissions of Mr. Pankaj A. Desai, Director, Mayekar Investments Pvt Ltd., Shagufta Investments Pvt. Ltd, Mr. Darshan Desai and Mr. Praful A. Desai and oral submissions made by Mr. Pankaj Desai and Mr. Darshan Desai during the personal hearing. My observations are as follows.

3.2 Circular Trading by Mayekar Investments Pvt. Ltd., Shagufta Investments Pvt. Ltd., Praful Anantrai Desai

I observe, from the trade log, that on February 26, 2001 Mayekar Investments Pvt. Ltd. sold through R D Shah 1000 shares @ Rs.115 which were bought by Shagufta Investments Pvt. Ltd. through Geojit Securities Ltd. Shagufta Investments Pvt. Ltd. then sold the same through Geojit Securities Ltd. @ Rs.116.5 which were purchased on the other side by Praful Anantrai Desai through Alpico Securities Ltd. Praful Anantrai Desai in turned sold these 1000 shares @ Rs.114 Desai through Alpico Securities Ltd. which were bought by Mayekar Investments Pvt. Ltd. through R D Shah.

The time difference between the buy and sell orders ranged between 35 to 95 seconds. I observe that these fictitious transactions were in the nature of circular trading as the shares sold by Mayekar Investments Pvt. Ltd. were again bought by them with Shagufta Investments and Praful Desai as the intermediate concerns. This circular trading has generated a artificial market volume of 3000 shares in the price range of Rs.114- Rs.116.5.

3.3 Fictitious trades done by Praful A. Desai and Shagufta Investments

I observe that on 26.02.2001, Shagufta Investment sold 3000 shares through Geojit Securities which were purchased by Praful Desai through Alpico Securities @ Rs.116. This trade took place at 13:42:40. Immediately at 13:43:23 the transaction was reversed through the same brokers @ Rs.116.50 for the same quantity. This reverse transaction has created an artificial volume of 6000 shares in the price range of Rs.116 – Rs.116.5. The quantity, rate and time of the buy and sell orders was also matching.

3.4 Fictitious trades done by Mayekar Investments and Darshan Desai

I observe that on 02.05.2001 Mayekar Investments Pvt. Ltd. through R. D Shah and Darshan Desai through Geojit Securities entered into 17 trades for 2200 shares in the price range of Rs.79.8 to Rs.80.90. Though these trades were done in a narrow price difference of Rs.1 and as such did not affect the price of the scrip on that day, these trades showed a pattern of reversal of trades. These trades took place from 14:49:53 to 15:59:53. On 03.05.2001 Mayekar Investments Pvt. Ltd. through R D Shah and Darshan Desai through Geojit Securities entered into 1 trade for 100 shares @ Rs.85.55. This was the first trade of the day and the price was 7.95% higher than the previous day closing price of Rs.79.25. The quantity rate and time of the buy and sell orders is also matching.

3.5 Fictitious trades done by Darshan Desai and Shagufta Investments

I observe that on 04.05.2001, Darshan Desai purchased through Geojit Securities 1100 shares @ Rs.91.45 which was sold by Shagufta Investments through R D Shah. It was also observed that prior to this trade, the higher rate of Rs.92.35 was already established by member brokers other than these two members. However, the quantity, rate and time of the buy and sell orders are matching.

I also observe, from the statement made by Mr. Pankaj A. Desai on June 6, 2005 during investigation, that the other director of Shagufta Investments Pvt. Ltd, Mrs. Kirtida P. Desai is his wife, Mr. Praful Desai is his elder brother and Mr. Darshan Desai is son of Mr. Praful Desai. Thus they were related and acted in concerted manner. I further observe that the time lag between the punching of buy and sell orders was a few minutes / seconds. The transaction also matched in terms of order quantity and price. The entities of the Desai Group were involved in 48 transactions on 5 days for 12500 shares which were fictitious in nature. Mayekar Investments Pvt. Ltd., Darshan Desai, Shagufta Investments Pvt. Ltd. and Praful Desai were involved in 20, 19, 5 and 4 trades respectively. In the light of above observation, their contention that they traded on BOLT system and that their trades were genuine trades, can not be accepted.

3.6 I note that in Appeal No.54 of 2002 – Nirmal Bang Securities Pvt. Ltd. vs SEBI, the Hon'ble Securities Appellate Tribunal has held as under with regard to the synchronised deals :-

"BEB has been charged for synchronized deals with First Global. I have examined the data provided by the parties on this issue. I find many transactions between BEB and FGSB. There are many instances of such transactions. I find the scrip, quantity and price for these orders had been synchronized by the counter party brokers. Such transactions undoubtedly create an artificial market to mislead the genuine investors. Synchronized trading is violative of all prudential and transparent norms of trading in securities. Synchronized trading on a large scale, can create false volumes. The argument that the parties had no means of knowing whether any entity controlled by the client is simultaneously entering any contra order elsewhere for the reason that in the online trading system, confidentiality of counter parties is ensured, is untenable. It was submitted by the Appellants that it was not possible for the broker to know who the counter party broker is and that trades were not synchronized but it was only a coincidence in some cases. Theoretically this is OK. But when parties decide to synchronize the transaction the story is different. There are many transactions giving an impression that these were all synchronized, otherwise there was no possibility of such perfect matching of quantity price etc. As the Respondent rightly stated it is too much of a coincidence over too long a period in too many transactions when both parties to the transaction had entered buy and sell orders for the same quantity of shares almost simultaneously."

From the above observations I conclude that Desai Group had indulged in circular and fictitious trading in the scrip of AITL as that was not intended to effect transfer of beneficial ownership (as the buyer and seller were the group entities). Thus, the Desai group consisting of Mayekar Investments Pvt. Ltd. and Shagufta Investments Pvt. Ltd. and their director Pankaj A. Desai; Praful A. Anantrai Desai and Darshan Desai have violated the provisions of Regulation 4 (d) of FUTP Regulations, 1995 which reads as under:

Prohibition against market manipulation.

4 No persons shall

(d) enter into a purchase or sale of any securities, not intended to effect transfer of beneficial ownership but intended to operate only as a device to inflate, depress, or cause fluctuation in the market price of securities.

I am, therefore, convinced that it is a fit case to issue directions in the interest of investors and integrity of the securities market.

4.0 ORDER

4.1 Therefore, in exercise of the powers conferred upon me by virtue of Section 19 read with Section 11, 11B and 11(4) of the SEBI Act, 1992, read with regulation 11 and 13 of the FUTP Regulations, 2003, I, hereby pass an order restraining Mr.Pankaj A. Desai, Director, M/s. Mayekar Investments Pvt. Ltd., Shagufta Investments Pvt. Ltd., Mr. Praful A Desai and Mr. Darshan Desai from associating with any corporate body in accessing the securities market and prohibiting them from buying, selling or dealing in securities, directly or indirectly for a period of one year. I am convinced that this would commensurate with the defaults committed by them in the facts and circumstances of the case.

4.2 This direction shall come into force with immediate effect.

DATE: 1/2/2006

PLACE: MUMBAI

MADHUKAR

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA