

SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: DR.T.C.NAIR, WHOLE TIME MEMBER

IN THE MATTER OF

SHRI.PRADEEP KUMAR BANSAL

MEMBER - CALCUTTA STOCK EXCHANGE LTD.

**INTER CONNECTED STOCK EXCHANGE & UTTAR PRADESH STOCK EXCHANGE, SEBI REGISTRATION NO. INB100859813,
INB030859814,**

INB240859810

MO/25/MIRSD/06/06

DATE OF HEARING: 27.04.2006 & 09.05.2006

APPEARANCES:

FOR NOTICEES: Shri Virender Ganda, Advocate

Shri P.K. Bansal

Shri R.K.Mehrotra

Shri Rupesh Thakkar, Employee

FOR SEBI : Shri P.K.Kuriachan, General Manager

ORDER

UNDER REGULATION 13(4) OF SEBI (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002.

- 1.0 Shri Pradeep Kumar Bansal (hereinafter referred to as the 'broker') is a member of Calcutta Stock Exchange, (hereinafter referred to as 'CSE'), Inter Connected Stock Exchange (ICSE) and Uttar Pradesh Stock Exchange (UPSE) and is registered with the Securities and Exchange Board of India (hereinafter referred to as 'SEBI') as a Stock broker under Section 12 of SEBI Act, 1992 with Registration Numbers INB100859813, INB030859814, INB240859810.
- 1.1 An Inspection of the Books of Accounts, Documents and other records maintained by the broker was carried out by SEBI during July 21 – 23, 2003. During the inspection, certain irregularities found to have been committed by the broker were observed.
- 1.2 An ad-interim order dated July 23, 2003 was passed by SEBI against the broker prohibiting him from dealing in securities, pending enquiry, for the reasons stated therein.
- 1.3 An Enquiry Officer was appointed vide Order dated September 30, 2004 under Regulation 5(1) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred as the 'said regulations') to enquire into the alleged irregularities committed by the broker.
- 1.4 A Notice dated July 29, 2004 was issued to the broker under Regulation 6 (1) of the said regulations. The broker replied vide letter dated August 20, 2004 to the aforesaid show cause notice. After considering the reply of the broker the EO proceeded with the enquiry and submitted his report dated November 30, 2004 recommending a major penalty of cancellation of certificate of registration of the broker.
- 1.5 A copy of the Enquiry Report was sent to the broker along with a show cause notice dated December 6, 2004, in terms of Regulation 13(2) of the said Regulations calling upon it to show cause as to why appropriate penalty including the penalty as recommended by the Enquiry Officer should not be imposed on it. The broker was granted 15 days time to submit its reply. The broker replied through its advocate Virender Ganda vide letter dated January 12, 2005.
- 1.6 The broker was given an opportunity of personal hearing before me on 27.04.2006 & 09.05.2006. Shri Virender Ganda, Advocate, Shri P.K. Bansal, Director, Shri R.K.Mehrotra and Shri Rupesh Thakkar, Employee appeared on the said dates and made submissions.

2.0 CONSIDERATION OF ISSUES

- 2.1 I have carefully considered the findings of Inspection, Enquiry Report and the submissions made by the broker and my observations are as under :

- 2.2 There were several single share trades executed by the broker on various days in various scrips such as Global Tele, Satyam Computers, Zee Tele, HFCL etc. as per the broker's sauda book for April 2002 and May 2002. It was alleged that these trades were executed on the Exchange only with a view to ascertain the official prices for facilitating execution of bulk orders in illegal trading outside the exchange mechanism. The EO found that the manner of execution of trades indicated that the single trades were executed to make it a referral price for the trades executed outside the exchange. These trades were not followed by any other bulk order in the same scrip in the exchange mechanism. The EO further noted that the broker was maintaining parallel data pertaining to certain trades. This was maintained in addition to the directory containing actual CSE trading data. The broker did not explain the reason for maintaining such parallel data pertaining to trades which were not executed in the exchange. Hence the broker was found guilty of engaging in dabba trading which is in violation of the provisions of Section 19 of the Securities Contracts (Regulation) Act, 1956. The broker stated that without any evidence it is not justified to allege on the basis of assumption that trades for single shares were executed at the exchange only with a view to ascertain the official price for facilitating execution of bulk orders outside the exchange mechanism. The Regulations do not prescribe any minimum and maximum quantity of shares which must be traded in a single transaction. I note that trading in single shares is not a desirable trend and does raise suspicion on the intentions of the broker. I find that except for facilitating bulk trades outside the exchange there is no genuine or valid reason for the broker to trade in single shares. The broker has admitted that single shares were traded to ascertain the price at the precise moment. It is therefore, quite surprising that after ascertaining the price, the broker did not enter further trades. It is rather strange that the broker was taking the trouble to ascertain the price when he had no intentions to deal further in the scrip. The preponderance of probabilities clearly suggest that the prices were being ascertained to facilitate trading outside the exchange mechanism.
- 2.3 The broker had executed several off the floor transactions on behalf of the client viz. Genuine Stock Broker Pvt. Ltd. in the scrips of Rolta, ITC, Global Tele, DSQ Soft etc. The EO found that the broker had not produced any proof to substantiate his contention that the said trades were executed on the stock exchange. The EO further found that no proof had been provided to show that such transactions have been reported to CSE. Hence the EO concluded that the broker had violated the provisions of Section 19 of Securities Contracts (Regulation) Act, 1956, Clause A(4) and A(5) of the code of conduct as specified in Schedule II read with Regulation 7 of SEBI (Stock Brokers and Sub-brokers) Regulations, 1992 and SEBI Circular No.SMD/POLICY/CIR/32-99 dated September 14, 1999 and Notice of CSE dated September 16, 1999 and Bye-law 332 and 334 (iii) of Calcutta Stock Exchange. The broker stated that the trades were executed in the prevailing market system of the exchange. I note that If the above trades were proper trades then the trading data on the Exchange would have reflected the same. Further, there is no material to suggest that the trades have been reported to the exchange. In the absence of proper justification to prove that the trades have been done on the exchange mechanism, the broker is found guilty of violation of the Regulations, Circulars cited supra.
- 2.4 It was alleged that as per SEBI Registration Certificate (for CSE Card), address was 849, 14/113, Padam Towers, Civil Lines, Kanpur – 208001. However all the trading activities were done from Kolkata Office located at 4A, Pollok Street, Swastika Centre, 4th Floor, Room No.1, Kolkata 700 001 which is in violation of Clause A(5) of the Code of Conduct as specified under Regulation 7 of SEBI (SB&SB) Regulations, 1992. The broker stated that it had informed the CSE regarding the change of address and hence the EO did not record any adverse finding.
- 2.5 The broker had furnished a false statement to SEBI Officials during inspection regarding number of bank accounts. The EO found that the broker stated during inspection that BSSL maintained 10 bank accounts and the broker, Suman Lata Bansal and Sonu Agarwal maintained one bank account each. Hence, the broker's submission that he was asked to provide only information regarding the bank accounts maintained by him at Kolkata is inconsistent with his own earlier statement at the time of inspection. The EO found that while BSSL held 17 bank accounts, the broker, Suman Bansal and Sonu Agarwal held 13, 3 and 2 accounts respectively. Hence the EO found the broker guilty of violation of provisions of Regulation 21 of SEBI (Stock Brokers and Sub-brokers) Regulations, 1992 for providing incorrect information. I note from the inspection report that BSSL, the broker, Suman Bansal and Sonu Agarwal were shown to be maintaining 10, 1,1,1, accounts respectively while in reality they had 17,13,3 and 2 accounts respectively. In view of the above, it is established beyond doubt that the broker had provided incorrect information to the Inspecting team.
- 2.6 The broker did not provide transaction statements of Shri Sumeet Garg, Smt Shimpy Garg, Shri Mudit Garg, Shri Rajeev Bansal and itself from April to July 22, 2003 and also did not provide bank statements of Shri R.P. Bansal, Director of BSSL. The EO observed that the broker did not explain why the same was not provided to the inspecting authority and hence found it guilty of violating the provisions of Regulation 21 of SEBI(Stock Brokers and Sub brokers) Regulations, 1992 for not providing the information. The broker submitted that he had no intention to withhold the information and enclosed copy of the transaction ledger account containing the transactions for the year 2001-02, 2002-03 and from April 1, 2003 till the date of inspection for Shri Sumit Garg, Shimpy Garg and Mudit Garg. In view of the fact that the broker has now submitted the details of transactions, a lenient view may be taken in the matter.
- 2.7 It was alleged that the broker had acquired control of Aurangabad Cryogenics Ltd. (ACL) in November 2001 when the scrip was quoting between Rs.3.50 and Rs.4.00. Regular transactions were made by the broker's close associates/relatives viz.

Shri Rajeev Bansal, Sumeet Garg, Shri Mudit Garg, Smt Shimpay Garg in the said scrip since 2001. The broker had executed all the transactions in the scrip for the year 2002-04. The price of the scrip increased to Rs.450-500/- at the time of inspection. The broker pledged the shares of ACL for taking loans from banks. Hence, it was alleged that the broker had inherent interest in the scrip of ACL and manipulated the prices to avail higher loans from the bank. The EO found that as a result of the transactions, the price of the scrip of ACL increased substantially. Thus, being in the control of the company, the broker was aware of the price rise. The broker's role in executing the transactions on behalf of his close associates and the resultant price rise indicate that the said transactions were executed to ensure artificial price rise in the scrip of ACL and hence the EO found the broker guilty of inflating the price of ACL, thereby violating Clause A(3) of the Code of Conduct as specified under Regulation 7 of SEBI (Stock Brokers and Sub brokers) Regulations, 1992 and Regulation 4 of SEBI (FUTP) Regulations, 1995. As regard the allegation of pledging of shares, as no documentary proof was found in the inspection, the EO accepted the broker's contention that no pledge of shares was effected by him. I note that the price of ACL was Rs.3.50 to Rs.4.00 when the broker took over the company in November 2001. However, since 2001 regular transactions were done in the scrip by some clients of the broker who were either directly or indirectly related to him. Due to these transactions the price of the scrip ranged between Rs.450 to Rs.500. I note that it is not in dispute that the broker traded in the shares of ACL for his associates. It is also not in dispute that the price of the scrip increased substantially during the period when the broker executed transactions in the scrip. These two factors together with the fact that the broker being in control of the company had an inherent interest in it, clearly indicate that the transactions were executed to ensure artificial price rise in the scrip of ACL.

- 2.8 The EO found that the broker was not properly maintaining member client agreement and registration forms and hence has violated the provisions of SEBI Circular No.SMD/POLICY/IECG/1-97 dated 11.2.97. The broker stated that it has not been undertaking trades for clients regularly and admitted negligence in this regard. I note that client registration and agreement forms are primary documents and help in establishing the credentials of the clients, which the broker has failed to maintain in the observed cases. Maintenance of the same cannot be a matter of convenience of the broker. Since the broker has admitted his lapses, I agree with the findings of the EO and find him guilty of violating the provisions cited supra.
- 2.9 The broker had not issued contract notes to any of its clients from 2001-02 and the EO found that the broker submitted copies of some contract notes issued to Shri Mudit Garg. Apart from this, the broker had not produced any proof regarding contract notes issued to the clients during the said period and hence found the broker guilty of violation of the provisions of B(2) of the code of conduct as specified in Schedule II read with Regulation 7 of the SEBI(Stock Brokers and Sub-brokers) Rules and Regulations, 1992. The broker replied that there was no regular work of clients at Calcutta and hence there was lack of maintenance of contract notes. But it cannot be said that there was non issuance of contract notes because the system was inbuilt in the software package used. I note that issuance of contract notes are of primary importance as they evidence the transaction with details like trade time, trade no. time of execution etc. and protect the investors from possible cheating/default by the broker. By not issuing contract notes the broker has violated the provisions cited supra.
- 2.10 The broker had not segregated clients' money from his own account and the client account had several entries which were not supported by securities transactions. The EO found that some payments had been debited to the clients' account though they were not client related. Thus, the broker had not segregated clients' money and had violated the provisions of SEBI Circular No.SMD/SED/CIR/93/23321 dated 18.11.93. The broker stated that the amounts were in respect of receipt and refund of margin amount received from and paid to clients. One amount given on 5.2.03 pertains to a payment of Rs.7500 which was paid to CSE for monthly VSAT charges. I note from the findings of inspection that there are 11 instances of payments and receipts. The broker has given explanation for only one payment made on 5.2.03. The amounts to the credit of clients' accounts are in the nature of trust. The funds in the clients' accounts cannot be used for any purpose other than what is permissible under SEBI Guidelines. The objective of opening and maintaining a separate account for the clients' funds is to segregate and identify them separately and to prevent its misuse so that they are beyond the reach of the broker. Not maintaining a separate clients' account is in violation of SEBI Circular SMD/SED/CIR/93/23321 dated 18.11.93.
- 2.11 The broker delayed making payments to clients and the period of delay ranged from 4 to 32 days. The EO, therefore, found the broker guilty of violation of the provisions of Clause B(1) of the Code of Conduct specified in Schedule II read with Regulation 7 of SEBI (Stock Brokers and Sub-brokers) Regulations, 1992 and SEBI Circular No.SMD/SED/CIR/93/23321 dated 18.11.93. The broker stated that the delay in payments were not on their part. Whenever the client had desired to take payment, he had taken the same. The clients themselves chose not to take the payments. I note that the broker has not submitted any documentary proof or letter of authority from the clients requesting the broker to withhold payment. In the absence of documentary evidence the broker's reply cannot be accepted.
- 2.12 The broker had not collected margins from any of its clients. The EO observed that during the course of personal hearing the broker admitted that in the case of some clients who were close relatives or business associates some relaxation was given in collecting margins. The EO, therefore concluded that the broker violated SEBI Circular No.SMDRP/POLICY/Cir-07/2000 dated 4.2.2000. The broker stated that they are not dealing with clients regularly and hence could not comply with margin requirements strictly. I find that the broker has not refuted the allegation. The broker should have ensured

collection of margins before executing transactions for its clients. Non-collection of margins would put the broker at risk in the event of default by clients and hence it is crucial to collect margins.

- 2.13 The broker had not paid turnover fees but had stated that it intends to avail the benefits under SEBI(Interest Liability Regularisation) Scheme, 2004. Hence the EO did not record any adverse finding. There is no material on record to ascertain whether the broker has availed of the above scheme. However, in case there is a shortfall in payments separate action may be initiated.
- 2.14 It was alleged that the broker had not charged brokerage but the EO noted that subsequently the broker had forwarded copies of the contract notes in which it appeared that brokerage had been charged. Hence the EO did not record any adverse finding.
- 2.15 The broker had not maintained the record of time when the client had placed order and hence the EO found that the broker violated SEBI Circular No.SMD/Policy/IECG/1-97 dated 11.2.97. The broker stated that orders were placed as and when received from the client and the log of the computer may be observed for the same. I note that it is important to record the time of placing the order in order to ascertain the price of the scrip. By not doing so, the broker has violated the SEBI Circular cited supra.
- 2.16 The broker had not maintained document register showing full details of shares and securities received and delivered and hence the EO found it guilty of violation of Regulation 17(1)(g) of SEBI(Stock Brokers & Sub-brokers) Regulations, 1992 and Rule 15 of Securities Contracts (Regulation) Rules, 1957. The broker stated that full details of shares and securities received and delivered may be verified from the records maintained by it. I note that maintenance of statutory books cannot be a matter of convenience of the broker. The broker is required to maintain statutory books in the manner specified and not in the manner he deems fit.
- 2.17 The broker had not maintained Margin Deposit Book and hence the EO found it guilty of violating the provisions of Regulation 17(1)(k) of SEBI Act, 1992. The broker stated that margin deposit may be verified from the margin file. I note that the broker's reply is very callous. Failure to maintain statutory books in the manner prescribed is in violation of the provisions as above.
- 2.18 It was alleged that the broker had executed certain transactions with order value above Rs.1.00 lakh or more in his proprietary account. However, the said transactions were actually executed for clients and routed through self account to evade margins. The EO observed that during personal hearing the broker admitted that in case of some clients who were close relatives or business associates some relaxation was given in collecting margins. The broker submitted that all the transactions executed on behalf of clients were done with the use of client code. Since client business was low there was no question of evading margin. I note that in the absence of material evidence, it cannot be said that the broker had executed the said transactions for clients. Further, the inspection report mentions that client codes were not used for the above transactions. In such a scenario, it cannot be presumed that the broker would have executed the transactions for clients through its proprietary account.
- 3.0 I note that an enquiry was held against M/s. Bansal Sharevest Services Ltd. and the enquiry officer recommended cancellation of its certificate of registration for various irregularities and illegal activities committed by it. It is of utmost significance to note that Shri Pradeep Kumar Bansal is a Director of M/s. Bansal Sharevest Services Ltd. Considering the same and the seriousness of the violations found to have been committed by the broker, I am of the view that a penalty of cancellation of the certificate of registration of the broker, as recommended by the EO would be appropriate and essential to protect the interest of investors and the safety and integrity of the securities market.
- 3.1 Now, therefore, in exercise of powers conferred upon me in terms of Section 19 of SEBI Act, 1992 read with Regulation 13(4) of the said Regulations, I hereby cancel the certificate of registration of Shri.Pradeep Kumar Bansal, Member , Calcutta Stock Exchange Ltd. , Inter Connected Stock Exchange & Uttar Pradesh Stock Exchange, Sebi Registration No., INB030859814, INB240859810 and INB100859813 respectively.
- 3.2 This order shall come into force on the expiry of 21 days from the date of this order.

Place: Mumbai

Date: 28.06.2006

T.C.NAIR

Whole Time Member

Securities and Exchange Board of India