

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF
INDIA**

Coram: T.C. NAIR, WHOLE TIME MEMBER

Against Nirjay Securities (P) Ltd. & Mr. Jatin A. Khandwala
in the matter of
M/s. ORIENT INFORMATION TECHNOLOGY LTD.

WTM/TCN/IVD ID1/ 51

Date of hearing : 30-05-2006

Appearance

For Noticee : Jatin Khandwala, Director, Nirjay Securities Pvt. Ltd.
For SEBI : Mr. P.K. Nagpal, Chief General Manager.

ORDER

**(Under Regulation 11 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Markets) Regulations, 2003 read with
Section 11 (4) of SEBI Act, 1992)**

- 1.1** Nirjay Securities Pvt. Ltd. (hereinafter referred to as Nirjay) is a company incorporated under the Companies Act, 1956.
- 1.2** SEBI conducted an investigation into the buying, selling or dealings in the scrip Orient Information Technology Ltd. (hereinafter referred to as Orient) *inter alia*, to ascertain whether there violation of the provisions of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 (hereinafter referred to as FUTP Regulations). The scrip was listed on National Stock Exchange (hereinafter referred to as NSE), Mumbai, and the Delhi Stock Exchange at the time of investigation. The trading details of the persons who had traded in were collected and analyzed along with the data of the volumes contributed by these entities. From the details it was found that Nirjay and Kaushik Shah Shares & Securities Ltd. (hereinafter re as the KSSS Ltd) had actively traded in the shares of Orient during the relevant period. Investigations *prima facie* revealed that the above trading contributed to an unusual spurt in the traded vc the scrip.
- 1.3** The investigations further found that Nirjay and Kaushik have taken opposite position for each trade. Their net position over the period of investigation was nil. The major dealing with Kaushik done by Nirjay on one side as a client and the KSSS Ltd from its office trading account on the another side. All the orders were placed by Shri Jatin A. Khandwala, as Director of Nirjay. Nirjay e through NSE trading member Arcadia Shares & Stock Brokers Pvt. Ltd. (hereinafter referred to as Arcadia).
- 1.4** Nirjay was found to be involved in almost 35 cross deals and guilty of violating the provisions Regulation 4 (b), (c) and (d) of FUTP Regulations as applicable at the time when the alleged committed. The aforesaid deals had accounted for 16.43% of the gross quantity of the market for the period under scrutiny. The cross deals constituted 99.54% of the gross traded quantity for t period under scrutiny. By this the KSSS Ltd and Nirjay had created artificial market in the scrip which resulted in transactions which were not genuine trade transactions. The maximum volume the scrip was at 3,70,870 shares (as on 31-01-2001) whereas lowest was at 36,042 shares (as on 07-12-2000).
- 2.1** A common Show Cause Notice (hereinafter referred to as SCN) dated June 10, 2004 under Regulation 11 & 12 of FUTP Regulations read with Section 11 of SEBI Act, 1992 was issued to Nirjay Jatin A. Khandwala, communicating thereby the allegations in respect of the transactions in the scrip of Orient. Nirjay replied to the said SCN on behalf of both Nirjay and Shri Jatin Khandwala v dated July 07, 2004.
- 2.2** Both Nirjay and Shri Jatin A. Khandwala were given an opportunity of personal hearing before me on May 30, 2006. On the designated day Shri Jatin A. Khandwala appeared and made submit behalf of himself and of Nirjay. No documents were submitted by him and he relied on oral arguments, which were by and large reiteration of written reply dated July 07, 2006.
- 3. Consideration of Issues**
- 3.1** I have carefully considered the facts of the case, the findings of the investigation and the reply of Nirjay on behalf of itself and Shri Jatin A. Khandwala, including the submissions made during the hearing. My findings are as follows;
- a)** It has been alleged that Nirjay used to sell shares through the member KSSS Ltd. at BSE on last day of settlement, which were purchased by KSSS Ltd. by acting as a client and the same sha sold by it at NSE through Arcadia and these shares were purchased by Nirjay. Further it has been alleged that on the last day of settlement of NSE, the transactions were reversed i.e. Nirjay so through Arcadia which were brought by KSSS Ltd. as a client and then KSSS Ltd. sold the shares through its broking firm at BSE which were purchased by Nirjay. Nirjay submitted that they had themselves in such practice as this was prevalent in the market. It further submitted that the purpose of these transactions was not to manipulate the prices or the volumes. The reply of Nirj convincing as the manner in which the trades were executed is not proper and the same resulted in creation of false market in the scrip. The said conduct defeats the objective of screen based tr
- b)** With regard to the allegation that the trades executed by Nirjay had created false and misleading appearance, Nirjay submitted that these transactions were not done with the intent of mani From the trading pattern, it can be deduced that these transactions were done with the proximity of timings of putting in buy and sell orders, exact matching of price and quantity of shares and i of trades almost on every occasion between Nirjay and KSSS Ltd. only. This becomes clear from the table below that the time difference between the trades is of very few seconds and on some c there is no difference at all. From this one can easily conclude that these trades cannot be said to be a mere coincidence as these were not isolated transactions.

I find that the argument of Nirjay does not have any merit as the frequency of trades and the perfect matching of the time, order and price cannot be a mere co-incidence. The details of transac as follows:

Details of buy and sell of client		Order Execution on NSE				Data revealing synchronized nature of trade executed					
Buy client	Sell client	Date	Time	Qty	Traded Price	Buy Order Time	Sell Order Time	Buy Order Qty	Sell Order Qty	Buy Order Rate	Sell order Rate
Nirjay	KSSS Ltd.	06.12.00	14:03:38	74900	167.35	14:03:38	14:03:38	75000	75000	167.35	167.35
Nirjay	KSSS Ltd.	06.12.00	14:39:07	25000	167.25	14:39:06	14:39:07	25000	25000	167.25	167.25
KSSS Ltd.	Nirjay	12.12.00	12:15:17	50000	172.00	12:15:17	12:15:17	50000	50000	172.00	172.00
KSSS Ltd.	Nirjay	12.12.00	12:15:30	48000	172.00	12:15:30	12:15:29	49000	49000	172.00	172.00
KSSS Ltd.	Nirjay	12.12.00	12:15:50	1000	172.00	12:15:30	12:15:50	49000	1000	172.00	172.00
Nirjay	KSSS Ltd.	15.12.00	12:05:53	49850	161.80	12:05:53	12:05:50	50000	50000	161.80	161.80
Nirjay	KSSS Ltd.	15.12.00	12:06:26	24900	161.90	12:06:26	12:06:25	25000	25000	161.90	161.90
Nirjay	KSSS Ltd.	15.12.00	12:07:09	25000	161.85	12:07:09	12:07:09	25000	25000	161.85	161.85
KSSS Ltd.	Nirjay	19.12.00	14:43:32	50000	152.00	14:43:22	14:43:32	50000	50000	152.00	152.00
KSSS Ltd.	Nirjay	19.12.00	14:43:58	50000	151.90	14:43:57	14:43:58	50000	50000	151.90	151.90
Nirjay	KSSS Ltd.	22.12.00	12:10:28	51942	140.70	12: 10:28	12:10:27	52000	52000	140.70	140.70
Nirjay	KSSS Ltd.	22.12.00	12:11:12	48000	140.75	12:11:12	12:11:11	48000	48000	140.75	140.75
KSSS Ltd.	Nirjay	26.12.00	11:28:24	50000	115.25	11:28:24	11:28:24	50000	50000	115.25	115.25
KSSS Ltd.	Nirjay	26.12.00	11:28:51	50000	115.10	11:28:51	11:28:51	50000	50000	115.10	115.10
Nirjay	KSSS Ltd.	29.12.00	11:51:37	49770	119.75	11:51:37	11:51:36	50000	50000	119.75	119.75
Nirjay	KSSS Ltd.	29.12.00	12:51:59	49690	119.75	12:51:59	12:51:59	50000	50000	119.75	119.75
KSSS Ltd.	Nirjay	02.01.01	12:29:00	39850	116.15	12:29:00	12:28:58	40000	40000	116.15	116.15
KSSS Ltd.	Nirjay	02.01.01	11:37:42	40000	114.95	11:37:42	11:37:42	40000	40000	114.95	114.95
KSSS Ltd.	Nirjay	02.01.01	14:03:16	20000	114.40	14:03:16	14:03:16	20000	20000	114.40	114.40
Nirjay	KSSS Ltd.	05.01.01	13:18:00	20000	121.30	13:18:00	13:17:59	20000	20000	121.30	121.30
Nirjay	KSSS Ltd.	05.01.01	13:21:11	29000	120.90	13:21:11	13:21:11	30000	30000	120.90	120.90
Nirjay	KSSS Ltd.	05.01.01	14:08:30	49900	121.75	14:08:30	14:08:29	50000	50000	121.75	121.75

KSSS Ltd.	Nirjay	09.01.01	11:22:23	49950	115.05	11:22:23	11:22:23	50000	50000	115.05	115.05
KSSS Ltd.	Nirjay	09.01.01	12:49:16	49925	112.75	12:49:15	12:49:16	50000	50000	112.75	112.75
Nirjay	KSSS Ltd.	12.01.01	13:43:37	49990	112.70	13:43:37	13:43:37	50000	50000	112.70	112.70
Nirjay	KSSS Ltd.	12.01.01	13:45:44	24655	112.75	13:45:43	13:45:44	25000	25000	112.75	112.75
Nirjay	KSSS Ltd.	12.01.01	14:19:29	25000	111.15	14:19:29	14:19:28	25000	25000	111.15	111.15
KSSS Ltd.	Nirjay	16.01.01	14:10:10	85000	90.65	14:10:10	14:10:10	85000	85000	90.65	90.65
KSSS Ltd.	Nirjay	16.01.01	14:10:35	14890	91.00	14:10:34	14:10:35	15000	15000	91.00	91.00
Nirjay	KSSS Ltd.	19.01.01	11:30:05	29840	99.80	11:30:03	11:30:05	20000	20000	99.80	99.80
Nirjay	KSSS Ltd.	19.01.01	11:44:31	30000	100.55	11:44:31	11:44:30	30000	30000	100.55	100.55
Nirjay	KSSS Ltd.	19.01.01	14:12:25	24900	106.15	14:12:24	14:12:25	25000	25000	106.15	106.15
Nirjay	KSSS Ltd.	19.01.01	14:14:04	24999	106.60	14:14:03	14:14:04	25000	25000	106.60	106.60
KSSS Ltd.	Nirjay	23.01.01	12:32:07	50000	115.70	12:32:07	12:32:07	50000	50000	115.70	115.70
KSSS Ltd.	Nirjay	23.01.01	12:33:04	49950	115.75	12:33:03	12:33:04	50000	50000	115.75	115.75

It is quite implicit from the above that such trades executed on the screen of the exchange, have an inherent element of intent involved in them and on this ground I find Nirjay guilty. The of trading of KSSS Ltd. and Nirjay shows that the very purpose of impersonal trading has been defeated through putting of trades which were structured transactions. I find that such trades held to be against the interest of the market by the Hon'ble Securities Appellate Tribunal in the case of *Nirmal Bang Securities (P) Ltd. Vs. SEBI* wherein it has *inter alia* observed as under

"...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. The data furnished in the show cause notice certainly goes to prove the synchronized nature of the transaction which is in violation of regulation 4 of the FUTP Regulations. The facts on record categorically establishes that BEB had indulged in synchronized trading in violation of regulation 47 of the FUTP Regulations. In a synchronized trading intention is implicit."

Taking consideration of this in the present matter, had the trades executed by the parties be genuine, the possibility of perfect matching would not have been possible. One or two deals on the may be synchronized but trades to the extent of such large volumes i.e. 35 deals had some malafide intent. The greater the number of synchronized trades, the larger are their chances of r genuine in nature. Therefore, I find Shri Jatin A. Khandwalala guilty on this count.

- c) With regard to the finding that Nirjay was engaged in circular trading and creation of artificial volume without any transfer of beneficial ownership, Nirjay replied that it was shifting its positior settlement days and because of this the deliveries always retained with it only. Nirjay and Kaushik traded for nearly 8 weeks and their volumes on the days they traded ranged from 36 % to market volume of the stock exchange. Their trading pattern is reproduced below:

Name	Date	Total Trades by the client at BSE	Vol at BSE	% of client's trades to the total trades at BSE	Total trades by the client at NSE	Volume at NSE	% of client's trades to the total trades at BSE	Total at NSE & BSE by the client's	Total volume at BSE & NSE	Client's trade % at NSE
KSSS Ltd.	06.12.00(wed)	100000	188929	52.93%	100000	260631	38.37%	200000	449560	44.49%
	12.12.00(tue)	100000	272172	36.74%	100000	300194	33.31%	200000	572366	34.94%
	15.12.00(fri)	100000	155120	64.47%	100000	235011	42.55%	200000	390131	51.26%
	19.12.00(tue)	100000	220820	45.29%	100000	268007	37.31%	200000	488827	40.91%
	22.12.00(fri)	100000	236328	42.31%	100000	263724	37.92%	200000	500052	40.00%
	26.12.00	100000	209961	47.63%	100000	286275	34.93%	200000	496236	40.30%
	29.12.00(fri)	100000	145105	68.92%	100000	175882	56.86%	200000	320987	62.31%
	02.01.01(tue)	100000	157087	63.66%	100000	206022	48.54%	200000	363109	55.08%
	05.01.01(fri)	100000	134307	74.46%	100000	237169	42.16%	200000	371476	53.84%
	09.01.01(tue)	100000	167525	59.69%	100000	204636	48.87%	200000	372161	53.74%
	12.01.01(fri)	100000	171056	58.46%	99710	195422	51.02%	199710	366478	54.49%
	16.01.01(tue)	100000	204168	48.98%	100000	229670	43.54%	200000	433838	46.10%
	19.01.01(fri)	100000	196571	50.87%	290	370649	0.08%	100290	567220	17.68%
	23.01.01(fri)	100000	168420	59.38%				100000	168420	59.38%
Nirjay	06.12.00(wed)	100000	188929	52.93%	100000	260631	38.37%	200000	449560	44.49%
	12.12.00(tue)	100000	272172	36.74%	100000	300194	33.31%	200000	572366	34.94%
	15.12.00(fri)	100000	155120	64.47%	100000	235011	42.55%	200000	390131	51.26%
	19.12.00(tue)	100000	220820	45.29%	100000	268007	37.31%	200000	488827	40.91%
	22.12.00(fri)	100000	236328	42.31%	100000	263724	37.92%	200000	500052	40.00%
	26.12.00	100000	209961	47.63%	100000	286275	34.93%	200000	496236	40.30%
	29.12.00(fri)	100000	145105	68.92%	100000	175882	56.86%	200000	320987	62.31%
	02.01.01(tue)	100000	157087	63.66%	100000	206022	48.54%	200000	363109	55.08%
	05.01.01(fri)	100000	134307	74.46%	100000	237169	42.16%	200000	371476	53.84%
	09.01.01(tue)	100000	167525	59.69%	100000	204636	48.87%	200000	372161	53.74%
	12.01.01(fri)	100000	171056	58.46%	100000	195422	51.17%	200000	366478	54.57%
	16.01.01(tue)	100000	204168	48.98%	100000	229670	43.54%	200000	433838	46.10%
	19.01.01(fri)	100000	196571	50.87%	100000	370649	26.98%	200000	567220	35.26%
	23.01.01(fri)	100000	168420	59.38%	100000	241762	41.36%	200000	410182	48.76%

I find from the above, that the trades entered by Nirjay in the scrip of Orient, generated considerable volumes and this fact has not been denied by it. At this juncture it is relevant to note the ob of the U.S Courts in *Hyne's Case* that "proof of manipulation is generally not based on a single activity but rather on a course of conduct showing an intentional interference with the normal funct the market for a security. Indeed the manipulation is usually the result of acts, practices and course of conduct that deceive the market place.....".

These trades generated considerable volumes, both Nirjay and KSSS Ltd had chosen to trade only on Tuesdays which were the last days of settlement at NSE and on Fridays which were the las settlement at BSE. I have considered the explanation of Nirjay that the settlement periods were different and the exchanges on which the transactions took place were different and hence these c termed as circular trading or artificial creation of volumes. The motive of the transactions as per Nirjay was to leverage the financials.

The explanation is not satisfactory as there was no intention to effect transfer of securities. Both Nirjay and KSSS Ltd were entering themselves into transactions and always took reverse position others and their orders were matched time and again.

Nirjay in para 7 of its reply dated July 7, 2004 to the SCN, submitted that it was not in a position to take deliveries due to some financial problems. According to the reply, the motive behi transactions was organizing finances. But at this juncture one fact comes into light that how the trades of Nirjay and KSSS Ltd had matched again and again. The reason for this can be that th were pre-determined deals and Nirjay in the process of securing its self interest abused and violated the norms governing the screen based trading. Therefore, I conclude that Nirjay has inc creating artificial volume giving a false appearance of trading on the exchange and consequent rise in the prices of the scrip or both. This is an unhealthy market practice. SEBI, as a capit regulator is duty bound to prevent such unhealthy market practices and it would be failing in fulfilling its obligations if it overlooks such practices. In any case, stock exchange mechanism c allowed to be misused for the purposes other than genuine trades.

4.1 In view of the above factual conclusions arrived by me, I find that Nirjay and Shri Jatin A. Khandwala have violated Regulations 4 (b) (c) and (d) of FUTP Regulations as applicable at the time the act was committed.

4.2 From the aforesaid, I find that Nirjay has failed to explain the necessity of executing structured trades within the same exchange or in two exchanges for the purpose of so called arbitrage. The facts and circumstances of the case, I am of the view that Nirjay Securities Pvt. Ltd. and Shri. Jatin A. Khandwala be restrained from accessing the capital market for a period of six months. This will be necessary in the interest of investors and securities market and also to set an example for it as well as other market participants, who indulge in such practices.

Order

5.1 In view of the above and in exercise of the powers conferred upon me by Section 11 (4), of SEBI Act, 1992 and Regulation 11 of FUTP Regulations, 2003, I hereby restrain Nirjay Securities Pvt. Shri. Jatin A. Khandwala from buying, selling or dealing in securities for a period of six months.

5.2 This order shall come into force with immediate effect

Mumbai

Date: November 01, 2006

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Whole Time I

Securities and Exchange Board of India