

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA**CORAM: Dr. T.C.NAIR, WHOLE TIME MEMBER****IN THE MATTER OF M/S. GSB SECURITIES PVT. LTD. BROKER OF NATIONAL STOCK EXCHANGE, INB 230902537**

Date of hearing: September 26, 2006

Appearances:

For Noticees: Shri Shyam Mehta, Advocate

Shri Ramakant Biyani, Director, GSB Securities Pvt. Ltd.

Shri Girdhari Biyani, Director, GSB Securities Pvt. Ltd.

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

Shri Atul Agrawal, Manager

Ms. Kshama J. Chavan, Legal Officer

ORDER**(UNDER REGULATION 13(4) OF SECURITIES AND EXCHANGE BOARD OF INDIA (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002 AGAINST GSB SECURITIES PVT. LTD. INB 230902537, MEMBER, NATIONAL STOCK EXCHANGE INDIA LIMITED IN THE MATTER OF MOREPEN HOTELS LIMITED)****1.0 Background**

- 1.1 Morepen Hotels Ltd. (hereinafter referred to as "MHL") came out with a public issue at a premium of Rs. 20/- per share in December 1995. The scrip was listed at Jaipur Stock Exchange, Ludhiana Stock Exchange, (LSE), Delhi Stock Exchange, (DSE), National Stock Exchange (NSE) and Bombay Stock Exchange Limited, (BSE).
- 1.2 Securities and Exchange Board of India (hereinafter referred to as "SEBI") conducted an investigation into the trading of the scrip of MHL for the period June 2000 to December 2000 (hereinafter referred to as "investigation period"). During the period of investigation, it was observed that the scrip of MHL was traded only at NSE and BSE.
- 1.3 There was a spurt in the total volume of the scrip of MHL at BSE. It was observed that during the one year period of August, 1999 to July, 2000, the total volume traded at BSE was 74,700 shares, as against 18,82,200 shares during the period August-December, 2000. The average quantity traded during August 1999 – July 2000 was in the range of 100-2800 shares per day, as against which the average quantity traded during August-December, 2000 was in the range of 18,000 to 25,000 shares per day.
- 1.4 Similarly, at NSE, the volume of the scrip during May-August, 2000, were in the range of 200 to 500 shares and the scrip was infrequently traded. However, after August 25, 2000, the volume in the scrip went up manifold and was in the range of 18,000 to 25,000 shares per day. During the period August 2000 – December 2000, the average trading volume at NSE was approximately 22,000 shares per day.
- 1.5 The price of the share at BSE, which was Rs.193.30 as on August 25, 2000, rose to Rs. 264.25 on September 8, 2000 and fell to Rs. 138.95 on November 27, 2000. A similar pattern was noticed at NSE also.
- 1.6 It was observed that the P/E ratio of MHL was not in synchronisation with the rest of the hotel industry. The rise in price and volumes observed during the investigation period did not appear to be justified based on fundamentals of the company. Further, investigation revealed that 80% of the total quantity traded during the investigation period was on account of a few brokers of BSE and NSE. It was found that ultimate clients had acted in concert through selected members and engaging themselves in circular trading in the scrip of MHL.
- 1.7 The investigation further revealed that most of these clients had not paid any margin to the brokers for the trades executed by them. Further they were squaring off their positions not only at the end of the settlement but almost on the same day. The delivery based business in the scrip during the investigation period was less than 1% of the total trading volume on the exchange. It was also observed that the same set of clients was trading at both the exchanges.
- 1.8 The combined quantity traded in the scrip of BSE and NSE by the clients mentioned in the table below during the period June 2000 to December 2000 was approximately 90% of the shares traded at both the exchanges taken together. The total quantity traded by these entities as per the information gathered during investigation is as under :

Sr.No.	Name of the Entity	Purchase	Sale	Gross
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1.	M/s The Jem Fiscal Ltd.	10,37,800	10,32,001	20,69,801
2	M/s F.T.Trades	8,54,800	8,52,200	17,07,000
3.	M/s K.N. Trades	6,26,226	6,26,226	12,52,452
4.	M/s Prashant Investment	66,300	66,300	1,32,,600
5.	M/s K.P. Investment	5,94,900	5,95,300	11,90,200
6.	M/s S.M. Investment	3,04,000	3,04,000	6,08,000
7.	M/s N.N. Investment	3,65,500	3,65,500	7,31,000
8.	M/s Hakeem Auto Ltd	6,610	4,150	10,710
	Total	38,56,136	38,45,627	77,01,783

1.9 During the course of investigation, it was observed that most of the clients trading in the scrip were linked to each other. It was observed from the trading pattern that these clients were involved in circular trading in the scrip. These clients have entered into buy and sell transactions with each other, squaring up positions and reversing trades either on the same day or during the same settlements, making the net receivable/deliverable positions as either nil or shares of negligible quantities i.e about 100 to 200 shares. Thus, all the aforesaid clients had done transactions of fictitious nature, through different members of NSE and BSE and established /created artificial volumes in the scrip.

1.10 GSB Securities Pvt. Ltd. (hereinafter referred to as "GSB") is a member of NSE. GSB has traded in the scrip of MHL on behalf of M/s Jem Fiscal Ltd., who started trading with them from August 2000. It was observed that GSB has not collected any initial margin from Jem Fiscal and was normally squaring off the position in the same settlement.

2.0 Enquiry Proceedings

2.1 In view of the alleged irregularities committed by GSB, Chairman, SEBI, vide order dated February 18, 2002 appointed an Enquiry Officer to enquire into the contravention/s alleged to have been committed by GSB while dealing in the scrip of MHL. Enquiry Officer issued a show cause notice dated March 20, 2002 to GSB for the alleged irregularities. It has been alleged that GSB failed to exercise due skill, care and diligence in its dealing with the client, M/s. Jem Fiscal in violation of clause A (2) of Code of Conduct as laid down under Schedule II read with Regulation 7 of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 (hereinafter referred to as 'Broker Regulations') and also violated Regulation 4(b) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 (hereinafter referred to as FUTP Regulations).

2.2 GSB vide letters dated 23rd April 2002 and 22nd November, 2002 inter-alia replied to the show cause notice. An opportunity of personal hearing before the Enquiry Officer was given to GSB on November 27, 2002. On completion of enquiry, Enquiry Officer submitted a report dated March 31, 2004 to SEBI recommending a minor penalty of suspension of certificate of registration of GSB for a period of two months.

3.0 Show Cause notice and reply

3.1 Subsequent to the submission of the said Enquiry Report, a show cause notice dated June 3, 2004 was issued to GSB to show cause as to why appropriate penalty including penalty as recommended by Enquiry Officer should not be imposed on GSB.

3.2 GSB vide letter dated June, 25 2004 responded to the said show cause notice, inter alia as follows :-

- (a) *Jem was introduced by Mr. Dhiren Shah and was allowed to trade only after completion of client registration form. Mr. Dhiren Shah was their regular client and was dealing through them since 1995 and they had never any dispute with him.*
- (b) *GSB was not aware of Jem getting registered with other brokers as this information was not provided by Jem in the client registration form.*
- (c) *There were no problems with respect to pay-in or delivery of shares. Most of the trades done by Jem were squared off. Every client has his own motives and objectives and accordingly he executes transactions to achieve the desired results. GSB does not concern itself with the motive and objectives of its clients. GSB simply executes orders placed by its clients. GSB did not notice the practice of Jem squaring off its transactions.*
- (d) *GSB was duty bound to accept every order of its client and failure to do so would invite action against GSB.*
- (e) *Since margin recoverable from Jem was less Rs. 1 lakh , it was not mandatory for GSB to collect the same.*
- (f) *GSB stopped trading for Jem in January 2001 when NSE informed that Jem would have been involved in market manipulation.*
- (g) *GSB was not aware of purported associates / connected entities of Jem or its trading activities.*
- (h) *GSB has acted with due skill and care and did not violate any rule of regulation.*
- (i) *GSB has never been penalized for any alleged violations of any rule or regulation by SEBI.*

4.0 Personal Hearing

- 4.1 An opportunity of hearing was granted to GSB before me on September 26, 2006, wherein Shri Ramakant Biyani and Shri Gidhari Biyani, Directors were represented by Shri Shyam Mehta, Advocate and made submissions in brief.

5.0 Consideration of Issues

- 5.1 I have carefully considered findings of investigation, the Enquiry Report, show cause notice issued to GSB and the submissions made by GSB in response to the show cause notices and my findings are as under:
- 5.2 I find that the price of MHL was not justified either based on fundamentals of MHL or on price earning ratio of the rest of the hotel industry. Besides the rise in volumes observed during the investigation period was not justified on any grounds. I have noted that 80% of the total quantity traded during the period of June 2000 to December 2000 was contributed by few brokers of the exchange and that their ultimate clients had acted in concert indulging in circular trading.
- 5.3 From trading details collected from brokers of BSE and NSE, it was seen that some of the clients, who were linked/connected to each other in some way or the other were trading in the scrip at both BSE and NSE. They had enrolled as clients to both BSE and NSE members and traded simultaneously in the scrip of MHL during the investigation period. From the records obtained from different brokers of both the exchanges, it was found that most of these clients had not paid any margin to the brokers for the trades executed by them. Further, they were squaring off their positions not only at the end of settlement on the same day.
- 5.4 From the trading details supplied by the exchanges, I find that during the period of investigation the delivery based trading in the scrip of MHL was less than 1% of the total trading volume. Further, the total volume at both the exchanges, BSE and NSE were almost the same and had similarity both in prices and total number of shares traded per day. It was also observed that the same set of clients was trading at both the exchanges. Further I agree with the finding of the Enquiry Officer that almost all the transactions were squared off with negligible portion of the purchases resulting in delivery and that the client was squaring off the positions at the end of each settlement.
- 5.5 I note that GSB in its reply dated June 25, 2004 submitted that Jem was introduced by a client, Shri Dhiren Shah who was dealing with them since 1995 and never had any dispute. GSB further submitted that it had not noticed the pattern of trading done by Jem. It also contended that it was unaware of trading done by Jem which resulted in circular trading. I find that the submission of GSB is not convincing as its client along with the associates / entities connected with the client was trading in the scrip and more than 90% trading in scrip was done by Jem along with entities acting in concert. Further, Jem had shown no inclination of picking up or giving delivery and was trading in illiquid scrip. I am of the view that GSB should have been more diligent in its dealing especially when Jem was trading in illiquid scrip and squaring off positions on the same day without much profit or loss. Whatever trading was done by Jem, was for the purpose of creating artificial trade thus creating a misleading appearance of trading in the scrip of MHL.
- 5.6 Jem had traded only in the scrip of MHL which was illiquid. The scrip had been made to appear liquid by creating artificial volume and price by certain connected clients including Jem. Jem had entered into speculative transactions without any genuine interest in giving or taking delivery of shares.
- 5.7 I am of the view that any prudent broker should have doubted the intention of Jem and would have stopped trading on its behalf. The false appearance created in trading in the scrip is detrimental to the interest of unsuspected investors and in turn the orderly development of the securities market.
- 5.8 Being a registered intermediary, the broker is under obligation to be more diligent while dealing with the clients, GSB failed in the instant case resulting in violation of Clause A (2) of the Code of Conduct as specified in Regulation 7 of the SEBI (Stock Brokers and Sub Brokers) Regulations 1992. The trading pattern of the client should have alerted GSB and it ought to have taken adequate steps to defeat the trading strategy of the client. GSB should have been more diligent in its dealing especially with Jem which traded in illiquid scrip and squared off its position on the same day without making much profit or loss.
- 5.9 However, I note that:
- (i) GSB Capital Markets Ltd., a sister concern of GSB is the member of BSE for last 50 years.
 - (ii) GSB and its sister concern has never been penalized for any infraction or violation.
 - (iii) They did not have any proprietary trades in the share of MHL.
 - (iv) They stopped doing business with Jem immediately on learning from NSE about the activities of their client.
- 5.10 In the above context, it does not appear to be fair to assume that GSB, without undue difficulty and with ordinary diligence, would have been in a position to establish the suspicious nature of operations of Jem. Hence, I am of the view that suspension of certificate of registration granted to the GSB for a period of two months would be excessive and imposition of penalty of censure would be adequate to meet the ends of justice.

6.0 Order

Therefore, in exercise of the powers conferred upon me by virtue of Section 19 read with Regulation 13(4) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, I hereby "censure" GSB Securities Pvt. Ltd, Member of NSE. I also direct GSB to note that any instances of violations or non-compliance of the provisions of Securities and Exchange Board of India Act and the Rules and Regulations framed there under, in future, shall be dealt with stringently.

Date : 21.05.2007

Place : Mumbai

T.C. Nair

Whole Time Member

Securities and Exchange Board of India