

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: V. K. CHOPRA, WHOLE TIME MEMBER

Against M/s Pawankumar Parmeshwarlal, a registered broker of BSE in respect of dealings in the scrip of Prabhu Steels Industries Ltd.

DATE OF HEARING: 26.02.2007

APPEARANCES:

FOR NOTICEE:

1. Shri Pawankumar Choudhary, Proprietor of the Noticee
2. Shri R.K Panday, Manager of the Noticee.

FOR SEBI:

1. Mrs. Barnali Mukherjee, DGM, SEBI
2. Shri Sanjay Sarwade, Manager, SEBI
3. Shri Mohamed Rahaz P.M., Legal Officer, SEBI

ORDER

**Under Regulation 13(4) of SEBI (Procedure for Holding Enquiry
by Enquiry Officer and Imposing Penalty) Regulations, 2002**

1.0 BACKGROUND

1.1 Prabhu Steel Industries Ltd. (hereinafter referred to as "PSIL") was incorporated as a Private Limited Company on May 29, 1972 and got converted as a Public Limited Company w.e.f. August 17, 1981. It came out with a public issue in March 1982 and was listed on the Bombay Stock Exchange Ltd (BSE) and Calcutta Stock Exchange (CSE).

1.2 As per the distribution schedule of PSIL as on March 31, 2001, the public shareholding was just 5.79% and more than 94% shareholding was controlled by promoters, directors, relatives and their associated entities. Analysis of the financial results for the year 1999 to 2002 revealed that there had been no improvement in the performance of the company which is clear from the table hereunder:

Particulars	Results for Year ended:-			
	March 2002	March 2001	March 2000	March 1999
Total Income	10.75	3.21	4.41	4.25
Total Expenditure	11.10	4.72	5.83	6.28
Profit After Tax / (loss)	(0.35)	(1.48)	(1.42)	(2.28)
Accumulated Loss	(12.30)	(11.95)	(10.48)	(9.06)
Equity Capital	0.71	0.71	0.71	0.71
EPS (Rs.)	-4.93	-20.85	-20	-32.11
Dividend (%)	NIL	NIL	NIL	NIL

1.3 It was also observed that the price of PSIL scrip was Rs.34.50 on September 11, 2000 which rose to a high of Rs.82.50 on April 17, 2001 i.e. a rise of 139% in just 7 months and there were no justifiable reasons in support of this price rise.

1.4 In view of the above, Securities and Exchange Board of India (hereinafter referred to as "SEBI") conducted investigations in the matter. Investigations inter alia revealed that the promoters, directors and associated entities of PSIL acting through Rajesh Shah Group and Sarita Choudhary had dealt in the scrip of PSIL in significant quantities with a view to create artificial market in the scrip. Investigations further revealed that the brokers of BSE viz. G R Pandya Sharebroking Ltd. (hereinafter referred to as "GRP") and Pawankumar Parmeshwarlal (hereinafter referred to as "Noticee") had transacted in PSIL scrip on behalf of their clients viz. Rajesh Shah Group and Smt. Sarita Choudhary respectively and manipulated the price and volumes in PSIL scrip.

1.5 After considering the Investigation Report, SEBI appointed an Enquiry Officer vide Order dated May 23, 2003 to enquire into the possible violations committed by the Noticee under the provisions of the Securities and Exchange Board of India (Stock Brokers and Sub-brokers) Regulations, 1992 (hereinafter referred to as "Stock Broker Regulations") and Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 (hereinafter referred to as "PFUTP Regulations") as also Securities and Exchange Board of India Act, 1992.

2.0 ENQUIRY PROCEEDINGS

2.1 The Enquiry Officer issued a show cause notice dated March 12, 2004 under Regulation 6 of SEBI (Procedure for holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to in short as "Enquiry Regulation") to the Noticee. The Noticee vide his letter dated April 08, 2004 acknowledged the receipt of the said show cause notice and made following submissions:

2.1.1 That the price of PSIL was as low as Rs.34.50 on September 11, 2000 and it rose to a high of Rs.82.50 on April 17, 2001 and his first sale of shares of PSIL was on March 27, 2001 and on this day the market price of the scrip was Rs.75.90. Adding further he stated that his last sale was on May 10, 2001 when the market price was Rs.76.50 and the total transactions of sale were of 23,000 shares of PSIL.

2.1.2 That there was no transactions done by him till the share price rose from Rs.34.50 to Rs. 75. 90 and his first transaction of sale was @ Rs. 75. 90.

2.1.3 That his last sale was at Rs.76.50 vide his bill no. 0007/02 dated May 10, 2001 and the price increased only by Rs.0.63 during the period from March 27, 2001 to May 19, 2001 when he transferred these shares. The volume of shares was 23,000 shares. He stated that therefore he was not a party to the price manipulation of shares from Rs.34.50 to Rs.82.50.

2.2 An opportunity of personal hearing was granted to the Noticee by the Enquiry Officer on May 10, 2004 and May 21, 2004. The Noticee attended the personal hearing on May 21, 2004 and inter alia made the following submissions:

2.2.1 The Noticee is a proprietary concern and not having any clients or even sub brokers. He was having only two BOLT terminals installed in his office and eight people in the family who traded through him can be considered as clients.

2.2.2 The transactions entered into by his clients are finance transactions and these transactions were undertaken by him to recover the amounts paid by Smt. Sarita Choudhary to GRP.

2.2.3 GRP was in financial crisis and had taken a 'spot loan' from Smt. Sarita Choudhary.

2.2.4 There was no relation whatsoever between GRP and Shri Pawankumar and Smt. Sarita Choudhary.

2.2.5 He traded only for one month and 14 days i.e. from March 27, 2001 to May 10, 2001 and the price of scrip was ranging approximately between Rs.75.90 and Rs.76.50 during this period of one month and 14 days.

2.2.6 The quantity of shares traded and the percentage to market given in the show cause notice was correct and he was also aware that these were counter party transactions.

2.2.7 He was not aware of the percentage of net and gross sale at the time of transactions. He further stated that the brokers are not aware of the fact as to what percentage his transactions constituted at the time of the transactions or even later.

2.2.8 Smt. Sarita Choudhary being wife of Pawankumar sits in the office and operates the terminal and his father guides her in taking decisions on such transactions.

2.2.9 He was not aware who was Rajesh Shah and that Smt. Sarita Choudhary advanced loan on keeping shares as security by cheque to GRP.

2.3 The Enquiry Officer, after conducting an enquiry in accordance with the provisions of Enquiry Regulations, submitted a report dated September 16, 2004 wherein he observed that the Noticee violated the provisions of Regulation 4 (a), (b), (c) & (d) of PFUTP and Regulation 7 read with clause A(1) to (5) of Code of Conduct as specified in Schedule II of Stock Broker Regulations. He recommended suspension of registration of the Noticee for a period of six months.

3.0 SHOW CAUSE NOTICE

3.1 Pursuant to the receipt of the said Enquiry Report, a Show Cause Notice dated September 20, 2004 was issued to Noticee, along with a copy of the said Enquiry Report, advising him to show cause as to why the action, as recommended by the Enquiry Officer, should not be imposed on him.

4.0 REPLY OF THE NOTICEE TO THE SHOW CAUSE NOTICE

4.1 The Noticee submitted his reply to the said show cause notice vide his letter dated October 04, 2004 wherein he stated as follows:

4.1.1 The spot badla financing was general practice of the market and was popular during the relevant period. The temporary financing was called spot financing and in such finances, there was no bad intention in the mind of financier. His clients were also doing this type of pure and simple spot financing as per such general practice.

- 4.1.2 GRP was in need of finance and Smt. Sarita Choudhary had provided Rs 26 lakhs on March 17, 2001. In the instant matter, her intention was only to recover her dues from GRP.
- 4.1.3 The Noticee or his client did not have any kind of interest in the PSIL scrip.
- 4.1.4 He or his client had never done any business with GRP or their client at any time except the transactions in PSIL scrip.
- 4.1.5 The PSIL shares given by GRP were only part of 32 items for recovery of the dues of Smt. Sarita Choudhary.
- 4.1.6 He did not pay any attention as to who picks up the trade and whoever buys in the market has to make his arrangements for pay-in etc on the schedule date.
- 4.1.7 He or his client had no relation with any clients of GRP.
- 4.1.8 GRP might be placing circular trades and he was just made channel without his knowledge.
- 4.1.9 GRP should have reported all these transactions as their off market / close deals. The reason for non reporting of such a transaction might be for taking some benefit or to save any margin etc.
- 4.1.10 His client is a close relative and this itself should not be treated as a ground to find that he had acted in concert with his client who is his wife.
- 4.1.11 He and his client had completely stopped the business of spot financing.

5.0 PERSONAL HEARING

- 5.1 An opportunity of personal hearing before me at SEBI's Head Office at Mumbai on February 26, 2007 was given to the Noticee. The Noticee attended the hearing and reiterated the submissions he had already made in his reply to the Show Cause Notice. Thereafter, the proprietor of the Noticee Shri Pawan kumar Choudhary had also sent a letter dated March 03, 2007 wherein he enclosed a report on inspection of books of account and other documents to show his limited business. In the said letter, he reiterated that he has not done anything with malafide intention and also requested to forgive him.

6.0 CONSIDERATION OF ISSUES & FINDINGS

- 6.1 I have carefully examined the enquiry report, show cause notice, and submissions of the Noticee.
- 6.2 I find that the trading in PSIL scrip was highly concentrated with the Noticee, GRP and Manubhai Mangaldas Securities Ltd. The client of the Noticee was Smt. Sarita Choudhary who is the wife of the proprietor of the Noticee Shri Pawan kumar Choudhary. She operated one of the two available terminals in the office of the Noticee and sold PSIL shares through the Noticee. All the shares sold by her were picked up by Rajesh Shah and Loco Securities Pvt. Ltd. trading through GRP. These two clients of GRP are related to each other as their address was one and the same.
- 6.3 I have examined the trading details of the Noticee vis-à-vis his client Smt Sarita Choudhary. The settlement-wise trading by Smt. Sarita Choudhary is given hereunder:

Sett.No.	Purchase Qty.	Sale Qty.	Net Qty.
200101	0	7800	-7800
200102	0	4000	-4000
200104	0	2500	-2500
200106	0	5700	-5700
200107	0	3000	-3000

- 6.4 The settlement wise transactions as reported by Smt. Sarita Choudhary through GRP are presented in the following table:

Sett. No.	Purchase Qty.	Sale Qty.	Net Qty.
200101	7800	0	7800
200102	4000	0	4000
200104	2500	0	2500
200106	5700	0	5700

200107	3000	0	3000
--------	------	---	------

- 6.5 I find that Smt. Sarita Choudhary was asked to produce the contract notes for the transactions shown in the above table. She submitted that contract notes were not provided to her. This indicates that the transactions were not reported on the exchanges and this fact had been corroborated by the broker GRP.
- 6.6 I also find from the trading details of the Noticee that all the shares sold by Smt. Sarita Choudhary were picked up by two clients of GRP i.e. Rajesh Shah and Loco Securities Ltd who are related. Rajesh Shah had dealt in PSIL scrip through two brokers viz. GRP and Manubhai Mangaldas. The other entities viz. Loco Securities Pvt. Ltd., Uttam Investments and C N Shah are also associated with Shri Rajesh Shah and these four entities accounted for 91.61% of the net purchase and 26.63% of the net sale in PSIL scrip. I also find that GRP executed spot trades with the seller being Rajesh Shah and buyer being Smt. Sarita Choudhary. These transactions had not been reported to the exchange, which is a clear violation of SEBI circular SMDRP/Policy/cir/32/99 dated September 14, 1999. This was done evidently with a view to suppress the fact that Rajesh Shah and Smt. Sarita Choudhary were indulging in circular trades leading to price manipulation and creation of volumes. Further all the shares delivered and received by Rajesh Shah and Sarita Choudhary were registered in the name of Haryana Metals Ltd. which is a family concern of PSIL.
- 6.7 Smt. Sarita Choudhary, in her statement admitted that the transactions were done to finance GRP. GRP submitted that the shares delivered by them to Smt. Sarita Choudhary were given by Rajesh Shah. Thus, it is a clear pattern of circular trading wherein the spot transaction was the first one with Sarita Choudhary being the purchaser and Rajesh Shah being the seller. In the second leg of the transaction, Rajesh Shah was the purchaser and Sarita Choudhary was the seller. I observe this to be a clear case of circular trading. Even assuming that Smt. Sarita Choudhary was extending finance against illiquid scrip like PSIL then there would have been certain assurance that the scrip would be bought back. The shares bought by Smt. Sarita Choudhary through spot deals from Rajesh Shah were bought back by him through the market. In this way circuitous route for executing the transactions was clearly designed to have a three way effect as under:
- Provide financing to the price manipulation
 - Create false volumes in the scrip and hence induce the interest of unsuspecting investors.
 - Price manipulation
- 6.8 Since Sarita Choudhary is the wife of the Noticee and as she operates the terminal, it can be easily inferred that the Noticee had directly or indirectly taken part in manipulation and in creating false volumes in the scrip by indulging in circular trading. The creation of such volumes is misleading and can induce the innocent investors to invest in the scrip. The Noticee had admitted that he had transacted in the scrip only for one month and 14 days i.e. from March 27, 2001 to May 10, 2001. The Noticee submitted that he was not a party to the price manipulation of the scrip as his first sale of shares of PSIL was on March 27, 2001 when the market price of the scrip was Rs.75.90 and his last sale was at 76.50 on May 10, 2001. It has been observed from the record that the Noticee had traded in the month of April 2001 when the price of the scrip reached its highest level. I also observe that he executed 14 trades on April 06, 2001 at the rate ranging from Rs 77.25 and Rs. 77.70 and his contention can not be accepted as logical.
- 6.9 The Noticee also stated that the spot badla financing was general practice of the market and was popular during the relevant time. He also stated that Smt. Sarita Choudhary had provided Rs 26 lakhs to GRP and her intention was only to recover her dues from GRP. This contention of the Noticee can not be accepted since his client got the PSIL shares from Rajesh Shah who himself bought back through the broker GRP. Further, in order to recover dues, the trading mechanism can not be misused by executing circular trades. The Noticee also stated that PSIL shares were given by GRP as one among the 32 items as security towards the loan amount of Rs 26 lakhs. In fact in such a situation, she could have very well recovered her dues from the other items as per law without indulging in artificial transactions by using the trading mechanism of the exchange.
- 6.10 The Enquiry Officer observed that the Noticee has a repetitive tendency of non-compliance to the above Code of Conduct prescribed for the stock brokers under Stock Brokers Regulations. He observed that SEBI had already given him warning to be more cautious in future and to ensure strict compliance of the Code of Conduct for the stock brokers in the matters of. M/s. Ceat Ltd. and M/s. VXL Instruments Ltd. Apart from the above, I also find that the Noticee had committed similar violations in the scrip of M/s Surya Roshni Ltd. which culminated into suspension of his registration for a period of one month vide order dated September 29, 2004. The Noticee submitted that SAT has reduced the said penalty from one month to a simple warning in its Order dated November 22, 2004 in Appeal No 262 of 2004. I have examined the said Order and find that the Hon'ble SAT considered four appeals together and upheld the Order of SEBI in Appeal Nos. 261 of 2004, 261 A of 2004 and 261 B of 2004 including the Order against Smt. Sarita Choudhary. In respect of Appeal No. 262 of 2004 the following observation was made by Hon'ble SAT :

"-----the respondent Board has reduced the penalty from the period of two months as recommended by Enquiry Officer to only one month on the ground that there has been actually no price manipulation of the

scrip. If this indeed is the conclusion arrived at by the respondent we believe that there is no ground for disrupting the business of the appellant and a simple warning for the irregularities established against them should be sufficient penalty”.

6.11 In the same Order, the Hon’ble SAT has also observed that the violations of PFUTP Regulations need to be penalized adequately. I find that violations of Regulation 4(a), (b) (c) and (d) are clearly established in the instant matter from the facts as discussed in the preceding paragraphs and it is a clear case to impose major penalty considering the repetitive violations. Recently, the certificate of registration of the appellant was suspended vide Order dated April 10, 2007 for a period of one month in similar transactions in the scrip of Prudential Pharmaceuticals Ltd.

6.12 In view of the above, I find that Smt. Sarita Choudhary who is the client and wife of the Noticee had extended financing to GRP by indulging in unreported spot transactions in the scrip. She indulged in creation of circuitous route of trading through the Noticee by selling PSIL shares purchased on spot. This caused creation of false market as the shares had never changed hands but the exchange trading details showed huge volumes. Thus, the Noticee had acted hand in glove with his client wife who executed manipulative trades and created false market which tampered with the fair and smooth functioning of the market. Thus, the Noticee through these dealings in PSIL scrip violated the provisions of Regulation 4 (a) to (d) of PFUTP Regulations, which provides that,

4. No person shall -

- (a) effect, take part in, or enter into, either directly or indirectly, transactions in securities, with the intention of artificially raising or depressing the prices of securities and thereby inducing the sale or purchase of securities by any person;
- (b) indulge in any act, which is calculated to create a false or misleading appearance of trading on the securities market;
- (c) indulge in any act which results in reflection of prices of securities based on transactions that are not genuine trade transactions;
- (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 fluctuations in the market price of securities;

6.13 Further, the Code of Conduct for Stock Brokers specified in Schedule II under Regulation 7 of the said Regulations provides for the minimum standards for the working of the stock brokers. If the regulatory requirements are violated by the stock brokers without attracting any action, the measures taken by SEBI for regulation of the stock brokers would be rendered nugatory and the regulatory function would be jeopardized. I find that the Noticee has indulged in manipulative transactions so as to facilitate his clients to manipulate the market. Noticee also failed to take due care and diligence essentially required in conducting his business as a stock broker and thus violated Regulation 7 read with the clause A (1) to (4) of Code of Conduct as specified in Schedule II of Stock Brokers Regulations, which are extracted hereunder:

A (1): A Stock Broker shall maintain high standards of integrity, promptitude and fairness in the conduct of all his business.

A (2): A Stock Broker shall act with due skill, care and diligence in the conduct of all his business.

A (3): A Stock Broker shall not indulge in manipulative, fraudulent or deceptive transactions or schemes or spread rumours with a view to distorting market equilibrium or making personal gain.

A(4): A Stock Broker shall not create false market either singly or in concert with others or indulge in any act detrimental to the investors interest or which leads to interference with the fair and smooth functioning of the market. A Stock Broker shall not involve himself in excessive speculative business in the market beyond reasonable levels not commensurate with his financial soundness.

6.14 I also observe that the Noticee is in the habit of indulging in "finance" transactions which have all the features of fraudulent and unfair trade practices. This type of "finance" transactions were observed in other cases also where SEBI had already passed Orders against the Noticee. Details about this have been discussed in the above paragraphs. Further, the violation committed by the Noticee are serious in nature as a result whereof I find this to be a fit case to impose penalty. While the enquiry officer has proposed a penalty of suspension for a period of six months, I am of the view that suspension for a period of two months will act as a deterrent for similar transactions.

7.0 ORDER

- 7.1 Taking into account all facts and circumstances of the case and in exercise of the powers conferred upon me in terms of Section 19 of the SEBI Act, 1992 read with Regulation 13(4) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, I hereby impose a penalty of suspension of certificate of registration of the Noticee M/s Pawankumar Parmeshwarlal with SEBI Registration No. INB010018813 for a period of two months.
- 7.2 This order shall come into force immediately on the expiry of 21 days from the date of this order.

Place: Mumbai
Date: June 27, 2007

V. K. CHOPRA
WHOLE-TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA