

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA**Coram: Dr. T.C. NAIR, WHOLE TIME MEMBER****AGAINST SHRI PANKAJ GUPTA IN THE SCRIP OF VIDEOCON INDUSTRIES LIMITED**

Date of hearing : October 26, 2006

Appearance

For Noticee : Shri Pankaj Gupta

For SEBI : Shri P. K. Nagpal, Chief General Manager

Shri Bibhudutta Samal, Manager

Ms. Kshama Chavan, Legal Officer

ORDER

Under Regulation 11 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Markets) Regulations 2003 read with Section 11, 11B and 11(4) (b) of SEBI Act, 1992) against Pankaj Gupta in the matter of Videocon Industries Ltd.

1.0 Background

- 1.1 Videocon Industries Limited, (hereinafter referred to as 'Videocon') is engaged in financial services. It was formerly known as Videocon Leasing and Industrial Finance Limited.
- 1.2 SEBI conducted investigation into the dealings in the scrip of Videocon based report received from NSE. Investigation revealed that the top two trading brokers, viz., Mansukh Securities and Finance Limited (hereinafter referred to as "Mansukh") and Intec Shares and Stock Brokers Limited (hereinafter referred to as "Intec") accounted for 71.68% of the gross traded quantity in the scrip during the period January 14, 2004 – February 26, 2004 (hereinafter referred to as "investigation period").
- 1.3 It was observed that Mansukh had mainly traded in proprietary account and the major client of Intec was Shri Pankaj Gupta, one of the dealers of Intec.
- 1.4 During the said investigation period, the scrip was traded for 30 days, and the quantity traded was about 202512 shares on NSE and 65910 shares on BSE.

Day Date	Total Traded Quantity NSE	Close Price NSE	Total Traded Quantity BSE	Close Price BSE
14-Jan-04	6850	36.15	7650	36.10
15-Jan-04	12481	33.15	2650	33.00
16-Jan-04	11101	33.00	600	32.50
19-Jan-04	20000	33.00	200	33.80
20-Jan-04	20803	31.00	1300	31.20
21-Jan-04	1109	28.65	6100	28.35
22-Jan-04	2610	27.05	2116	28.00
23-Jan-04	2290	32.45	3990	30.80
27-Jan-04	15760	32.00	1400	32.00
28-Jan-04	4050	32.50	3701	32.40
29-Jan-04	21575	32.05	825	31.55
30-Jan-04	11421	32.50	3568	30.00
3-Feb-04	1990	30.15	2500	28.50
4-Feb-04	700	29.00	500	28.75
5-Feb-04	4022	27.55	250	29.80
6-Feb-04	13925	30.20	2350	30.05
9-Feb-04	1475	29.25	200	30.00
10-Feb-04	300	31.75	1000	30.00
11-Feb-04	1350	29.50	2175	29.15
12-Feb-04	400	29.35	200	31.60

Day Date	Total Traded Quantity NSE	Close Price NSE	Total Traded Quantity BSE	Close Price BSE
13-Feb-04	1311	28.80	400	29.85
16-Feb-04	2275	30.75	550	30.55
17-Feb-04	1525	29.80	650	29.50
18-Feb-04	1110	29.15	2500	28.40
19-Feb-04	2130	26.00	910	25.20
20-Feb-04	1800	26.15	1000	27.40
23-Feb-04	3600	27.80	2700	28.00
24-Feb-04	29850	26.25	500	26.10
25-Feb-04	1410	25.85	3610	27.30
26-Feb-04	3289	28.90	9815	29.80

- 1.5 It was further observed that 28 structured deals were undertaken by Pankaj Gupta, a dealer and acting as a client of Intec and Mansukh. In the light of these facts, it was alleged that Shri Pankaj Gupta had assisted and abetted Intec in creating artificial volume influencing prices in the scrip of Videocon and thus violating the provisions of Regulation 4 (a), (b), (e) (g) and (n) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as "PFUTP Regulations").

2.0 Show Cause Notice, Reply and Personal Hearing

- 2.1 In view of the above facts, a show cause notice dated August 31, 2005 was issued to Shri Pankaj Gupta asking him to show cause why action under Regulation 11 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as PFUTP Regulations) read with Section 11, 11B and 11 (4) of SEBI Act, 1992 including restraining from accessing the securities market and prohibiting them from being associated with the securities market in any manner including buying, selling and dealing in securities for a particular period should not be taken.
- 2.2 Inspite of two reminders dated October 28, 2005 and March 06, 2006, Shri Pankaj Gupta did not reply to the aforesaid show cause notice. An opportunity of personal hearing was granted to Shri Pankaj Gupta on September 6, 2006 at Mumbai.
- 2.3 However Shri Pankaj Gupta vide letter dated September 2, 2005 submitted that for the last one year, he had not been doing any trading in shares and that he had joined a service in a private limited company, which is not related to share trading company. He also submitted that it was not possible for him to attend personal hearing in Mumbai.
- 2.4 One more opportunity of personal hearing was given to Shri Pankaj Gupta on October 26, 2006 at SEBI, Regional Office at New Delhi. Shri Pankaj Gupta attended the hearing and made submissions.
- 2.5 Subsequently, Shri Pankaj Gupta submitted the following documents in support of his arguments vide letter dated October 31, 2006:
- Statement of account with M/s Monalisha Securities (P) Ltd for the period from April 01, 2004 to June 30, 2004;
 - Bank account statement with ICICI Bank for the period 01.05.2004 to June 15, 2004;
 - Copy of Income Tax Return acknowledgement for the A.Y. 2004-05 & 2005-06.
 - Copy of demat account for the period May 01, 2004 to June 15, 2004.

3.0 Consideration of Issues and Findings

- 3.1 I have carefully examined the facts of the case, investigation report and other material available on record. I have also considered the oral submissions made by Shri Pankaj Gupta during personal hearing. My findings are as under:
- 3.2 It is observed that for all the 28 structured deals, Shri Pankaj Gupta was acting as a client of Intec on one side and Mansukh on the other side. All the trades of Mansukh were done in the proprietary account of the broker, i.e. Mansukh who acted as a client and traded through the same broking firm as shown under :



- 3.3 From the above table, it is observed that these trades took place on 9 days during the investigation period and on all these days Shri Pankaj Gupta was the buyer and Mansukh was the seller in the first transaction. Within a short period of 2-23 seconds, this position was reversed with Mansukh on the buy side and Shri Pankaj Gupta on the sell side. The total trades so executed were for 143000 shares accounting for 91% of the gross traded quantity on 9 days on which such trades were observed and 71.68% of the gross traded quantity in the scrip during the entire investigation period.
- 3.4 I have further noted the difference in the price of the first trade and the reversal trade ranged from 3.73% to 10.77%. The intraday price movement in the scrip can be attributed to the aforesaid circular trading. Further, I have observed that on other days when such reversal of trades between the entities was not being done, there was not much volume in the market.
- 3.5 I have further observed that for almost all the trades, buy and sell orders were placed within seconds (3 to 14 sec) of each other. The order limit prices and quantities were also matching with those of the counter party broker in most of the trades and considering such a large number of transactions, it cannot be a co-incidence. I am of the view that the orders were punched with a preconceived motive that the orders shall be picked up by a particular client on the opposite side. This also indicates that there was a prior arrangement with respect to these brokers who had dealt and executed a large number of transactions on their own account and the client, Shri Pankaj Gupta. Such type of transactions cannot be considered to be genuine transactions.
- 3.6 I have further noted that Shri Pankaj Gupta claimed that all transactions done by him were of squaring up nature and genuine transactions through a registered broker. However, the pattern of trading clearly points out that the transactions were carried out with the intention that the orders of Shri Pankaj Gupta and brokers matched with each other. I am of the view that no unknown persons can trade continuously by putting orders in such a pattern contributing significantly to total volume in the market. In this case, Shri Pankaj Gupta was the dealer of the broking entity and other broker was trading in his proprietary account.
- 3.7 Thus, the increase in the volume in the scrip can be attributed to the trades done by Shri Pankaj Gupta, Mansukh Securities and Finance Ltd and Intec Shares and Stock Brokers Ltd. Also such type of transactions which are reversed within seconds and which contribute to the major portion of market volume do impact price movement and volatility in the stock markets.
- 3.8 I have noted the submissions made by Shri Pankaj Gupta vide letter dated October 31, 2006. On perusal of the same, I find that no justifiable explanation is furnished by him to substantiate his dealings in the trades.
- 3.9 From the facts and circumstances of the instant case, it is clear that the two brokers and Shri Pankaj Gupta, dealer as well as client has created an artificial volume in the scrip of Videocon Industries Limited. The above entities together have contributed to the major volume in the scrip by doing reversal of trades.
- 3.10 I find that during the period of investigation, the price of the scrip moved down in line with Nifty, though the fall in price of the scrip was much sharper. The dealers and brokers traded for 9 days out of 30 trading days and they were involved in 28 structured deals. However, the matter becomes serious because Shri Pankaj Gupta, dealer of Intec Share and Stock Brokers Limited who is broker, was acting as a client on one side and Mansukh Securities and Finance Limited was acting both as a client and a broker on the other side. Also their trading contributed around 90% of the volume on 9 days when they traded

and almost 72% of volume on the entire period of investigation of 30 trading days. This shows that if their volume is excluded, there was negligible volume in the market. This indicates that there was collusion among the entities named above in undertaking transactions in the shares of Videocon Industries Ltd. Hence, there is no scope for giving benefit of doubt to Shri Pankaj Gupta.

- 3.11 In this context, I have noted the following observations made by SAT in the matter of *Nirmal Bang Securities Pvt. Ltd. vs SEBI* as regards the finding of synchronised dealings:

"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."

- 3.12 In this context, it is relevant to note the relevant provisions of Regulation 4 (a), (b), (e), (g) and (n) of PFUTP Regulations, which read as under:

4. Prohibition against market manipulation - 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;*
- (e) any act or omission amounting to manipulation of the price of a security;*
- (g) entering into a transaction in securities without intention of performing it or without intention of change of ownership of such security;*
- (n) circular transactions in respect of a security entered into between intermediaries in order to increase commission to provide a false appearance of trading in such security or to inflate, depress or cause fluctuations in the price of such security.*

- 3.13 I am of the view that persons, who indulge in manipulative, fraudulent and deceptive transactions, or abet the carrying out of such transactions which are fraudulent and deceptive, should be suitably penalized for the said acts of commissions and omissions.

- 3.14 From the facts detailed above, it is established that Shri Pankaj Gupta has indulged in reversal of trades in connivance with other brokers thus instrumental in creating artificial volumes in the scrip which distorted the market equilibrium in the scrip and therefore is guilty of violating the provisions of Regulation 4 (a), (b), (e), (g) and (n) of SEBI (PFUTP) Regulations, 2003.

4.0 Order

- 4.1 Now, therefore in exercise of the powers conferred upon me under Section 19 of SEBI Act, 1992 read with Section 11B and 11 (4) (b) of SEBI Act, 1992, I hereby restrain Shri Pankaj Gupta (Pan No. ACIPG4205G) from accessing the securities market either directly or indirectly and also prohibit him from buying, selling or dealing in securities for a period of six months.

- 4.2 This order shall come into force with immediate effect.

PLACE: MUMBAI

DATE: 25/07/2007

T .C. NAIR

WHOLE-TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA