

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

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

**AGAINST M/s EMMKAY SHARES & STOCK BROEKRS LTD.,
MEMBER, DELHI STOCK EXCHANGE ASSOCIATION LTD.
REGN. NO. INB05987735 IN RESPECT OF DEALINGS IN THE SCRIP OF
TACTFULL INVESTMENTS LIMITED**

ORDER

(Under Regulation 13(4) of SEBI (Procedure For Holding Enquiry By Enquiry Officer and Imposing Penalty) Regulations, 2002 against M/s Emmkay Shares & Stock Brokers Ltd., Member, Delhi Stock Exchange Association Ltd.)

1.0 Background

- 1.1 The Delhi Stock Exchange Association Ltd. (hereinafter referred to as “DSE”) observed significant variation in price in the scrip of Tactfull Investments Ltd. (hereinafter referred to as “TIL”). The price of the scrip in DSE varied between Rs. 16/- on February 2, 2001 to Rs. 34/- on June 28, 2001 signifying a price increase of 113%. The above increase was accompanied by thin trading volumes. In view of the above, DSE conducted an investigation into the trading in the scrip of TIL for the period from February 1, 2001 to June 30, 2001. Further, DSE suspended trading in the scrip with effect from November 19, 2001.
- 1.2 Based on the investigation of DSE, SEBI ordered a preliminary enquiry into the trading in the scrip during December 2001. During the course

of preliminary enquiry, it was observed that the trading was concentrated amongst a few brokers. Also, some of the trading brokers and the trading clients were suspected to be associated with the company. In view of the above, SEBI conducted detailed investigation into the matter.

1.3 Investigations revealed that TIL was included in the list of vanishing companies based on the following criteria :

- (i) Company not responding to shareholders for a period of 2 years.
- (i) Non-compliance of listing agreement
- (ii) Company is not available at the registered office

1.4 The price volume data of the scrip of DSE for the period from February 2, 2001 to June 28, 2001 is mentioned below :

Date	Opening Price	Closing Price	High Price	Low Price	Traded Quantity
02-02-01	16.00	16.00	16.00	16.00	500
09-02-01	16.50	16.50	16.50	16.50	500
23-02-01	18.00	18.00	18.00	18.00	500
26-02-01	20.20	20.20	20.20	20.20	200
27-02-01	21.80	21.80	21.80	21.80	200
16-03-01	23.50	23.50	23.50	23.50	500
19-03-01	25.25	25.25	25.25	25.25	500
22-03-01	27.25	27.25	27.25	27.25	100
23-03-01	29.40	29.40	29.40	29.40	100
20-04-01	29.40	29.40	29.40	29.40	500
23-04-01	31.70	31.70	31.70	31.70	200
24-04-01	29.20	29.20	29.20	29.20	200
25-04-01	26.90	26.90	26.90	26.90	200
27-04-01	24.75	24.75	24.75	24.75	200
30-04-01	23.00	23.00	23.00	23.00	200
03-05-01	21.30	21.30	21.30	21.30	200
23-05-01	23.00	23.00	23.00	23.00	1000
24-05-01	24.80	24.80	24.80	24.80	1000

Date	Opening Price	Closing Price	High Price	Low Price	Traded Quantity
25-05-01	26.00	26.00	26.00	26.00	1000
28-05-01	26.10	27.90	27.90	26.10	2200
31-05-01	27.90	27.00	27.90	27.00	700
01-06-01	27.25	29.00	29.00	27.25	1000
05-06-01	27.00	26.35	27.00	26.35	1000
06-06-01	25.00	26.00	26.00	25.00	2000
07-06-01	25.50	26.00	26.50	25.50	1000
20-06-01	28.00	28.00	28.00	28.00	1100
21-06-01	30.00	30.00	30.00	30.00	100
22-06-01	31.00	31.00	31.00	31.00	1100
25-06-01	32.00	32.00	32.00	31.00	1500
27-06-01	32.50	32.50	32.50	32.50	500
28-06-01	34.00	34.00	34.00	34.00	500

1.5 During the above period the scrip was traded only for 31 days and the total number of shares traded were only 20,500. The average traded volume per day works out to about 660 shares. In many of the above trading days there were only one or two trades in the scrip. The maximum number of shares traded on any particular date during the period under scrutiny was only 2200 shares. Thus, there was very little trading interest in the scrip. The price of the scrip has increased from Rs. 16/- on February 2, 2001 to Rs. 34/- on June 28, 2001 signifying a price increase of 113%. The above price increase was accompanied by thin trading volumes. DSE has also informed that none of the above transactions resulted in any net delivery. Also, no off the floor trades were reported to the stock exchanges.

1.6 The details of the shares traded by brokers in the scrip of TIL during the period from February 2, 2001 to June 28, 2001 as furnished by DSE is below :

Sr.No.	Member Name	Total Purchase	Total Sale	Gross	Net
1.	Prabhat Investments	9700	9200	18900	500
2.	Argus Stock Broking Ltd.	6400	6400	12800	0
3.	Emmkay share & Stock Brokers Ltd.	2600	2100	4700	500
4.	Anvee Share Brokers Pvt. Ltd.	1700	1700	3400	0
5.	PNR Securities Ltd.	0	500	500	-500
6.	V.K. Kapoor & Co.	0	500	500	-500
7.	Option Securities Pvt. Ltd.	100	100	200	0

- 1.7 An analysis of broker wise trading in the scrip of TIL during the period from February 1, 2001 to June 30, 2001 revealed that the four trading members accounted for 97% of the gross traded quantity and 100% of the net purchase quantity. Emmkay Share and Stock Brokers Ltd., a broker of DSE, registered with SEBI having registration no. INB05987735 was identified as one of them who is alleged to have failed to exercise due diligence while dealing in securities and has aided and abetted its client in price manipulation and in creation of artificial volume.

2.0 Enquiry Proceedings

- 2.1 Pursuant to the investigation, an Enquiry Officer was appointed by SEBI Board vide order dated December 6, 2002 in terms of the provisions of Regulation 5 of the SEBI (Procedure for holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as “Enquiry Regulations”) to examine the irregularities / violations committed by Emmkay.

- 2.2 A show cause notice dated July 31, 2003 was issued to Emmkay in terms of Regulation 6(1) of the Enquiry Regulations communicating the charges leveled against it and advising it to reply to the allegations within 21 days. The said notice referred to the findings of investigation of SEBI and the details of violation of various provisions of law. It was alleged that Emmkay failed to exercise due skill and care and therefore violated Clause A (2), (3) and (4) of the Code of Conduct prescribed in Schedule II in terms of Regulation 7 of SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 (hereinafter referred to as “Stock Brokers Regulations”) and SEBI circular no. SMDRP/Polcy/Cir-39/2001 dated July 18, 2001.
- 2.3 Emmkay vide its letter dated September 2, 2003 replied to the show cause notice and made submissions in detail. An opportunity of hearing was granted to Emmkay before the Enquiry Officer on February 23, 2004 wherein Shri Lavkush Kumar Sharma, Accountant, Emmkay appeared and reiterated the submissions made vide letter dated September 02, 2003. On completion of enquiry, the Enquiry Officer submitted his report dated July 20, 2004 recommending a minor penalty of warning.

3.0 Show Cause Notice and Reply

- 3.1 Based upon recommendation of the Enquiry Officer, a show cause notice dated August 23, 2004 was issued to Emmkay in terms of Regulation 13(2) of the Enquiry Regulations, advising it to show cause as to why action as considered appropriate should not be taken against it. A copy of the Enquiry Report was also forwarded to Emmkay with the said show cause notice and the same was served on Emmkay

through Delhi Stock Exchange. Emmkay vide letter dated August 28, 2004 denied any involvement in the matter and stated that the reply dated September 2, 2003 should be taken on record.

4.0 Consideration of Issues

4.1 I have carefully examined the investigation report, show cause notice, reply of Emmkay and my findings are as under:

4.2 I note that the price of the scrip had shown an increase of about 113% from Rs.16/- on February 2, 2001 to 34/- on June 28, 2001 in a period of 31 trading days. Further from the analysis of the broker wise trading in the scrip of TIL during the investigation period, Emmkay was identified as one of the broker who along with other brokers accounted for 97% of the gross traded quantity and 100% of net purchase quantity.

4.3 The settlement wise and client wise trading details of Emmkay are as under:

Sr.No.	Settlement No.	Client Name	Buy Quantity	Price	Sell quantity	Price
1	S.No.2001013	New Age Finsec Pvt. Ltd.	1100	28.01	1100	30.99
2	S.No.2001014	New Age Finsec Pvt. Ltd.	1500	32.54	1000	31.99
3	S.No.2001016	New Age Finsec Pvt. Ltd.	Nil	-	100	33.67
	Total		2600		2200	

4.4 The Enquiry Officer has found that one Shri Sanjiv Mahajan, director of New Age Finsec has the same address that of registered office of Vatsa World Ltd. (VWL) i.e. at 15, Bungalow Road, Kamala Nagar, New Delhi. Further, Shri Sandeep Bhansal, one of the subscribers to the Memorandum of Association of NewAge Finsec is a director of SRG

Infotech Limited which is an associate of VWL as the addresses of the two companies as reported to DSE, from time to time, are the same. Further, SRG Infotech is a promoter of Status Management Services Ltd which in turn is an associate of VWL since they have a common director namely, Shri Sunil Kumar. Moreover, the promoters of VWL share common address with one of the promoters of Status Management. From the above, I find that the above trading client, New Age Finsec is an associate of VWL. I note that since VWL is an associate of TIL as they have a common promoter Sangam Portfolio Pvt. Ltd. and common director Shri Gopaldas Goyal, it is apparent that the trading client New Age Finsec is also an associate of TIL.

- 4.5 The Enquiry Officer has found that Emmkay had permitted their client to trade in illiquid scrip. The deals have been done at prices ranging from Rs.28.01 to Rs. 33.67. Emmkay submitted that dealing in TIL at the above prices during settlement no. 13 to 16 was in an open market and in an open market demand and supply of a scrip decide the price of a scrip. It did not trade even a single share in its own account and all trades were made on behalf of its client. It further stated that though TIL was declared as a vanishing company, the stock exchange did not suspend the trading in the scrip and hence there was no bar for them to execute the transactions in the scrip as per law.
- 4.6 The Enquiry Officer found that Emmkay received payments from / made payments to third parties i.e. other than selling / buying clients. Emmkay submitted that they did not receive any third party cheque from New Age Finsec Pvt. Ltd. It stated that New Age Finsec was introduced by one of its reputed clients.

- 4.7 The Enquiry Officer further found that Emmkay had used different client codes for the same client in violation of SEBI circular SMDRP/Polcy/Cir-39/2001 dated July 18, 2001 which requires that the investor should have unique client ID. It stated that it was a mistake on the part of the computer operator and nothing has been done intentionally. As contended by Emmkay, I agree with the finding of Enquiry Officer that it cannot be charged for violating circular dated July 18, 2001 as the alleged trades were executed by Emmkay prior to the issue of the said circular by SEBI.

However, I find that Emmkay had permitted its client to trade in illiquid scrip which had been made liquid by putting artificial volumes and price. Emmkay had dealt in the scrip of a company which had been identified by SEBI as vanishing company and which had been prohibited by SEBI from accessing capital market for a period of 5 years vide order December 17, 1999. The scrip has been made liquid by putting artificial volume and price by few clients connected to TIL including the client of Emmkay.

- 4.8 The client on behalf of whom the Emmkay had traded, namely, New Age Finsec Pvt. Ltd. is an associate of TIL. Emmkay stated in its reply that it was not possible for it to spend so much time and money to make investigation about a clients before starting business with them. Such a reply is not expected from broker registered with SEBI as it is under an obligation to exercise professionalism, due care, skill and diligence in the conduct of business. Since, the client had traded in an

illiquid scrip which had been declared by SEBI as vanishing company, greater diligence was warranted and called for from Emmkay.

- 4.9 In view of the above facts and circumstances, any stock broker can doubt the intentions of the client and stop trading for them. Instead, Emmkay continued trading for three settlements which resulted in building up of artificial volumes and price in the scrip of TIL. Unsuspected innocent investors would be trapped by such false appearance of trading in securities. This is detrimental to the interest of investors and the orderly development of the securities market.
- 4.10 From the facts and circumstances of the case, I find that Emmkay has failed to exercise due skill and care in terms of Clause A(2) of the Code of Conduct prescribed for stock brokers, in schedule II in terms of Regulation 7 of Stock Brokers Regulations.
- 4.11 However, since the listing has not been suspended by the Stock Exchange, Emmkay cannot be blamed entirely for trading in the scrip of a company which has been declared as vanishing company. Further, I note that Emmkay has no proprietary trades in the scrip and there is no allegation of not collecting appropriate margins from the client or failed to take proper introduction of the client.
- 4.12 On careful perusal of the charges and the findings as recorded above, I agree with the findings of the Enquiry Officer and direct Emmkay to be careful in future.

5.0 Order

5.1 Therefore in exercise of the powers conferred upon me by virtue of section 19 read with Regulation 13 (1) of SEBI (Procedure for Holding Enquiry by the Enquiry Officer and Imposing Penalty) Regulations, 2002, I direct Emmkay Shares & Stock Broker Ltd. to be careful in future and exercise due skill, care and diligence in the conduct of its affairs as a capital market intermediary. I also direct Emmkay to note that any instances of violation or non-compliance of the SEBI Act and Rules and Regulations in future shall be dealt with stringently.

Date: 21.08.2007

Place: Mumbai

T. C. Nair

Whole Time Member

Securities and Exchange Board of India