

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

**CORAM: G. ANANTHARAMAN, WHOLE TIME MEMBER**

**ORDER UNDER SECTION 11B AND 19 OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH REGULATION 11 OF SECURITIES AND EXCHANGE BOARD OF INDIA (PROHIBITION OF FRAUDULENT AND UNFAIR TRADE PRACTICES RELATING TO SECURITIES MARKET) REGULATIONS, 2003 AGAINST SHRI HARISH KADAM, IN THE MATTER OF DEALINGS IN THE SHARES OF HOME TRADE LIMITED.**

**WTM/GA/44/ISD/12/07**

- 1.1 Securities and Exchange Board of India (hereinafter referred to as SEBI) noticed unusual price movements in the shares of Home Trade Ltd. (for short HTL) which were listed at Pune Stock Exchange Ltd. (for short PSE) on November 15, 1999 at Rs 250/- and at Bangalore Stock Exchange Ltd. (for short BgSE ) on November 16, 1999 at Rs.275/-. There was a sharp rise in the price of the shares of HTL both at PSE and BgSE and the share price reached Rs.315/- within two weeks of its listing, i.e. by December 06, 1999. The subsequent rise in the price of the shares of HTL is as detailed below:

| Date              | Price (Rs.) |
|-------------------|-------------|
| December 30, 1999 | 525.00      |
| January 31, 2000  | 735.00      |
| March 31, 2000    | 809.00      |
| April 10, 2000    | 825.25      |

1.2 The maximum rise in the price of the shares of HTL took place between November 16, 1999 and March 31, 2000, when it moved from Rs.275/- to Rs.815/-. In view of the unusual price movement noticed in the shares of HTL, SEBI conducted investigations to look into the possible violation of the provisions of Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Markets) Regulations, 1995 (hereinafter referred to as FUTP Regulations) and Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992 (hereinafter referred to as the Broker Regulations). The findings of the investigation inter alia are as follows:

- (a) HTL made an offer for sale for 59,90,250 shares @ Rs.50/- each during the period October 27-30, 1999 and subsequently, its shares were listed on PSE and on BgSE. Shri Ketan Sheth, the promoter director of HTL (also a member of PSE) and his associates who held large shareholding in HTL, made applications for 24,30,000 shares (around 40.56% of the open offer) and were allotted 24,17,850 shares. The payment for these shares were found to be made by Shri Ketan Sheth and his associates, prima facie out of the proceeds of the said open offer which they received through a circuitous route.
- (b) The allotment to Shri Ketan Sheth and his associates also led to a substantial part of the floating stock in the scrip of HTL being in the hands of the promoters / directors and associates of HTL. After listing on the PSE, the price of the said scrip showed a sharp increase from November 1999 to March 2000 rising from

Rs.250/- to Rs.800/-. The sharp rise in the price of the scrip was attributed to alleged circular trading in the shares of HTL amongst members of PSE including Harish Kadam Securities (hereinafter referred to as HKS), the certificate of registration was cancelled by SEBI, vide order dated August 31, 2002. HKS was declared defaulter by PSE with effect from August 7, 2000. As he had failed to fulfill one of the conditions of registration, SEBI vide order dated August 31, 2002 cancelled the certificate of registration of HKS. It was also observed that buy and sell orders were placed by HKS and other stock brokers viz. Shobha Investments, Shri. Amin Mulani, M/s Yatin D. Shah at a rate much higher than the prevailing market price or the last traded price at the instance of Shri. Veerkar, an employee of HTL, who introduced majority of the clients to aforesaid stock brokers.

- 1.3 It was prima facie observed that the aforesaid stock brokers including HKS had manipulated the price of the scrip by entering orders at a price higher than the last trading price. As per the information provided by PSE, Shri Harish Kadam was the director of HKS and was holding 99.88% of its share capital at the relevant point of time. The other directors were Shri Ketan Shah, Shri Prabhakar Kadam and Ms. Madshuri Kadam each holding 0.04% in the capital of HKS.
- 2.1 In the light of the findings of the investigation, as the certificate of registration of HKS was cancelled, a notice dated January 13, 2004 was issued to Shri Harish Kadam as the director of HKS and by way of service on it to show cause as to why suitable directions should not be issued against him. He was also found to be a major stake holder

in HKS as mentioned above. Shri Harish Kadam vide letter dated February 23, 2004 inter alia stated that the transactions in the shares of HTL were routed through HKS. He further urged that he was not a member of PSE during the period in question. According to him, the scrip of HTL was traded between Rs.342/- to Rs.720/- till April 2001 i.e. for a period of almost 14 months after January 2000. He further stated that all the transactions of HKS were done on behalf of the clients in the normal course of business and there was no collusion as alleged by SEBI. Pursuant to the said reply, SEBI granted opportunities of hearing to Shri Harish Kadam on various dates including April 1, 2004. Shri Harish Kadam appeared on the said date and made his submissions. He was also granted a further opportunity on March 8, 2006. However, he failed to appear on the said date.

- 3.1 As Shri Harish Kadam failed to appear before me on March 8, 2006, I do not feel it necessary to grant further opportunity to him. Besides, Shri Harish Kadam appeared before the then Whole Time Member of SEBI on April 1, 2004. In the facts and circumstances, I proceed further on the basis of the findings of the investigation, the reply of Shri Harish Kadam and other materials available on record.
- 3.2 I note that the stock brokers mentioned above including HKS contributed significantly to the volumes in the scrip of HTL at PSE during the period December 10, 1999 to January 20, 2000 wherein the price of the scrip had increased from Rs 280 to Rs 720/- against low volumes. The trades of the aforesaid stock brokers (collectively) in the shares of HTL are as follows:

| Name of the stock broker | Yatin D Shah |      | Shobha Investments |      | Shri. Amin |      | HKS  |      | Total of 4 brokers |       | Total volume at PSE | % of volume of 4 brokers vis-à-vis PSE |       |
|--------------------------|--------------|------|--------------------|------|------------|------|------|------|--------------------|-------|---------------------|----------------------------------------|-------|
| Set No.                  | Buy          | Sell | Buy                | Sell | Buy        | Sell | Buy  | Sell | Buy                | Sell  |                     | Buy                                    | Sell  |
| 39                       | 3500         | 3800 | 0                  | 0    | 2700       | 3600 | 100  | 100  | 6300               | 7500  | 9100                | 69.23                                  | 82.42 |
| 40                       | 5200         | 4400 | 2500               | 3000 | 1500       | 600  | 2500 | 3000 | 11700              | 11000 | 13500               | 86.67                                  | 81.48 |
| 41                       | 700          | 1600 | 1800               | 1800 | 2000       | 1900 | 1700 | 1700 | 6200               | 7000  | 9700                | 63.92                                  | 72.16 |
| 42                       | 1600         | 1300 | 2300               | 1400 | 800        | 2600 | 1200 | 1200 | 5900               | 6500  | 9500                | 62.11                                  | 68.42 |
| 43                       | 2600         | 2100 | 1800               | 2200 | 2600       | 2200 | 3900 | 4300 | 10900              | 10800 | 11900               | 91.60                                  | 90.76 |
| 44                       | 1400         | 900  | 2100               | 2700 | 3400       | 2000 | 1900 | 2100 | 8800               | 7700  | 10100               | 87.13                                  | 76.24 |
|                          |              |      |                    |      |            |      |      |      | 49800              | 50500 | 63800               | 78.06                                  | 79.15 |

3.3 The above trades constituted about 82 percent of the gross purchase and sales and 90 percent of the volumes in the said shares at PSE during the period November 15, 1999 to March 31, 2000. The price of the scrip had also increased steeply during this period from Rs.270/ to Rs.815/ on averages volumes of 2000 shares per day. Shri Harish Kadam (in his capacity as the director of HKS) stated to SEBI that Shri Ketan Sheth (member, PSE) had introduced some clients to them and that Shri Veerkar (employee of HTL) had placed orders on behalf of the clients. He also stated that payments for the said transactions were received through Janatha Sahakari Bank Limited, Mumbai and that Shri Veerkar used to intimate him about the said payments.

3.4 It has been noted that the aforesaid stock brokers had placed order at rates which were higher than the prevailing market price or the last traded price and thus indulged in matched transactions. The details of the said trades are given below :

| Date       | Time of entering order | Rate  | Qty | Time of execution of order | Counter Party Broker | Rate at which the order was executed | Last traded price (LTP) | Increase from LTP |
|------------|------------------------|-------|-----|----------------------------|----------------------|--------------------------------------|-------------------------|-------------------|
| 12/14/1999 | 12:43                  | 342   | 100 | 12:43                      | 82                   | 342                                  | 339                     | 3                 |
| 12/20/1999 | 12:25                  | 354.5 | 200 | 12:25                      | 77                   | 354.5                                | 352                     | 2.5               |
| 12/20/1999 | 12:57                  | 357   | 100 | 12:57                      | 77                   | 357                                  | 354.5                   | 2.5               |

|            |       |        |     |       |     |        |                                               |      |
|------------|-------|--------|-----|-------|-----|--------|-----------------------------------------------|------|
| 12/21/1999 | 13:17 | 372.5  | 300 | 17:17 | 57  | 372.5  | 368.75                                        | 3.75 |
| 12/22/1999 | 12:39 | 381.75 | 100 | 12:39 | 91  | 381.75 | 378.5                                         | 3.25 |
| 12/22/1999 | 15:28 | 392    | 300 | 15:28 | 77  | 392    | 387.75                                        | 4.25 |
| 12/22/1999 | 15:33 | 393.75 | 100 | 15:33 | 77  | 393.75 | 392                                           | 1.75 |
| 12/22/1999 | 13:32 | 405.5  | 300 | 13:32 | 222 | 405.5  | 397.5                                         | 8    |
| 12/24/1999 | 12:36 | 422.5  | 300 | 12:36 | 77  | 422.5  | 420<br>(previous<br>close)                    | 2.5  |
| 12/24/1999 | 13:36 | 432    | 100 | 13:36 | 77  | 432    | 429.5                                         | 2.5  |
| 12/24/1999 | 13:36 | 435    | 100 | 13:36 | 77  | 435    | 432                                           | 3    |
| 12/24/1999 | 14:50 | 440    | 100 | 14:50 | 77  | 440    | 435                                           | 5    |
| 12/27/1999 | 14:48 | 472    | 100 | 14:48 | 91  | 472    | 470.5                                         | 1.5  |
| 12/28/1999 | 14:06 | 483    | 100 | 14:06 | 222 | 483    | 480                                           | 3    |
| 12/29/1999 | 12:03 | 500.5  | 100 | 12:03 | 91  | 500.5  | 499                                           | 1.5  |
| 12/30/1999 | 11:03 | 520    | 100 | 11:03 | 57  | 520    | 511                                           | 9    |
| 1/5/2000   | 11:30 | 585.5  | 100 | 11:30 | 110 | 585.5  | 582.25                                        | 2.5  |
| 1/6/2000   | 12:58 | 605.5  | 300 | 12:58 | 57  | 605.5  | 601.75                                        | 3.75 |
| 1/6/2000   | 1:02  | 607    | 100 | 1:02  | 57  | 607    | 605.5                                         | 150  |
| 1/6/2000   | 1:03  | 607    | 200 | 1:03  | 57  | 607    | 607                                           | 0    |
| 1/12/2000  | 11:22 | 633.5  | 200 | 11:22 | 77  | 633.5  | 631.25<br>(closing<br>price on<br>11/12/2000) | 2.25 |
| 1/12/2000  | 2:14  | 639.5  | 300 | 2:14  | 77  | 639.5  | 635.75                                        | 3.75 |
| 1/13/2000  | 2:10  | 656.5  | 200 | 2:10  | 91  | 656.5  | 653.5                                         | 2.5  |
| 1/14/2000  | 1:50  | 676.5  | 200 | 1:50  | 247 | 676.5  | 674                                           | 2.5  |
| 1/17/2000  | 11:33 | 674.5  | 300 | 11:33 | 91  | 674.5  | 670                                           | 4.5  |
| 1/17/2000  | 1:52  | 684    | 300 | 1:52  | 91  | 684    | 681.25                                        | 2.75 |
| 1/18/2000  | 2:20  | 699.5  | 100 | 2:20  | 222 | 699.5  | 697                                           | 2.5  |
| 1/19/2000  | 3:09  | 711    | 100 | 3:09  | 91  | 711    | 708.5                                         | 2.5  |
| 1/20/2000  | 10:59 | 719.5  | 200 | 10:59 | 91  | 719.5  | 716.75                                        | 2.75 |
| 1/20/2000  | 11:31 | 728.5  | 200 | 11:31 | 8   | 728.5  | 726.5                                         | 2    |

3.5 I find from the pattern of trading of the aforesaid stock brokers that there was a preponderance of possibility that they were involved in circular trading while transacting in the scrip of HTL. This view is reinforced by the fact that they were counterparties to each other and that they accounted for most of the trading undertaken in the scrip

during the said period. It is also fairly established that the transactions of HKS in the shares of HTL as mentioned above artificially raised the prices of the said shares securities. It also created misleading appearance of trading on the securities market. As the transactions between a set of select stock brokers were at a price which were higher than the prevailing market price, the same were not genuine trade transactions.

- 3.6 Admittedly, the trade orders on behalf of the clients of HKS were placed the employees of HTL. The consistency with which the said trades were executed by HKS on behalf of its clients in the shares of HTL cannot be a matter of coincidence, considering its nature, wherein trades were executed as per the specific (with respect to price, quantity and time) instructions of the employees of HTL, at a price higher than the prevailing market price. The said concerted level of activity and that too repeatedly for a number of trades is only compatible with the purposes of manipulating the securities market. The fact that orders were placed at a higher rate when the shares were available in the market at a lower rate does not make an economic sense. The series of trades would only lead to the finding that the said trades executed by HKS were done with the purpose of manipulating the volume in the shares of HTL to the detriment of the genuine investors. Thus, it can be seen that the price of the scrip of HTL had gone up substantially during the above period against low volumes. Further, it shows the involvement of HKS in manipulating the securities market by creating artificial price and misleading appearance of trading in the securities market. I note that, inter alia

due to the said trades, the share price of HTL had gradually increased.

- 3.7 The fact that shares were purchased at a higher rate would establish the complicity of HKS in the manipulation of the securities market, since no genuine buyer would purchase the shares at a higher price when the shares were available at a lower rate. I find from the pattern amongst the stock brokers, that they had accounted for most of the trading undertaken in the scrip at PSE during the said period. Further, Shri Harish Kadam, the director of HKS stated that he used to get instructions for executing the trade orders from Shri Veerkar (employee of HTL).
- 3.8 A cumulative analysis of the facts of the case, clearly indicate that HKS did not act in a bonafide manner. On the contrary, the above facts highlight its complete involvement in the creation of misleading market in the shares of HTL and the creation of artificial volume and price in the said shares. Definitely it is a clear case of having congruence of interest with HTL and such an act could not be anything but compatible with a scheme of manipulation, to which HKS is a privy. It is true that the stock brokers act on the advice of their clients. But in the present case highlighting how HKS was acting at the behest of HTL employees, they happen to be the necessary party to the entire game plan. In the circumstances, it becomes increasingly evident that the trades involving HKS with the help of people who were the employees of HTL were yet another step in manipulating the volume and price of the shares of the company.

- 3.9 Artificial increase in the volumes of scrip has the adverse effect on the innocent investors of the market who get induced to buy the shares. SAT in the matter of Ketan Parekh vs. SEBI had observed:

*“When a person takes part in or enters into transactions in securities with the intention to artificially raise or depress the price he thereby automatically induces the innocent investors in the market to buy / sell their stocks. The buyer or the seller is invariably influenced by the price of the stocks and if that is being manipulated the person doing so is necessarily influencing the decision of the buyer/seller thereby inducing him to buy or sell depending upon how the market has been manipulated. We are therefore of the view that inducement to any person to buy or sell securities is the necessary consequence of manipulation and flows therefrom. In other words, if the factum of manipulation is established it will necessarily follow that the investors in the market had been induced to buy or sell and that no further proof in this regard is required. The market, as already observed, is so wide spread that it may not be humanly possible for the Board to track the persons who were actually induced to buy or sell securities as a result of manipulation and law can never impose on the Board a burden which is impossible to be discharged.”*

- 3.10 Considering the materiality of circumstances in their pith and essence and also in the context of what was happening in the market contemporaneously in relation to the scrip of HTL, the plea of innocence is not open to Shri Harish Kadam, as he was fully aware of the goings on in the market and the manner in which the clients from far away Mumbai were planted by the itinerant and the trusted employees of HTL in a manifest bid to jack up the price of HTL shares

at PSE. The sequence of material happenings as adumbrated supra clearly establishes that HKS was part of the tout ensemble operating in the market to create a make believe volume and equally ensnaring price rise in the scrip. The factual matrix of the present case has to be appraised in the back drop of what was happening in the market in its murky dynamics as captured above and not in isolation, in as much as the named stock brokers allowed themselves to be used as a cat's paw by the wily employees of HTL for obvious market manipulation and this thread runs through and underpins the entire gamut of transactions that took place in PSE in the course of creating artificial market for HTL shares. In the brood of such material circumstances with their insightful portents as to the conduct of the market intermediaries playing the game at the behest of HTL employees, giving a short shrift to the time – tested and mandated requirements of KYC norms, due diligence, verification of financial capabilities and net worth of clients and a host of other reality checks meant to impart transparency and integrity to the market operations against any manipulative assemblage, the inexorable downside cannot be conjured away on the specious plea that the trade executed by HKS constituted a small portion of the total trade. Any truncated view in such an extraordinary situation detracts a great deal from the gravity of irregularity, when the entire crafty and deceptive exercise of creating artificial market is seen as a whole, in all its manifestations and with all the attendant consequences. Shri Harish Kadam cannot separate himself from the activities of HKS, as he was holding 99.88% of the total capital of HKS and was also one of its directors. For all practical purposes, Shri Harish Kadam was the company by virtue of

his holding at 99.88%, which gave him the preeminence of a near proprietary holder with its concomitant control.

3.11 Thus, by entering into such fictitious trades, HKS created a misleading appearance of trading in the shares of HTL. The details of trades executed by HKS in the shares of HTL, as mentioned above were not disputed. It can be seen that HKS had executed various trades consistently for a period of time (December 1999 to January 2000) at a higher price than the prevailing market price with a set of stock brokers. HKS has not refuted the manner of the trades executed as described above but confined his submissions to the fact that the trading system was computerized and that it had acted merely upon instructions of its clients. The explanation and submissions of HKS fly in the face of his statements and materials available on record. During the period of the trades of HKS, the share price of HTL had increased substantially as stated above without there being any significant change in the economic fundamentals of HTL. Hence, I find that HKS had indulged in manipulative trading in the scrip of HTL. Apparently, the shares of HTL were circulated among a set of stock brokers without a change in beneficial ownership. In view of the above, it is fairly established that Shri Harish Kadam, the director of HKS who was holding 99.88% in HKS, with virtual absolute control has violated the provisions of regulation 4 (a) to (d) of the FUTP Regulations.

4.1 In view of the foregoing, I in exercise of the powers conferred upon me by virtue of sections 19 and 11B of Securities and Exchange Board of India Act, 1992 read with regulation 11 of Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices

Relating to Securities Market) Regulation, 2003 hereby restrain Shri Harish Kadam, director Harish Kadam Securities Pvt. Ltd. from accessing the securities market for a period of twelve months. Further he is also prohibited from buying, selling or dealing in securities either directly or indirectly for a period of twelve months.

4.2 This order shall come into force with immediate effect.

**G. ANANTHARAMAN**  
**WHOLE TIME MEMBER**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**

**Place: Mumbai**

**Date: December 05, 2007.**