

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: DR. T. C. NAIR, WHOLE TIME MEMBER**

**IN THE MATTER OF MUKESH DOKANIA & CO, MEMBER, THE CALCUTTA
STOCK EXCHANGE ASSOCIATION LTD. WITH SEBI REGISTRATION NO.
INB030948114**

**IN THE SCRIPS OF AKSHAY FISCAL SERVICES LTD. AND ASHIKA CREDIT
CAPITAL LTD.**

Date of hearing : 23-05-2008

Appearance of the parties

For Mukesh Dokania & Co. :

Shri Mukesh Dokania, Proprietor

For the Securities and Exchange Board of India:

1. Shri Jayanta Jash, General Manager
2. Shri Mrityunjaya Behera, Manager

ORDER

**[UNDER REGULATION 28 (2) OF THE SECURITIES AND EXCHANGE
BOARD OF INDIA (INTERMEDIARIES) REGULATIONS, 2008]**

1. This order would dispose of the enquiry proceedings initiated against M/s. Mukesh Dokania & Co in the scrips of Akshay Fiscal Services Ltd. and Ashika Credit Capital Ltd. Brief facts of the case are as under:

The Securities and Exchange Board of India ('SEBI' for short) had conducted investigations into the alleged excessive speculative transactions in some of the finance/investment, bio-tech and info-tech companies which were listed at the Calcutta Stock Exchange (hereinafter

referred to as “CSE”). Akshay Fiscal Services Ltd. (Akshay) and Ashika Credit Capital Ltd. (Ashika) were two such companies where widespread speculative trading was reported to SEBI by the CSE. In view of the above, trading in the shares of the said two companies were subjected to investigations by the SEBI for the period July to October, 2001 to find any possible violations of the provisions of the SEBI Act, 1992 and the rules and regulations framed thereunder. The investigations revealed that M/s. Mukesh Dokania & Co. was one such entity which had dealt in the shares of the above said companies allegedly in a manner contravening the provisions of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 (‘PFUTP Regulations’) and the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 (‘Broker Regulations’). M/s. Mukesh Dokania & Co (‘the noticee’ or ‘broker’) is a member of the CSE and registered with the SEBI with registration no. INB030948114.

2. As it was prima facie found that the noticee had acted in a manner contravening the relevant provisions of the PFUTP Regulations and Broker Regulations while dealing in the scrips of Akshay and Ashika, an enquiry was ordered by the SEBI to enquire into its dealing vide order 18-09-2004, appointing an Enquiry Officer in terms of Regulation 5 of the SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (‘Enquiry Regulations’).
3. I note that the Enquiry Officer had issued separate show cause notices dated 04-10-2004 under Regulation 6 of the Enquiry Regulations to the noticee in the enquiry proceedings initiated in the two scrips. The findings of the investigation as relevant to the case were enclosed along with the respective show cause notice issued to the noticee. The noticee had submitted its reply vide letters dated 19-10-2004 to the enquiry officer in the matters of Akshay and Ashika. After completing the enquiry in terms of

the Enquiry Regulations and after appreciating the evidence and material on record, the Enquiry Officer in his report to the Board found that the noticee violated the provisions of Regulation 7 of the Broker Regulations read with Clauses A (1), (2), (3) & (5) and B (4) (a) of the Code of Conduct prescribed for stock brokers mentioned under Schedule II of the said regulations and Clauses (a), (b), (c) and (d) of Regulation 4 of the PFUTP Regulations while dealing in the scrips of Akshay and Ashika. Vide separate Enquiry Reports (both dated 19-12-2006), the Enquiry Officer had recommended that the certificate of registration of the noticee be suspended for a period of 6 months in each of the two matters.

4. Thereafter, show cause notices dated 28-12-2006 were issued to the noticee in terms of Regulation 13 (2) of the Enquiry Regulations enclosing a copy of the enquiry reports in each of the two matters. The show cause notices required the noticee to show cause as to why action as recommended by the enquiry officer in his enquiry report in the relevant matter be not imposed. In reply to the said show cause notices, the noticee submitted its replies dated 18-01-2007 and in the personal hearing on 23-05-2008 the noticee was represented by its proprietor, Shri Mukesh Dokania who made submissions in the matters.
5. In the matter of Akshay, it is seen that the majority of trading in the scrip was executed by 4 brokers, viz. the noticee, Swadha Securities Pvt. Ltd., S. K. Jhunhunwala and Dinesh Kumar Modi & Co, who were contributed around 90% of the total trades in the scrip. It was also revealed that the average price of the scrip has consequently increased from Rs.3.20/- in Settlement No.2002115 to Rs.47.50/- in Settlement No. 2002129 (period - between July 2, 2001 to October 12, 2001). The broker wise data as to their dealings in the scrip is indicated by the table below. (The table is the member wise analysis for the settlements - No. 2002115 to 2002129)

Name of the broker	Buy Qty	% of member's buy to total buy (3811706)	Sale Qty	% of member's sale to total sale (3811706)
Mukesh Dokania & Co.	1223701	32%	1492100	39%
Swadha Securities P. Ltd.	915050	24%	1403701	37%
S.K. Jhunjhunwala	821000	22%	121000	3%
Dinesh Kr. Modi & Co.	395000	10%	420000	11%
Total	3354751	88 %	3436801	90 %

6. I find that the noticee had generated substantial volumes in the scrip of Akshay on behalf of its clients during the period under scrutiny, i.e. 32% of total buy and 39% of total purchase and sales volume in the scrip during the said period. It was observed that the most of the trades were client to client trades (cross deals) executed on a single terminal of the broker. On analysis of the trading data submitted by the broker, it was found that the orders of same quantity at the same price were placed by different clients of the same broker simultaneously which had matched and therefore there was no/negligible obligation for delivery to the exchange. A scrutiny of the trades executed by the noticee would indicate that trades were matched and synchronized at the terminal of the broker, by way of which the noticee was able to generate volume of around 27,15,801 shares during the period under scrutiny.

7. I find that the noticee has not disputed the trade data before the enquiry officer or before me. I notice that the noticee has denied knowing any counter party broker when it was questioned as to how the trades matched with certain select brokers at the exchange. I am not convinced with the reply of the broker since the facts and circumstances of the case strongly suggest a preponderance of probability that the brokers may be connected or atleast must have an understanding between them with respect to the impugned trades. This is also supported by the fact that the broker has traded substantially in the scrip of Akshay. Thus, by executing

such trades for their clients, the noticee had not acted with the required diligence and was not fair in its conduct as a stock broker and had indulged in unfair and deceptive practices thereby upsetting the equilibrium of the scrip in the market.

8. In the scrip of Ashika, I find that the noticee, Swadha, Dinesh and Prakash Nahata & Co were the brokers who had traded substantially for their clients. The member wise analysis of trading data in respect of the above scrip from the Settlement No. 2002115 to 2002130 is given below:

Name of the broker	Buy Quantity	% of member's buy to total buy (18,77,376)	Sale Quantity	% of member's sale to total sale (18,77,376)
Swadha Securities	6,05,000	32%	6,05,000	32%
Mukesh Dokania	9,47,700	50%	9,47,700	50%
Dinesh kr. Modi	1,18,200	6%	1,18,200	6%
Total	16,70,900	88%	16,70,900	88%

I note that the noticee along with Dinesh Kumar Modi and Swadha Securities had together generated volumes of around 88% of trading in the scrip of Ashika, where the noticee alone has contributed to around 50% of the trades. The noticee has traded around 9,47,700 shares on the buy side (approx. 50% of the total traded volume) and around 9,47,700 shares on the sell side (approx. 50% of the total traded volume). The date wise transactions in respect of the said broker in the scrip are given below:

Date	Name of the broker	Buy Qty.	Buy Rate	Sale Qty.	Sale Rate
7/12/2001	MUKESH DOKANIA & CO	90000	5.5	90000	5.5
7/13/2001	MUKESH DOKANIA & CO	90000	5.5	90000	5.5
7/16/2001	MUKESH DOKANIA & CO	6000	8.1	6000	8.1
7/17/2001	MUKESH DOKANIA & CO	100	10.1	0	0.0

Date	Name of the broker	Buy Qty.	Buy Rate	Sale Qty.	Sale Rate
7/18/2001	MUKESH DOKANIA & CO	100	10.4	0	0.0
7/19/2001	MUKESH DOKANIA & CO	101000	9.6	100000	9.6
7/20/2001	MUKESH DOKANIA & CO	140000	9.6	140000	9.6
7/24/2001	MUKESH DOKANIA & CO	0	0.0	100	12.0
7/25/2001	MUKESH DOKANIA & CO	55000	12.5	55000	12.5
7/26/2001	MUKESH DOKANIA & CO	0	0.0	200	13.7
7/27/2001	MUKESH DOKANIA & CO	300	14.3	0	0.0
7/30/2001	MUKESH DOKANIA & CO	150	15.8	150	15.2
7/31/2001	MUKESH DOKANIA & CO	0	0.0	200	16.6
8/1/2001	MUKESH DOKANIA & CO	0	0.0	50	17.5
8/2/2001	MUKESH DOKANIA & CO	100	18.5	0	0.0
8/9/2001	MUKESH DOKANIA & CO	102000	20.3	102000	20.3
8/13/2001	MUKESH DOKANIA & CO	50	24.0	50	24.0
8/14/2001	MUKESH DOKANIA & CO	91500	25.2	91500	25.2
8/21/2001	MUKESH DOKANIA & CO	50	32.7	0	0.0
8/24/2001	MUKESH DOKANIA & CO	0	0.0	500	37.7
8/27/2001	MUKESH DOKANIA & CO	75600	38.4	75400	38.4
9/3/2001	MUKESH DOKANIA & CO	50000	39.9	49750	39.9
10/8/2001	MUKESH DOKANIA & CO	8000	39.0	8000	39.0
10/12/2001	MUKESH DOKANIA & CO	40000	43.7	40000	43.7
10/15/2001	MUKESH DOKANIA & CO	100000	42.8	100000	42.8

From the trade details, I find that in this scrip also the broker has executed cross deals for its clients. Analysis of the trading pattern of the noticee would indicate that majority of the trades were matched by synchronization. By such trades, the noticee was able to generate volumes of around 18,95,400 shares during the period under investigation. I find that the price of the share rose from Rs.5.50/- to Rs.42.80/-. I find that buy and sell orders for same quantity and same price were placed by the noticee for its clients simultaneously. I find that the same has been illustrated by the enquiry officer in his report, which details have not been disputed before the enquiry officer or before me in these proceedings.

9. I find that during those settlements, as the buy quantity and the sell quantity of the noticee was almost the same, the delivery obligation was either negligible or nil at the exchange. The noticee has also admitted that

it had executed cross deals for its clients on a single terminal. The noticee has replied that all orders were placed only on the instructions of their clients. All the transactions were cross deals wherein the buyer and seller belonged to the same broker and the volumes contributed by such trades by the broker is quite significant which created artificial rise in volume and price. Further, such trades did not result in delivery of shares or payment of money as they were squared off. By executing such trades for their clients in this scrip, the noticee had not acted with the required diligence and was not fair in its conduct as a stock broker and had indulged in unfair and deceptive practices thereby upsetting the equilibrium of the scrip in the market. Thus, I concur with the findings of the enquiry officer. For the reasons above said, I find that the acts and conduct of the noticee are in contravention of the provisions of the Broker Regulations and the PFUTP Regulations.

10. In view of the above, I find that the noticee had contravened the provisions of clauses (a) and (b) of Regulation 4 of the PFUTP Regulations and Regulation 7 read with sub-clauses (1), (2) and (4) specified in Schedule II of the Broker Regulations, while dealing in the scrips of Akshay and Ashika. I note that the enquiry officer has recommended a penalty of suspension of the noticee's certificate of registration as a stock broker for a period of 6 months each in the two separate enquiry proceedings initiated against it. On considering the gravity of the charges, the percentage of traded volume by the noticee, submissions of the noticee and recommendations of the enquiry officer, I am of the view that a penalty of *censure* would meet the ends of justice.
11. Therefore, in terms of powers conferred upon me under Section 19 of the SEBI Act, 1992 and Regulation 28 (2) of the SEBI (Intermediaries) Regulations, 2008, I hereby censure M/s. Mukesh Dokania & Co, SEBI Registration No. INB030948114. The broker is further directed to be

careful and cautious in future while dealing with its clients. Any instances of violation or non compliance with the provisions of the SEBI Act and Rules and Regulations in future shall be dealt with stringently.

DATE: 09-01-2009

Dr. T. C. NAIR

PLACE: MUMBAI

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA