

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: DR. K. M ABRAHAM, WHOLE TIME MEMBER

ORDER UNDER SECTIONS 11(4) AND 11 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 AGAINST M/S ANSHIKA INVESTMENTS PRIVATE LIMITED (EARLIER KNOWN AS M/S BOEING INVESTMENT PRIVATE LIMITED) AND ITS DIRECTOR MR. ASHOK KUMAR CHATURVEDI IN THE MATTER OF UFLEX LIMITED (EARLIER KNOWN AS M/S FLEX INDUSTRIES LIMITED)

Date of hearing: December 16, 2008

Appearance:

M/s Anshika Investments Private Limited Mr. Ashok Chaturvedi	} }	Mr. Ajay Krishna and Mr. Subhash Khatua, Authorized representatives
For Securities and Exchange Board of India	:	Mr. G. Ramar, Deputy General Manager Mr. Vijayakrishnan G, Assistant Legal Advisor, Mr. Jerome K.A, Manager.

1. It was brought to the notice of Securities and Exchange Board of India (hereinafter referred to as SEBI) that there was unusual price increase in the shares of Flex Group of Companies namely, Flex Industries Limited (now known as UFLEX Limited), FCL Technologies and Products Limited and Flex Engineering Limited during 2000-2001. The shares of Flex group companies are listed on Bombay Stock Exchange Limited (hereinafter referred to as

BSE), National Stock Exchange of India Limited (hereinafter referred to as NSE) and Delhi Stock Exchange Association Limited (hereinafter referred to as DSE). During the course of investigation, it was observed that majority of trades in the shares of Flex group companies were traded at NSE. The investigation conducted by SEBI *inter alia* observed that M/s Boeing Investment Private Limited (now known as Anshika Investment Private Limited) traded for 1,50,000 shares of M/s Flex Industries Limited (hereinafter referred to as the company) through the stock broker namely, M/s Frontline Capital Services Limited (Member, NSE) on January 5, 2001, by way of structured deal @ Rs. 35.60/- per share. It was alleged that M/s Boeing Investment Private Limited was introduced to the aforesaid stock broker by its promoter director, namely, Mr. Rakesh Kumar Jain (who had earlier served as the director of the company). The investigation conducted by SEBI observed that the payment of Rs. 53,71,815 in respect of the above mentioned trade was made to the stock broker on January 17, 2001. It was found that the current account no. 0032000010067 (belonged to M/s Boeing Investment Private Limited maintained with HDFC Bank, Kasturba Gandhi Marg, Delhi Branch) was credited with an amount of Rs. 54,00,000 on January 17, 2001 by way of a cheque (no. 422693) from the account (No. 00311000107452) of its director namely, Mr. Ashok Kumar Chaturvedi maintained in the same branch. In the facts and circumstances, it was prima facie observed that M/s Boeing Investment Private Limited was not having sufficient balance in its accounts to meet the purchase obligation of 1,50,000 shares. In addition, account no. 00311000107452 which belonged to Mr. Ashok Kumar Chaturvedi was *inter alia* credited with an amount of Rs. 54,09,541.57 on January 17, 2001 from the account no. 228500062 (belonged to M/s Frontline Capital Services Limited). In the facts and circumstances, it was prima facie appeared that Mr. Ashok Kumar

Chaturvedi had financed the buy transaction of 1,50,000 shares of the company by M/s Boeing Investment Private Limited. In the facts of the case, it was alleged that M/s Boeing Investment Private Limited and its director, Mr. Ashok Kumar Chaturvedi prima facie violated Regulation 4(a) to 4(e) of Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 (hereinafter referred to as FUTP Regulations).

2. Thereafter, SEBI issued a notice dated March 16, 2004 to M/s Boeing Investment Private Limited and its director namely Mr. Ashok Kumar Chaturvedi asking them to show cause as to why they should not be restrained from dealing in securities for a specific period. M/s Boeing Investment Private Limited and its director Mr. Ashok Kumar Chaturvedi are hereinafter collectively referred to as noticees for the sake of brevity. The noticees vide letter dated March 30, 2004 *inter alia* stated that the purchase of 1,50,000 shares of the company was in the ordinary course of business and the same was executed at the prevailing market price. The noticees denied of having any relation either with the counter party client or the stock broker. They further stated that the matching of the buy and sell order for the same price was just a coincidence. The noticees contended that the purchase of 1,50,000 shares of the company by M/s Boeing Investment Private Limited accounted only around 3% of the total traded volume at NSE during the investigation period. They further stated that Mr. Ashok Kumar Chaturvedi is the promoter director of M/s Boeing Investment Private Limited (a company incorporated as Non Banking Finance Company registered with Reserve Bank of India). According to them, the transfer of fund from the account of Mr. Ashok Kumar Chaturvedi to M/s Boeing Investment Private Limited was in the normal course of business. The noticees stated that the

closing share price of the company on January 4, 2001 (previous day) was Rs. 35.20/- per share and the impugned trade was executed @Rs.35.60/-. They also claimed that the share price of the company did not vary much throughout the month of January 2001. They refuted the allegation that the said trade created misleading appearance of trading in the securities market. The noticees also enclosed the copy of the price/volume chart of the company received from NSE for the period January 1, 2001 and January 31, 2001.

3. SEBI granted an opportunity of hearing to the noticees on October 14, 2008. However, the noticees requested for an adjournment of the said hearing. They stated in the said letter that the name of M/s Boeing Investment Private Limited was changed to Anshika Investments Private Limited. They also enclosed a copy of fresh certificate of incorporation to that effect. Accordingly, another opportunity was granted to them on December 16, 2008. Mr. Ajay Krishna and Mr. Subhash Khatua as authorized by the noticees represented them before me on the said date. The authorized representatives made submissions on the lines of the reply of the noticees dated March 30, 2004. The noticees also filed written submissions vide letter dated December 6, 2008 reiterating their earlier submissions.

4. I have considered the show cause notice issued to the noticees, their oral as well as written submissions and other materials available on record. It is an admitted case that M/s Boeing Investment Private Limited had executed only one trade involving 1,50,000 shares of the company on January 5, 2001. In terms of the show cause notice, the said transaction was executed by way of structured deal @ Rs.35.60 per share. The said trade was executed at the prevailing market price. The period of investigation, in

respect of the dealings in the shares of the company, as per the show cause notice was December 13, 2000 to January 30, 2001. The share price of the company moved from Rs. 35.75/- on December 13, 2001 to Rs.47.45/- on December 21, 2001. Thereafter, the same reached the range of Rs. 40/- to Rs. 35/- till January 8, 2001. Closing share price of the company on previous days of the impugned trade was Rs. 36.95/- (on January 3, 2001), Rs. 35.20/- (on January 4, 2001). Besides, share price immediately prior to the impugned trade was Rs. 35.20/- and the trade in question (January 5, 2001) was executed @ Rs. 35.60/-. Thus, there was no substantial price movement either before or after the execution of the trade by M/s Boeing Investment Private Limited. The noticees contended that the show cause notice is silent as to whether they had any knowledge about the counter party client and that the trade was executed out of such nexus. According to them, there is no pattern and their impugned trade was only an isolated one without having any impact on the securities market. Their claim was that they had executed the impugned trade without any malafide intention. The trade of M/s Boeing Investment Private Limited was a structured deal. This is not in dispute. The said deal may or may not be a coincidence. Number of shares traded, the price at which the said order was executed and the time of the said order exactly matched with the counter party order and the same was executed in a synchronized manner. The traded shares (1,50,000) accounted for 44% of the total quantity bought at NSE. It is pertinent to note that Mr. Ashok Kumar Chaturvedi at the relevant point of time was the Chairman and Managing Director of Flex Group of Companies. He was also a promoter director of the entity (M/s Boeing Investment Private Limited) which traded in the shares of the company. Mr. Ashok Kumar Chaturvedi transferred funds to the account of M/s Boeing Investment Private Limited immediately prior to the payment made by the said entity to the stock broker. The noticees claimed that the

said transfer was made in the ordinary course of business. The person who introduced M/s Boeing Investment Private Limited to the stock broker was a former director of the company. The show cause notice is silent as to whether the trade of M/s Boeing Investment Private Limited resulted into the price/volume rise in the shares of the company. In the facts and circumstances and considering the submission of the noticees and other materials available on record, I am of the view that there is no sufficient material to prove the manipulative intent of the noticees while executing the trade on January 5, 2001. The share price remained more or less same throughout the month. The noticees stated that Mr. Ashok Kumar Chaturvedi used to place his surplus funds with the stock broker (M/s Frontline Capital Services Limited) towards badla financing and was withdrawing these funds from time to time from the said stock broker. Though, M/s Boeing Investment Private Limited had purchased large volume of shares of the company, there is no sufficient proof against the said entity that it had bought the shares of the company with the intention of creating artificial volumes and price manipulation in the said shares. Considering the totality of the facts and circumstances of the present case including the submissions made on behalf of the noticees, the absence of sufficient evidence with respect to their alleged role in the price manipulation in the shares of M/s Flex Industries Limited (now known as UFLEX Limited), the noticees are entitled for a benefit of doubt and the present proceedings against the noticees stands disposed of as ordered herein under.

5. Therefore, I, in exercise of the powers conferred upon me in terms of Section 19 read with Section 11 and 11(4) of Securities and Exchange Board of India Act, 1992 and Regulation 11 of Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to

Securities Market) Regulations, 2003 hereby direct M/s Boeing Investment Private Limited (now known as Anshika Investment Private Limited) and its director, Mr. Ashok Kumar Chaturvedi to be careful and cautious while dealing in securities market.

K. M. ABRAHAM
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA

Place: Mumbai

Date: January 27, 2009