

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

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

ORDER UNDER SECTIONS 11, 11B AND 11(4) 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) REGULATIONS 2003

IN THE MATTER OF PIOUS OVERSEAS PRIVATE LIMITED (INCLUDING ITS DIRECTOR MR. N.K. AJMERA) AND MR GIRIRAJ KOTHARI IN RESPECT OF THEIR DEALINGS IN THE SHARES OF DHAR TEXTILE MILLS LIMITED.

1. The shares of Dhar Textile Mills Limited (hereinafter referred to as the company) are *inter alia* listed on Madhya Pradesh Stock Exchange Limited, Ahmedabad Stock Exchange Limited etc. It was brought to the notice of Securities and Exchange Board of India (hereinafter referred to as SEBI) that in the weekly settlement segment, the price of the shares of the company increased from Rs. 49.70/- (on May 8, 2000) to Rs. 52.00/- (on December 28, 2000). In the rolling segment, the shares of the company were traded in the range of Rs.53/- Rs.54/- for the period August 29, 2000 to March 9, 2001. In view of the above, SEBI ordered an investigation into the buying, selling and dealings in the shares of the company for the period May 8, 2000 to March 9, 2001 (hereinafter referred to as the period of investigation). It was found that the entire trading in the shares of the company (in rolling segment) was due to circular trading among three stock brokers namely, MPSE Securities Limited,

Churiwala Securities Private Limited and Mr. Suresh O. Khandelwal for their clients namely Pious Overseas Private Limited (hereinafter referred to as POPL), Mr. Ashok Kumar Chopra (ultimate client POPL) and Mr. Giriraj Kothari respectively. The above mentioned clients were found to have been connected with the company. The director of POPL namely Mr.N.K. Ajmera and Mr. Giriraj Kothari were employees of the company. The investigation conducted by SEBI, *inter alia* observed that the company allotted 2,83,000 shares on preferential basis to General Insurance Corporation (GIC) on January 2, 2001 at a premium of Rs. 43/- per share. Similarly, 3,50,000 shares of the company were allotted to Life Insurance Corporation of India (LIC) on May 15, 2001 at a premium of Rs. 44/- per share. It was also found that Mr. Manish Jajoo and Mr. Pankaj Jajoo (directors of the company) had incorporated a company called M/s. Jajoo Overseas Private Limited in 1993. They sold the said Jajoo Overseas Private Limited to one N.K. Ajmera, who was an employee of the company. The name of Jajoo Overseas Private Limited was subsequently changed to Pious Overseas Private Limited. It appeared that the above mentioned entities/person executed trades in the shares of the company to enable the company to maintain constant share price before the allotment of shares on preferential basis to LIC and GIC at a high premium while the profits and working results of the company were in decline. It was *prima facie* found that the said trades were executed at the instance of the company/its management in order to achieve the above mentioned object. Their transactions discussed above do not appear to be genuine trade transactions and the same *prima facie* created a misleading appearance of trading in the shares of the company and allowed the company to place its shares at unduly higher price to LIC & GIC. In view of the above, it is *inter alia* alleged that POPL (including its director Mr. N.K Ajmera) and Mr. Giriraj Kothari have *prima facie* violated the provisions of Regulation 4 (a),(b),(c) and (d) of Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995.

2. Thereafter, SEBI issued show cause notices dated March 09, 2005 to POPL (including its director Mr. N.K Ajmera) and Mr Giriraj Kothari asking them to show cause as to why appropriate directions *inter alia* under Sections 11, 11B & 11(4) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as the Act), should not be passed against them. Details of their trades executed in the shares of the company were also provided to them along with the show cause notice. POPL and Mr N.K. Ajmera in their joint reply dated April 9, 2005 *inter alia* stated that during the year 2000, they had observed volatility in the share prices of the company at BSE and therefore, they decided to enter into some buy and sale transactions of its shares and for that purpose, they hired the services of certain stock brokers. According to them, since POPL did not have much of the funds, it had decided to enter into small transactions for earning profits and therefore used a minimum lot of 100 shares to buy and sell without giving and taking physical delivery. The trades of POPL in the shares of the company are not denied by them. They admitted that Mr. N.K. Ajmera was in the employment of the company till July 30, 2000. However, according to them, the transactions had started after the said date. They denied that the alleged transactions made by them had any correlation with the said preferential allotments. They contended that they were not aware whether Mr. Giriraj Kothari was also trading in the shares of the company during the same period. They stated that they were not aware of the allotment of shares of the company to LIC and GIC on preferential basis. They further admitted that POPL had traded in the shares of the company through different stock brokers. Mr. Giriraj Kothari, vide letter dated April 9, 2005 *inter alia* denied the charges made in the show cause notice and further stated he was not aware of the trading by other entities in the shares of the company. He admitted his trades in the shares of the company. According to him, transaction of 400

shares (buy and sale) was just to make a short term profit. He further stated that he was an employee of the company during the period.

3. SEBI granted an opportunity of hearing to POPL, Mr. N.K. Ajmera and Mr. Giriraj Kothari on December 18, 2008. However, Mr. Giriraj Kothari, vide e-mail dated December 17, 2008 informed his inability to appear for the said hearing and further requested SEBI to take a lenient view in view of the fact that his trades involved only 400 shares of the company. He assured that he would be careful in securities market dealing in future. Thereafter, another opportunity was granted to POPL and Mr. N.K. Ajmera on February 13, 2009. Mr. N.K. Ajmera appeared in person on the said date. He also represented POPL. He stated that he had nothing to say in the matter. However, Mr. N.K. Ajmera filed written submissions dated February 13, 2009 on behalf of himself and POPL. It is *inter alia* stated that there is no correlation with the preferential issue of the company. He also requested SEBI to take a lenient view and to pardon them in respect of the unintentional violations, if any.

4. As the subject matter in question is substantially same, as against POPL (including its director) and Mr. Giriraj Kothari, I consider it appropriate to pass a common order in the proceedings against the above mentioned entities. I have considered the show cause notice issued to the above mentioned entities, their written submissions and other materials available on record. None of the above mentioned entities denied the execution of trades in the shares of the company during the relevant period. As the entities have not denied the execution of trades in the shares of the company, I do not consider it necessary to explain the same in detail. It is an admitted fact that POPL (whose director Mr. N.K. Ajmera was an employee of the company) had executed many synchronized/circular trades where they were counterparty to themselves or with Mr. Giriraj Kothari (another employee of the company) and vice versa.

Further, it was also found that both were actually buying and selling the same 100 shares of the company, over a period of time. Admittedly, Mr. Giriraj Kothari was an employee of the company during the period of trades. Significantly, even according to the company, Mr. Giriraj Kothari represented their directors before SEBI, during the course of investigation. This establishes the close nexus between the management of the company and Mr. Giriraj Kothari. It is not in dispute that the company had placed 2,83,000 shares to GIC (on January 02, 2001) and 3,50,000 shares to LIC (on May 15, 2001) at a premium of Rs. 43/- and Rs. 44/- respectively on preferential allotment basis. The investigation conducted by SEBI observed that Mr. Giriraj Kothari and POPL traded in the shares of the company through Tambi Securities Private Limited. The transactions between Mr. Giriraj Kothari and POPL in the shares of the company cannot be neglected as of no significance as it has to be seen in the background of the fact that Mr. Giriraj Kothari and Mr. N K Ajmera were employees of the company at the same time. The contention that the transactions were started after Mr. N.K Ajmera ceased to be employee of the company cannot be accepted as a defence. On a perusal of record shows that Mr N.K Ajmera (through POPL) started trading in May 2000 through Mr. Ashok Chopra i.e. while he was an employee of the company. While giving reason for buying and selling the same 100 shares, POPL and Mr. N.K. Ajmera contended that POPL had very little money so that they had decided to enter in small trades. If so, why did they chose to trade in the shares of the company to the exclusion of other companies? Some of their trades were synchronized /circular in nature. Details of such trades are provided to the above entities along with the show cause notice. These trades are not disputed before me. This is not possible without a well established nexus and unity of minds of those involved in a trade in respect of the ingredients of a trade i.e price, volume, time etc. Both of them were actually buying and selling the same 100 shares of the company through different stock brokers. It is also not clear as to how their

orders matched on both sides for so many transactions and for such a long period of time.

5. Thus, it is clear that, if the price of the scrip can be maintained at higher level by any mean then the company will be able to issue shares to preferential allottees (as per the applicable guidelines) at higher price and derive an undue advantage. Further, the argument that POPL was sold to Mr. N.K. Ajmera much before the alleged transactions is fallacious as the date of transfer of POPL (as per filing of the form-32 with Registrar of Companies) was not long before the start of the first relevant period of pricing i.e. April 27, 2000 to October 27, 2000 and one can expect that during that period, the company would have started negotiation with LIC and GIC in respect of the preferential allotment. Besides, according to me, the time of sale of POPL to Mr.N.K. Ajmera is not the core issue. On the other hand, the relevant issue is whether the Mr.N.K. Ajmera acted in connivance with the company/its management to the detriment of genuine investors. The facts of the case indicates that it is indeed so. The trades of the above mentioned entities/persons in the shares of the company created misleading appearance of trading in securities market. It also artificially raised the price of the shares. Besides, the transaction were not genuine, as most of them were circular trading without intending to effect the beneficial ownership of shares and further intended to operate only as a device to inflate/ induce fluctuations in the share price of the company. POPL and Mr. Giriraj Kothari are *inter alia* responsible for the manipulation in the shares of the company during the relevant period. The long standing relationships between the trading clients {POPL (of Mr. N.K. Ajmera) & Mr. Giriraj Kothari} and the company/its management, the timing, number & nature of transactions undertaken by the said clients indicate evident manipulation. Subsequently, shares of the company were allotted to GIC and LIC, on preferential basis. Thus, Pious Overseas Private Limited (including its director Mr. N.K Ajmera)

and Mr. Giriraj Kothari have violated the provisions of Regulations 4(a), 4(b), 4(c) and 4(d) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995. Taking into account, the totality of the facts and circumstances of the case, I dispose of the present proceedings as ordered herein under.

6. In view of the foregoing, I, in exercise of the powers conferred upon me under Sections 11, 11B 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 prohibit, Pious Overseas Private Limited, Mr. N.K Ajmera (director of Pious Overseas Private Limited) and Mr. Giriraj Kothari from buying, selling or dealing in securities in any manner directly or indirectly, for a period of fifteen days.

7. This order shall into force with immediate effect.

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

Place: Mumbai

Date: March 5, 2009