

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

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

ORDER

UNDER SECTIONS 11B AND 11 (4) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH REGULATION 11 OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (PROHIBITION OF FRAUDULENT AND UNFAIR TRADE PRACTICES RELATING TO SECURITIES MARKET) REGULATIONS, 2003 AGAINST MR. MUKESH VORA AND MRS. PREETI VORA IN THE MATTER OF JIK INDUSTRIES LIMITED

Date of Hearing: March 4, 2009

Appearance:

For Mr. Mukesh Vora and Mrs. Preeti Vora: Mr. Prakash K. Shah, Advocate
Mr. Mukesh Vora.

For Securities and Exchange Board of India: Mr. G. Ramar, Deputy General Manager
Mr. Vijayakrishnan G., Deputy Legal Adviser.
Mr. T. Vinay Rajneesh, Legal Officer

1. It was brought to the notice of Securities and Exchange Board of India (hereinafter referred to as SEBI) that the share price of JIK Industries Limited (hereinafter referred to as the company) decreased from Rs. 31.45/- to Rs. 24.85/- at National Stock Exchange of India Limited (hereinafter referred to as the NSE) during the period January 23, 2003 and April 01, 2003 (hereinafter referred to as the investigation period). The shares of the company were also listed at Bombay Stock Exchange Limited (hereinafter referred to as BSE).

2. In view of the above, SEBI conducted investigation in the buying, selling or dealing otherwise in the shares of the company in the above period. The investigation was conducted to find out the possible violations of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as the Act) and the Rules and Regulations framed thereunder. The investigation conducted by SEBI

inter alia observed that gross traded quantity in the shares of the company at NSE was 11,44,196 shares during the investigation period. It was also found that Mr. Mukesh J Vora had traded in the shares of the company through stock brokers, namely, S. S. Kantilal Ishwarlal Securities Private Limited (SSKISPL), Sunidhi Consultancy Services Private Limited (SCSPL) and through M/s. U. R. Investments (sub-broker to Suresh Rathi Securities Private Limited - SRSPL). It was further observed that Ms. Preeti Vora, wife of Mr. Mukesh J Vora had also traded in the shares of the company through the stock broker namely, Maniput Investments Private Limited (MIPL). It was noticed that Mr. Mukesh Vora while trading through SSKISPL had squared off his position except in three settlements and effected a net delivery of 137 shares of the company. It was also noticed that while trading through SCSPL, Mr. Mukesh Vora squared off his positions except in one settlement wherein he had to deliver 72 shares. Further, while trading through M/s. U. R. Investment, Mr. Mukesh Vora bought and sold 51,245 shares thereby contributing a gross volume of 1,02,490 shares (at NSE) while squaring off his positions. Through the aforesaid trades, Mr. Mukesh Vora had contributed a gross volume of 6,75,225 shares at NSE, out of the total of 11,44,184 shares of the company which were traded during investigation the period. Such trades of the Mr. Mukesh Vora had constituted 59 % of the gross quantity traded at NSE which was substantial.

3. The investigation conducted by SEBI also found that Mr. Mukesh Vora traded in the shares of the company at NSE on behalf of his wife Mrs. Preeti Vora through the stock broker namely, MIPL. The trade data indicated that Mrs. Preeti Vora had bought 25,300 shares and sold 25,600 shares of the company. The net delivery was only 300 shares as the rest were squared off. In terms of gross traded quantity, she had traded in 50,900 shares through the said stock broker. It was alleged that Mr. Mukesh Vora and Mrs. Preeti Vora had executed circular deals among themselves thereby matching their own trades through SSKISPL, SCSPL, SRSPL and MIPL. Besides, Mr. Mukesh Vora had created

artificial volumes in the shares of the company as he was found to have executed circular trades in 5,05,684 shares out of the 7,26,125 shares (gross quantity of Mr. Mukesh Vora and Ms. Preeti Vora). In view of the above findings, it was alleged that Mr. Mukesh Vora and Mrs. Preeti Vora had indulged in non-genuine trades and created artificial volumes by matching their trades while trading in the shares of the company, thereby contravening the provisions of Regulation 4(b) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 (hereinafter referred to as the PFUTP Regulations).

4. Accordingly, show cause notices dated February 23, 2005 were issued to Mr. Mukesh Vora and Mrs. Preeti Vora informing them of the findings of the investigations and also imputing charges against them. The said show cause notices required them to show cause as to why appropriate directions including directions restraining them from dealing in securities for a specific period should not be taken. The show cause notices advised them to reply to the notice within fifteen days from the date of receipt of the same. Henceforth, for the sake of convenience, Mr. Mukesh Vora and Mrs. Preeti Vora are collectively referred to as the noticees and individually by their respective names.

5. The noticees, vide letters dated March 09, 2005, requested extension of time for compiling the necessary data for the purposes of submitting a reply. Subsequently, the noticees replied to the show cause notices vide separate replies dated May 18, 2005. Mr. Mukesh Vora in his reply inter alia submitted as follows:

- i. that he is a homeopathic doctor and not aware of the complexities of the capital market;*
- ii. that he had incurred a trading loss of nearly Rs.8200/- while trading in the said scrip and that the trading volume and the resultant commitments were within his financial capabilities;*

- iii. that he had not defaulted in his pay-in obligation with any of his brokers;*
- iv. that the price band in the scrip of the company had remained narrow on daily basis and hence, had no intention of artificially raising or depressing the share price;*
- v. that he had not done any off-market transactions;*
- vi. that the trades in the shares of the company were spread over the entire trading session in reasonable quantities and in various settlements and that he neither had 'over exposure' nor 'leveraging' in the market;*
- vii. that he does not know the operations of NEAT(National Exchange for Automated Trading) system, the online computerized trading mechanism of the NSE;*
- viii. that he used to place buy / sell orders with his brokers in order to square up his outstanding positions;*
- ix. that the buying and selling in the shares of the company was done without any bad intention;*
- x. that he had not regularly but only occasionally traded in the market, and*
- xi. that he had no relation with the company or any of its directors.*

The reply of Mrs. Preeti Vora was in the same lines as that of her husband, Mr. Mukesh Vora. The submissions of the noticees would be dealt with in the later part of this order.

6. Subsequently, several opportunities of hearing were granted to the noticees. The noticees were given an opportunity of hearing on October 22, 2008. However, as per the requests of the noticees, the said hearing was adjourned to January 06, 2009 and then to March 04, 2009. The noticees were

finally heard on March 04, 2009 when their authorized Representative Mr. Prakash K. Shah, Advocate represented the noticees and made submissions on behalf of them. Mr. Mukesh Vora was also present during the hearing.

7. I have perused the show cause notice issued to the noticees, their replies and other material available on record. After having perused them, I find that the following issues arise for my consideration:

- a) Whether the noticees had indulged in non - genuine trades while trading in the shares of the company, thereby creating false and misleading appearance of trading, as alleged in the show cause notice?*
- b) Whether the noticees have contravened the relevant provisions of the PFUTP Regulations?*
- c) If found guilty, what would be the nature of directions that need to be issued against the noticees in the instant case?*

My findings with respect to the aforesaid issues are as under:

8. As already mentioned supra, Mr. Mukesh Vora had traded in the shares of the company through the stock brokers SSKISPL, SCSPL & U. R. Investments (sub broker) and Mrs. Preeti Vora had traded in the said shares through MIPL. Mr. Mukesh Vora had traded in 6,75,255 shares in gross (both buy and sell quantity) and delivered a very negligible quantity of 209 shares to NSE in settlement. The delivery was very minimal as he had squared off majority of his trades. In all, he had contributed 59% of the total gross quantity (of 11,44,184 shares) traded at NSE during the relevant period. It is also an admitted fact that Ms. Preeti Vora had traded in 50,900 shares (in gross) and effected a net delivery of only 300 shares towards settlement as she had squared off majority of her trades. The noticees had traded in 7,26,155 shares (in gross) during the relevant period. Their total traded volume contributed to around 63.46% as

against the total volume of shares traded at NSE during the investigation period. In view of the above, the contention that the volumes traded by the noticees were miniscule would not hold good. These facts amply prove that the trading of the noticees in the shares of the company were substantial when compared with the total volumes traded at NSE. There was no transfer of beneficial ownership as the trades were squared off and only negligible quantities of shares were delivered. Having found that the noticees had traded substantially in the shares of the company, the next question whether such trades were genuine or not is to be determined.

9. I note that the show cause notice issued to the noticees had alleged that Mr. Mukesh Vora and Mrs. Preeti Vora had executed circular deals by matching their own trades through the aforesaid stock brokers. The details of such trades were provided to the noticee along with the show cause notice. I find that the noticees had traded among themselves and matched their trades. In many instances Mr. Mukesh Vora had placed buy order through one stock broker and made a corresponding sell order through another stock broker, while matching his trades. He did not dispute the synchronised trades executed by him. Admittedly, Mr. Mukesh Vora had placed his orders through the stock brokers, namely, SSKISPL, SCSPL and the sub broker viz. U. R. Investments. His client codes were 4092, 31M099 and C445 through SSKISPL, SCSPL & U. R. Investments, respectively. The client code of Mrs. Preeti Vora through MIPL is 09P1. The noticees executed synchronised trades between themselves. For instance, on February 27, 2003, Mrs. Preeti Vora (Client Code: 09P1) had placed an order for purchase of 100 shares at Rs.23.10 through her stock broker, MIPL. The sell order (sell original volume of 1000 shares) placed by Mr. Mukesh Vora (Client Code: 4092) through SSKISPL for the same price matched with the 'buy order' placed by Mrs. Preeti Vora. A similar trading pattern when the orders placed by Mr. Mukesh Vora (or by Ms. Preeti Vora) were matched with the corresponding order (for the same price and placed within a very short time

frame) placed by Mrs. Preeti Vora (or by Mr. Mukesh Vora) was also observed on February 27, February 28, March 05, March 07, March 12, March 13, March 17, March 21, March 26, March 28 and March 31 during the investigation period. Further, I also note that the orders of Mr. Mukesh Vora through one stock broker had matched with a corresponding order placed by him through another stock broker. I notice that on February 28, 2003, Mr. Mukesh Vora (Client Code: C445) had placed an order for the purchase of 50 shares of the company at Rs. 23.10/- through U. R. Investments. Simultaneously, he (in Client Code: 4092) placed a 'sell order' at Rs. 23.10/- through SSKISPL. The said orders matched resulting in a trade. All the trades as mentioned in the said Annexure to the show cause notice are either in the nature of matching trades between Mr. Mukesh Vora and Mrs. Preeti Vora or matching of trades by Mr. Mukesh Vora himself. The said Annexure to the show cause notice is replete with such instances of matched trades by the noticees. The noticees have not disputed the execution of such trades. These trades are artificial in nature as the buyer and seller were husband and wife wherein collusion is very much apparent in the facts and circumstances of the case. According to them, they had placed buy/sell orders with the stock brokers so as to square off their outstanding position. They further submitted that they did not default in the pay-in obligations. I do not find any merit in the said submissions of the noticees because of the fact that they have squared off majority of their trades resulting in very negligible delivery of shares. The net deliveries to NSE in settlement of the trades were very negligible when compared to the quantum of trades entered into by the noticees. Further, such trades do not result in any transfer of any beneficial ownership as they were squared off. Besides, Mr. Mukesh Vora was executing synchronised trades in the shares of the company as a buyer and a seller in the same transactions. Thus, I conclude that the transactions of the noticees are non genuine in nature.

10. Though the noticees contended that only a small extract of the investigation report was furnished to them and as a result they do not have all the

facts and findings of the subject matter, I find that the show cause notice dated February 23, 2005 issued to the noticees conveyed to them the findings in detail pertaining to their dealing in the shares of the company. Findings of the investigation (as applicable to them) along with the trade data (as Annexure I to the show cause notice) had been made available to them so that they can refute the allegations levelled against them. Therefore, I find that the noticees were not put to any disadvantage by not having the entire investigation report and no prejudice is thus caused to them. The noticees had submitted that they were advised to do "*trading on square up basis*" and tried that methodology while placing the buy and sell orders in the scrip. They further submitted that they are not aware of the complexities of the capital market and not conversant with the stock market mechanism. I am not inclined to accept such submissions of the noticees as they are without any merit. Further, the culpability of the noticees has already been brought out in the preceding paragraphs. They submitted that they had dealt in the scrip without any bad intention. They further submitted that they were surprised to know that their trades had matched through their stock brokers. These submissions, I find are without any substance as it has already been brought out that 70% of the trades of the noticees were circular in nature. Further, the 'malafide intention' can be inferred from the acts of the noticees. The noticees have also submitted that they have no relationship with the company or its directors. This submission is also dismissed for the reason that manipulation in the securities of a company can also happen in the absence of any relationship between the parties involved in such manipulation and the company and its directors/promoters, as in the present case.

11. The non-genuine trades of the noticees as explained above had created a false and misleading appearance of trading in the securities of the company. Such false trades could have served as bait for a common investor into trading in the shares of the company. I also note the observation of the Hon'ble Securities

Appellate Tribunal made in Appeal No. 2 of 2004 (in the matter of Ketan Parekh, decided on 14/07/2006):

“Whether a transaction has been executed with the intention to manipulate the market or defeat its mechanism will depend upon the intention of the parties which could be inferred from the attending circumstances because direct evidence in such cases may not be available. **The nature of the transaction executed, the frequency with which such transactions are undertaken, the value of the transactions, whether they involve circular trading and whether there is real change of beneficial ownership, the conditions then prevailing in the market are some of the factors which go to show the intention of the parties.** This list of factors, in the very nature of things, cannot be exhaustive. Any one factor may or may not be decisive and it is from the cumulative effect of these that an inference will have to be drawn.”

[Emphasis supplied]

12. The nature of the trading indulged into by the noticees, the frequency of such transactions, the circular nature of such transactions, non-genuineness of such trades, no transfer of real ownership in the transactions entered into by the noticees, Mr. Mukesh Vora trading through three intermediaries in the same scrip during the relevant period, trading in substantial numbers by the noticees in the scrip; creates a very strong case against the noticees. Therefore, without any hesitation, I find the noticees guilty of having contravened the provisions of Regulation 4 (b) of the PFUTP Regulations. The said Regulation prescribes that no person shall indulge in any act, which is calculated to create a false or misleading appearance of trading on the securities market.

13. In the end, I conclude that the noticees had indulged in acts which were calculated to create a false or misleading appearance of trading on the securities

market, which make them guilty of contravening Regulation 4 (b) of Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995. Having found the noticees guilty, it would be necessary arrive to at a suitable direction to be issued in the matter. By indulging in such acts, the noticees have in fact distorted the equilibrium of the securities market. The trades executed by the noticees are not disputed. Directions in the nature of restraining the noticees from dealing in securities for an appropriate period would act as deterrent measure.

14. In view of the aforesaid reasons, I, in exercise of powers conferred upon me under Section 19 of the Securities and Exchange Board of India Act, 1992 and Sections 11B and 11 (4) of the Securities and Exchange Board of India Act, 1992 read with Regulation 11 of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to the Securities Market) Regulations, 2003, hereby restrain Mr. Mukesh Vora and his wife Mrs. Preeti Vora [residing at A-2, Raji Society, R B Mehta Road, Ghatkopar (East), Mumbai-400077] from accessing the securities market and also prohibit them from buying, selling or dealing in securities in any manner and in any capacity for a period of one month.

15. This order shall come into force with immediate effect.

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

Place: Mumbai
Date: April 22, 2009