

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: DR. K. M. ABRAHAM, WHOLE TIME MEMBER**

ORDER

UNDER REGULATION 28 (2) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (INTERMEDIARIES) REGULATIONS, 2008 AGAINST M/S. BALLABH DASS DAGA, MEMBER, CALCUTTA STOCK EXCHANGE ASSOCIATION LIMITED, IN RESPECT OF ITS DEALING IN THE SHARES OF SHARADRAJ TRADE FINANCE LIMITED

Date of hearing: May 08, 2009

Appearance:

For M/s Ballabh Dass Daga : Mr. Satyendra Kumar Jha,
authorised representative

For Securities and Exchange Board of India : Mr. Jayanta Jash,
General Manager
: Mr. Mrityunjaya Behera,
Asst. General Manager
: Mr. T. Vinay Rajneesh,
Legal Officer

1. The Securities and Exchange Board of India (hereinafter referred to as SEBI) 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 Association

Limited (hereinafter referred to as CSE). Sharadraj Trade Finance Limited (hereinafter referred to as the company) was one such company whose shares witnessed widespread speculative trading at CSE. In view of the alleged irregularities, the trading in the shares of the company during the period between July 2001 and October 2001 (hereinafter referred to as the investigation period) was subjected to investigation by SEBI to find out the possible violations of the provisions of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as SEBI Act) and the Regulations framed thereunder.

2. The investigation conducted by SEBI revealed that there was unusual price variation in the shares of the company during the period of investigation. The share price decreased from Rs. 67.50/- to Rs. 29.60/- during the above period. It was also observed that almost the entire volume in the shares of the company during the period of investigation was generated by three stock brokers namely, Swadha Securities Private Limited, M/s. Ballabh Dass Daga and Basant Kumar Chirimar (Members of CSE). M/s. Ballabh Dass Daga had traded for 10,37,600 shares of the company which accounted for 52% of the total volume in the said shares at CSE during the investigation period. It was alleged that the aforesaid stock brokers executed matched/synchronized trades at their own terminals. Thus, M/s. Ballabh Dass Daga had dealt in the shares of the company in a manner *prima facie* contravening the provisions 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 PFUTP Regulations) and the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992 (hereinafter referred to as the Stock Brokers Regulations). In order to enquire into the alleged violations said to have been committed by M/s. Ballabh Dass Daga, an Enquiry Officer was appointed by SEBI, vide order dated September 18, 2004 in terms of the provisions of the Securities and Exchange Board of India (Procedure for

Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as the Enquiry Regulations). Mr. Ballabh Dass Daga is the proprietor of M/s. Ballabh Dass Daga. For the sake of convenience, M/s. Ballabh Dass Daga shall henceforth be referred to as the stock broker.

3. The Enquiry Officer *inter alia* found that the stock broker contravened the provisions of Regulation 7 of the Stock Brokers Regulations read with Clauses A (1), (2) of the Code of Conduct prescribed for stock brokers under Schedule II of the said Regulations and Regulation 4 (a), (b) of the PFUTP Regulations. The Enquiry Officer, further, vide his Enquiry Report dated December 19, 2006 recommended that the certificate of registration of the stock broker be suspended for a period of six months. Thereafter, SEBI, vide notice dated December 28, 2006 furnished a copy of the Enquiry Report to the stock broker and advised it to show cause as to why action as recommended by the Enquiry Officer or as may be deemed appropriate be not taken against it. Mr. Ballabh Dass Daga, vide letter dated January 02, 2007 replied that that he was not aware '*regarding the rules of that type of transaction*' and further requested to change the penalty to '*warning*'. He further assured that '*such type of transaction*' will not be executed in future. The stock broker had availed an opportunity of hearing before my predecessor on May 23, 2008 and made oral submissions. Thereafter, another opportunity was granted to the stock broker on May 08, 2009. On the said day, the stock broker (represented by its authorised representative Mr. Satyendra Kumar Jha) reiterated its earlier submissions made vide letter dated January 02, 2007.

4. I have perused the Enquiry Report, show cause notice, the stock broker's reply dated January 02, 2007 and the oral submissions made on its behalf during the personal hearing. After having examined the aforesaid documents and the submissions made on behalf of the stock broker, the following issues would arise for consideration:

a) Whether the stock broker had contravened the relevant provisions of the PFUTP Regulations?

b) Whether the stock broker had contravened the Code of Conduct prescribed for stock brokers under the Stock Brokers Regulations?

c) If the stock broker is found guilty of contravening the aforesaid Regulations, what would be the quantum of penalty to be imposed on it?

5. I note that SEBI had conducted investigation into the dealing in the shares of the company for the period between July 2001 and October 2001 after noticing widespread speculative transactions in the shares of the company at CSE. The investigation conducted by SEBI observed that the average price of the shares of the company at CSE was in the range of Rs.62/- to Rs.67/- during the settlement nos. 2002115-25. Thereafter, the price declined from Rs.67.50/- to Rs.29.60/-, a decrease of nearly 50% during settlement nos. 2002126 to 2002129. The trade details furnished by CSE for the relevant period indicated that during the said period {settlement nos. 2002126 to 2002129} almost the entire trade volume in the shares of the company was contributed by three stock brokers namely, Swadha Securities Private Limited, Basant Kumar Chirimar and M/s. Ballabh Dass Daga (the stock broker). The table below would indicate the volumes contributed by the aforesaid three stock brokers along with the total volumes traded at CSE in the shares of the company, during the investigation period.

Settlement No.	Date	stock brokers' total trade volume	CSE's total trading	% of stock broke	High (Rs.)	Low (Rs)	Av Price (Rs)	Net Delivery of
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		Buy Qty	Sell Qty	Total						
2002115	2.7.01- 6.7.01	12000	12000	24000	24000	100	63.50	63.50	63.50	0
2002116	9.7.01- 13.7.01	8000	8000	16000	17000	94	63.50	60.00	61.75	0
2002117	16.7.01- 20.7.01	87000	87000	174000	249000	70	66.10	63.20	64.65	0
2002118	23.7.01- 27.7.01	34000	34000	68000	68000	100	66.20	66.00	66.10	0
2002119	30.7.01- 3.8.01	167700	167700	335400	335400	100	66.00	60.00	63.00	0
2002120	6.8.01- 10.8.01	130000	130000	260000	260000	100	67.00	65.00	66.00	0
2002121	13.8.01- 17.8.01	86100	86100	237000	237000	100	66.50	66.00	66.25	0
2002122	20.8.01- 24.8.01	8000	8000	16000	16000	100	67.00	67.00	67.00	0
2002123	27.8.01- 31.8.01	30800	30800	61600	61600	100	67.00	67.00	67.00	0
2002124	3.9.01- 7.9.01	87400	87400	174800	174800	100	67.50	67.00	67.25	0
2002125	10.9.01- 14.9.01	31500	31500	63000	63000	100	67.50	67.50	67.50	0
2002126	17.9.01- 21.9.01	16000	16000	55400	55400	100	67.50	49.00	58.25	0
2002127	24.9.01- 28.9.01	86000	86000	172000	172000	100	45.20	38.80	42.00	0
2002128	1.10.01-	35000	35000	210000	210000	100	47.50	37.20	42.35	0

Settlement No.	Date	stock brokers' total trade volume			CSE's total trading data	% of stock brokers volume to CSE	High (Rs.)	Low (Rs.)	Av Price (Rs)	Net Delivery of selected brokers
		Buy Qty	Sell Qty	Total						
	5.10.01									
2002129	8.10.01-12.10.01	24000	24000	52000	52000	100	34.50	29.60	32.05	0
	Total			1919200	1995200	96%				

From the above table, it can be noted that the volume at CSE in the shares of the company was 19,95,200 shares and the select stock brokers had contributed a volume of 19,19,200 shares, which is 96% of the total volumes at CSE during the relevant period.

6. I note that the stock broker's trades involved 10,37,600 shares (both buy & sell volume) of the company which accounted for nearly 52% of the total trading in the said shares at CSE during the investigation period. The stock broker had transacted in the settlements between 2002115 and 2002129, as stated below:

Settlement No.	Date of Transaction	Buy Qty (shares)	Sell Qty (shares)
2002115	05/07/2001	2000	2000
2002116	10/07/2001	8000	8000
2002117	18/07/2001	10500	10500
	19/07/2001	14500	14500
	20/07/2001	30000	30000
2002118	24/07/2001	17000	17000
	25/07/2001	7000	7000

2002119	30/07/2001	20000	20000
	01/08/2001	11200	11200
	03/08/2001	49500	49500
2002120	06/08/2001	37000	37000
	07/08/2001	30000	30000
	10/08/2001	47000	47000
2002121	16/08/2001	43500	43500
2002123	31/08/2001	22000	22000
2002124	03/09/2001	25500	25500
	07/09/2001	56100	56100
2002127	27/09/2001	30000	30000
	28/09/2001	50000	50000
2002129	09/10/2001	8000	8000
		518800	518800

Thus, out of the fifteen settlements between 2002115 and 2002129, the stock broker had traded in eleven settlements (Settlement No. 2002115 to Settlement No. 2002121 and Settlement Nos. 2002123, 2002124, 2002127 and 2002129). Further, out of the total volume of 19,19,200 shares (contributed by the aforesaid three stock brokers), the stock broker had dealt in 10,37,600 shares of the company at CSE. I note that, the Enquiry Officer, based on the trading pattern, had come to a finding that the trading in the shares of the company by Swadha Securities Private Limited, M/s. Ballabh Dass Daga and Mr. Basant Kumar Chirimar had resulted in the fall in the share price of the company from Rs.63.50/- to Rs.29.60/-. The Enquiry Officer, after examining the trade and order log pertaining to the stock broker, had also observed that the entire volumes of transactions were executed by way of matching transactions by which the order quantity, price and time were matched with both buying and selling clients belonging to the stock broker and that all the trades were cross deals between the clients of the stock broker. He further observed that all those matched trades were executed on a single terminal of the stock broker. The details of such synchronised trades were provided to the stock broker along with the show cause notice dated October 04, 2004 issued under Regulation 4 of the Enquiry Regulations. The stock broker did not dispute the execution of

trades in the shares of the company. The stock broker, in his reply to the said show cause notice, vide letter dated October 25, 2004 stated that it was only concerned with the brokerage. The stock broker also stated "*I am not very much accustomed with your guidelines, **which was violated by us***" (Bold supplied).

7. The documents on record, more particularly the findings of the investigation enclosed with the show cause notice dated October 04, 2004 issued to the stock broker would establish the case of SEBI that the stock broker had matched his own orders in the shares of the company. In other words, the stock broker had punched in both the buy order and the sell order at the same time for the same quantity and price. The orders punched in by the stock broker had matched with his corresponding orders. In one such instance, on July 05, 2001, the stock broker placed a sell order for 2,000 shares of the company at Rs.63.50/- per share at 1:35:28 p.m. At exactly the same time/within a gap of few seconds, the stock broker enters a buy order of 2,000 shares of the company for the same price as the sell order. The said orders matched resulting in a trade. Such kind of matched trades are replete in the findings of the investigation (enclosed with the show cause notice). Thus, the entire transactions of the stock broker were in the nature of 'matched' and 'synchronised' trades which did not result in any deliveries to the exchange. I am, therefore in agreement with the finding of the Enquiry Officer that the entire trades of the stock broker were cross deals which had been executed by matched and synchronised trades. I further note that the stock broker had also admitted during the personal hearing before the Enquiry Officer that the trades executed by it in the shares of the company were client to client trades which had been executed on its terminal. Further, the stock broker had also conceded that it had placed simultaneous buy and sell orders for the same quantity and price. Relevant observation made in the Enquiry Report in this regard is quoted below;

“Qus: *It is alleged that most of the trades in scrip Sharad Raj TradeFin Ltd. (STFL) executed by you during the period under scrutiny are client to client trades which have been executed on a single terminal of the broker. Please explain.*

Reply: *Yes, I agree with the findings of the investigation.*

Qus: *It is alleged that you have allowed your clients to place simultaneously both buy and sale orders of same quantity at the same price in STFL. Please explain.*

Reply: *Yes, I agree with the findings of the investigation.*

It is pertinent to mention that the said broker has neither denied the allegations nor disputed the facts communicated to him vide show cause notice dated October 4, 2004.”

The findings of the investigation or the findings of the Enquiry Officer have not been disputed by the stock broker before me. On the other hand, the stock broker has pleaded ignorance of the rules/guidelines. The said submission of the stock broker is without merit as *ignorantia juris non excusat*.

8. The stock broker by indulging in cross deals, matched and synchronised transactions had indulged itself in creating a false and misleading appearance of trading in the shares of the company at CSE. Further, it had indulged in non-genuine transactions resulting in the share price being depressed. By entering into such matched trades which had been squared off, the stock broker had not intended to effect the transfer of beneficial ownership in the shares to the purchasers. Therefore, I have no hesitation in holding the stock broker guilty of having contravened the provisions of Regulation 4 (a) and (b) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995. Needless to say,

the stock broker was responsible for the creation of a false market in the shares of the company by indulging in such activities. By entering into such manipulative transactions, the stock broker did not uphold the expected standards of integrity and fairness in its conduct. It also did not exercise due care while executing such transactions. Further, by placing orders in the nature of self trades as stated above in this order, the stock broker had indulged in deceptive trade practices. Needless to say, the stock broker failed to act with due skill, care and diligence in the conduct of its business in respect of the transactions in the shares of the company during the period of investigation. By doing so, the Broker had contravened the relevant provisions of law. Thus, the stock broker has contravened Regulation 7 read with Clauses A(1) and A(2) of the Code of Conduct prescribed for stock brokers under the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992.

9. I note that the Enquiry Officer had recommended a major penalty of suspension of the certificate of registration of the stock broker for a period of six months. The stock broker did not dispute the findings of the Enquiry officer. The submission made on behalf of the stock broker was that it was not aware of the Rules and Regulations. It further requested to convert the recommended penalty to warning. Taking into consideration the facts and circumstances of the case in its totality, I am of the considered view that the ends of justice would be met if the certificate of registration of the stock broker be suspended for a period as ordered herein under.

10. The present case has been initiated under the provisions of the Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002. Though, the said Regulation was repealed with effect from the notification of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008 anything done and

any action taken under the 2002 Regulations (mentioned above) before the publication of the 2008 Regulations (mentioned above) in the Official Gazette are deemed to have been done or taken or commenced under the corresponding provisions of the 2008 Regulations. Therefore, this order is being passed under the corresponding provisions of the Securities and Exchange Board of India (Intermediaries Regulations), 2008.

11. In view of the foregoing, I, in exercise of powers conferred upon me under Section 19 of the Securities and Exchange Board of India Act, 1992 read with Regulation 28 (2) of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008, hereby suspend the certificate of registration of the stock broker viz. M/s. Ballabh Dass Daga (Registration No. INB 030492218), Member, Calcutta Stock Exchange Association Limited, for a period of two months.

12. This order shall come into force immediately on expiry of twenty one days from the date of this order.

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

Place: Mumbai
Date: May 29, 2009