

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 IN THE MATTER OF BACCHHAT INVESTMENT & FINANCE LIMITED

1. In the wake of unusual price movement noticed in the shares of Bacchhat Investment & Finance Limited (hereinafter referred to as the company) listed on Calcutta Stock Exchange Association Limited (hereinafter referred to as CSE), Securities and Exchange Board of India (hereinafter referred to as SEBI) conducted an investigation into the buying, selling, dealing in the shares of the company, for the period March 01, 2004 to March 31, 2004 (hereinafter referred to as the relevant period). It was *inter alia* observed that the average share price of the company increased from Rs.12.25/- (minimum on March 01, 2004) to Rs.81.10/- on March 31, 2004, a rise of 562%. It was *prima facie* observed that two stock brokers viz. M/s. Ballabh Das Daga and M/s. Bhiwaniwala & Co. (members, CSE) collectively executed almost the entire trades in the shares of the company during the relevant period with the connivance of various clients and thus, *inter alia* created misleading appearance of trading. It was alleged that the said stock brokers *prima facie* violated Regulations 4(2)(a), 4(2)(e) and 4(2)(o) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as the PFUTP Regulations) and Clauses A(1) to A(4) and B(4)(a) of the Code of Conduct specified in Schedule II of Securities and

Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992 (hereinafter referred to as the Broker Regulations).

2. It was observed that M/s. Ballabh Das Daga (hereinafter referred to as the Broker) executed trades involving 1,22,200 shares of the company during the relevant period, which constituted 62% volume in the shares of the company at CSE. The entire trades of the Broker in the shares of the company in the relevant period were in the nature of cross deals. It was further found that during the period of its (Broker) trades, the share price of the company increased from Rs.56/- to Rs.79/-. Thereafter, vide orders dated September 10, 2007 and November 23, 2007, SEBI appointed an Enquiry Officer under the then existing provisions of Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as Enquiry Regulations). Thereafter, under the provisions of Securities and Exchange Board of India (Intermediaries) Regulations, 2008, Designated Authority (hereinafter referred to as the Enquiry Officer), vide report dated April 22, 2009 recommended the suspension of the certificate of registration of the Broker for a period of three months. Subsequently, SEBI issued a notice dated April 27, 2009 to the Broker requiring it to show cause as to why action should not be taken against it as recommended by the Enquiry Officer or as it considered appropriate. A copy of the Enquiry Report was also forwarded to the Broker along with the said notice. The Broker was also advised to inform SEBI, whether he desired to avail an opportunity of hearing. As no reply was received from the Broker, a reminder was issued to it by SEBI on June 23, 2009. Pursuant to the said reminder, the Broker vide letter dated July 09, 2009 submitted 'In connection of the above mention show cause notice, I am informing you that I am accepting your recommendation penalty of suspended the certificate of registration for the period of three months.'

3. I have considered the Enquiry Report, the show cause notice dated April 27, 2009 and the aforesaid letter of the Broker dated July 09, 2009. As the Broker accepted the recommended penalty, I do not consider it necessary to reiterate in detail the violations committed by the Broker in this order. I note that the share price of the company increased from Rs.12.25/- on March 01, 2004 to Rs.81.10/- on March 31, 2004 (during the relevant period). The two stock brokers mentioned above in this order were responsible for contributing around 97% of the total trading in the shares of the company at the CSE during the relevant period. The Broker transacted in 1,22,200 shares contributing to around 62% of the total trading volume at CSE. The trades of the Broker were in the price range of Rs. 56 to Rs. 79/-. The entire trades of the Broker were in the nature of cross deals. The trades of the Broker and its impact in the shares of the company during the relevant period were explained in detail in the show cause notice issued to the Broker during the period of enquiry. The same was also discussed elaborately in the Enquiry Report. No effort was taken by the Broker to controvert the findings of the Enquiry Officer and instead the Broker accepted the recommended penalty. In the absence of any material or specific submission refuting the allegations, I hold that the Broker was responsible in executing manipulative trades in the shares of the company at CSE during the relevant period. The trades also created misleading appearance of trading the securities market and thus, manipulated the share price of the company. The Broker also failed to comply with the provisions of the Code of Conduct specified for stock brokers. In the facts and circumstances and considering the material available on record, it is established that the Broker had violated the provisions of Regulations 4(2)(a), 4(2) (e) & 4(2)(o) of the PFUTP Regulations and Clauses A(1) to A (4) and B(4)a of the Code of Conduct specified in Schedule II of the Broker Regulations in respect of its dealings in the shares of the company during the relevant period at CSE, as observed by the Enquiry officer. I do not find any reason to disagree with the findings and recommendation of the Enquiry Officer.

4. I note that the present case has been initiated under the provisions of the Enquiry Regulations. Subsequently, in 2008, the Enquiry Regulations were repealed by the SEBI (Intermediaries) Regulations, 2008. Therefore, this order is being issued under the relevant provisions of the SEBI (Intermediaries Regulations), 2008.

5. In view of the foregoing, I, in exercise of the 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 namely M/s Ballabh Das Daga [Registration No. 030049211], Member, The Calcutta Stock Exchange Association Limited, for a period of three months.

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

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

Place: Mumbai
Date: July 28, 2009