

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

DIRECTIONS UNDER SECTIONS 11B AND 11(4) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 AGAINST SPACE AGE POLYMERS PRIVATE LIMITED, MRS. BATOOL ABDE ALI AND MRS. BILQIS BANO IN THE MATTER OF PEACOCK INDUSTRIES LIMITED

1. Pursuant to the unusual price and volume movement noticed in the shares of Peacock Industries Limited (hereinafter referred to as the company) during the period August 2000 to September 2000 (hereinafter referred to as the investigation period) at the National Stock Exchange of India Limited (hereinafter referred to as NSE) and the Bombay Stock Exchange Limited (hereinafter referred to as BSE), Securities and Exchange Board of India (hereinafter referred to as SEBI) conducted an investigation into the trading in the shares of the said company for settlement Nos. 2000035N (August 23, 2000) to 2000039N (September 26, 2000). The said period is hereinafter referred to as the investigation period. It was noticed that the share price of the company at NSE was continuously rising during the above period. On August 23, 2000, the share price opened at Rs. 8.50 and on September 19, 2000, it closed at Rs. 47.10. During the investigation period, the high and low price of the share price was recorded on September 18, 2000 (Rs. 51.20/-) and on August 23, 2000 (Rs. 6.45/-), respectively. There was an irregular pattern in the volumes traded in the shares of the company during the investigation period, as the quantity traded on August 28, 2000 was the highest at 1,44,670 shares and the lowest (1,900 shares) was recorded on September 11, 2000. Similar price and volume movement was also observed at BSE in the shares of the company during the investigation period. It was further observed that there was no

positive corporate development to justify the rise in the share price of the company during the investigation period. The investigation further revealed that an entity belonged to the promoter group of the company namely, Space Age Polymers Private Limited (hereinafter referred to as SAPPL) had transferred 1,00,000 shares to the demat account of one Arun Goyal on August 31, 2000. It was *prima facie* observed that the said Arun Goyal along with his brothers namely, Mr. Pawan Goyal and Mr. Vinod Goyal had executed number of structured deals and were mainly responsible for the market manipulation in the shares of the company during the investigation period. It was alleged that the process of market manipulation was facilitated by SAPPL by providing 1,00,000 shares of the company to Mr. Arun Goyal, as stated above. Therefore, it was alleged that SAPPL and the then directors of SAPPL namely, Mrs. Batool Abde and Mrs Bilqis Bano *prima facie* violated the provisions of Regulations 4(a), 4(b) and 4(c) of 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). Accordingly, SEBI issued a notice dated June 12, 2009 advising SAPPL and Mrs. Batool Abde and Mrs Bilqis Bano (directors of SAPPL at the time of the alleged violation) to show cause as to why appropriate directions should not be imposed against them.

2. Thereafter, SAPPL through its representative D. M. Jain & Co (Chartered Accountants), vide letter dated August 14, 2009 *inter alia* stated that it had taken a loan of Rs. 7,00,000 from Mr. Arun Goyal but the same could not be repaid within time. In terms of the said reply, the said loan, later on, was to be set off against 1,00,000 shares of the company transferred to Mr. Arun Goyal and accordingly, the said shares were transferred to him. According to it, there was no malafide intention on its part in respect of the said transactions. Mrs. Batool Abde and Mrs. Bilqis Bano also submitted their respective replies on the same lines, vide separate letters dated August 14, 2009. Mrs. Bilqis Bano

further stated that she had resigned from the directorship of SAPPL in the year 2003. As SAPPL and its directors namely, Mrs. Batool Abde and Mrs Bilqis Bano (hereinafter collectively referred to as the noticees or by their name individually) have not sought for an opportunity of hearing, the present proceedings is being disposed of on the basis of the show cause notice dated June 12, 2009, the replies of the noticees dated August 14, 2009 and other material available on record.

3. The case against the noticees is that SAPPL had transferred 1,00,000 shares of the company to the demat account of Mr. Arun Goyal on August 31, 2000 and thereby facilitated the market manipulation in the shares of the company during the investigation period. SAPPL belonged to the promoter group of the company. Further, SAPPL and the company (Mumbai office) shared the common address. The unusual rise in the share price of the company as mentioned above was not supported by any strong fundamentals of the company as it was found from its Annual Reports for the years 1999-2000 and 2000-01 that it was a sick industrial company and that its rehabilitation proposal was under consideration of the operating agency, namely, Industrial Development Bank of India. The total loss shown by the company as on July 31, 2000 was Rs. 83.69 crores. These facts are not in dispute. The investigation conducted by SEBI observed that SAPPL maintained a demat account No.10099643 with the Depository Participant (ABN Amro Bank, Sakhar Bhawan, Nariman Point, Mumbai). The transactions details of the said account revealed that SAPPL had dematerialized 9,40,000 shares of the company on August 28, 2000 and out of this, it had transferred 1,00,000 shares of the company to Mr. Arun Goyal on August 31, 2000. The contention of the noticees is that, since SAPPL could not repay the loan (Rs. 7,00,000/-) taken from Mr. Arun Goyal, as agreed between them, it had transferred 1,00,000 shares of the company to Mr. Arun Goyal, in lieu of Rs. 7,00,000/-. However,

the noticees could not satisfactorily establish the above mentioned loan transactions, as according to it, SAPPL is a non-operating company for several years. I note that, during the course of investigation a copy of the agreement was produced by SAPPL. However, there was no proof to establish that the said agreement was executed between two parties, as the signature of Mr. Arun Goyal was absent in the said agreement. No effort was taken to produce the original loan agreement. SAPPL also failed to explain as to how cash loan of Rs.7,00,000/- taken from Mr. Arun Goyal (based in Udaipur) was credited in its bank account at Mumbai. I also note that, Mr. Arun Goyal, in his deposition (to the investigating authority of SEBI) on August 10, 2004, had given an unsatisfactory reason for the transfer of 1,00,000 shares from SAPPL. Further, Mr. D.A. Dawood (Managing Director of the company), deposed (before SEBI) on August 30, 2004, that the company did not maintain any records for loans given or taken except the books of accounts. Though, he had stated so, I note that SAPPL could not even furnish the relevant extracts of its books of accounts where the alleged loan transaction was reflected. I further note that the explanation furnished by SAPPL for the transfer of 1,00,000 shares of the company to Mr. Arun Goyal is not tenable for various reasons. Firstly, it is not corroborated by Mr. Arun Goyal himself who has at no stage claimed that he got the shares in lieu of alleged cash loan of Rs.7,00,000/- made by him to SAPPL. Secondly, no books of accounts have been produced by SAPPL to corroborate its claim. Thirdly, it is unlikely that Mr. Arun Goyal or any other prudent person would agree to lend Rs.7,00,000/- to SAPPL in cash and that too without interest for about 12 months. Finally, copy of the agreement produced before SEBI does not bear the signature of Mr. Arun Goyal, a fact that creates serious doubts about the genuineness of the said agreement. In view of this, the contentions raised by SAPPL and the evidence furnished in support of the said contentions, appear to be nothing but a concoction and fabrication.

Thus, it is established that SAPPL had transferred 1,00,000 shares of the company to Mr. Arun Goyal on August 31, 2000 without any genuine reason.

4. Further, SAPPL failed to reconcile the quantity of shares held by it in its demat account with the quantity shown in the records of the company. For instance, whereas SAPPL was having 8,36,800 shares of the company in its demat account as on September 30, 2000, the details furnished by the company, vide letter dated December 5, 2003 showed that SAPPL was holding only 12,900 shares as on September 30, 2000. No clarification or explanation with regard to this discrepancy in the holdings has been furnished by SAPPL. However, in this regard, the company vide letter dated October 1, 2004 submitted that these discrepancies occurred due to “computer virus” and “computer/ typing error” and that the correct holding of SAPPL as on September 30, 2000 was 8,36,800 shares and not 12,900 shares. The said submission, however, was not corroborated by the relevant original records by the company. I further note that the company has not furnished accurate information to SEBI about the shareholding pattern and the holdings of top 50 shareholders of the company. The holdings of top 50 shareholders of the company as on March 31, 2000, June 30, 2000, September 30, 2000 and December 31, 2000 submitted by the company vide letters dated January 30, 2002 and December 5, 2003 show glaring discrepancies. The shareholding data so given is not reconcilable with reference to the actual holdings of the parties as evidenced by their demat accounts. The company, vide letter dated January 30, 2002 stated that the percentage of the total dematerialized shares up to September 7, 2000 was 10.58% and up to September 29, 2000, it was 25.30%. The two entities having dematerialized holdings as on September 7, 2000 were SAPPL (940000 shares) and Park Continental Limited (700000 shares) and as on September 29, 2000 apart from these two entities, Mr. Vinod Goyal, Mr. Mohan Lal Goyal and Mr. Arun Goyal also had dematerialized holdings.

5. It was alleged that Mr. Arun Goyal along with his brothers Mr. Pawan Goyal and Mr. Vinod Goyal executed number of structured deals, which *prima facie* resulted in artificially raising the price of the shares of the company and led to the creation of false or misleading appearance of active trading in the market. The investigation conducted by SEBI *inter alia* observed that Mr. Arun Goyal had executed number of structured deals pursuant to the receipt of 1,00,000 shares of the company from SAPPL. SAPPL failed to furnish any satisfactory evidence with respect to the so called 'loan arrangement' with Mr. Arun Goyal. Its plea that the transfer of 1,00,000 shares of the company was done in lieu of a cash loan of Rs.7,00,000/- taken from Mr. Arun Goyal is untenable for the lack of supporting documents. It is therefore, quite evident that SAPPL facilitated the market manipulation during the investigation period as stated above in this order, by transferring 1,00,000 shares of the company on August 31, 2000. The fact that the share price of the company had witnessed an unusual movement, as stated in this order is not disputed. SAPPL, by its acts entered into transactions with the intention of artificially raising the share price of the company during the investigation period. The transfer of 100000 shares by SAPPL was made with the intention of artificially raising the price of the scrip and thereby inducing the sale or purchase of securities by any person. In the facts and circumstances of the case, I do not have any hesitation in holding that Space Age Polymers Private Limited and directors Mrs. Batool Abde Ali, and Mrs. Bilqis Bano who were in charge of and were responsible for the conduct of the business of Space Age Polymers Private Limited, during the investigation period, violated the provisions of Regulation 4(a), 4(b) and 4(c) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Markets) Regulations, 1995. The Hon'ble Securities Appellate Tribunal in the matter of Gaurav Shah Vs Whole Time Member, SEBI, had *inter alia* observed "When the promoters of a

company through their own front entities start manipulating their own scrip, the charge is more serious and those who act in concert with them are equally responsible.” Considering the present case in its totality, I dispose of the proceedings initiated against the noticees by Securities and Exchange Board of India, vide show cause notice dated June 12, 2009, as ordered herein below.

6. 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 Sections 11B and 11(4) thereof and Regulation 11 of Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 restrain Space Age Polymers Private Limited, Mrs. Batool Abde Ali and Mrs. Bilqis Bano (having their address at 101, Oasis Park, 40, Ambhavgarh, Amba Mata, Udaipur, Rajasthan-313001) from accessing the securities market and further prohibited from buying, selling or otherwise dealing in the securities market in any manner and in any capacity whatsoever for a period of one year.

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

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

Place: Mumbai

Date: October 26, 2009