

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: PRASHANT SARAN, WHOLE TIME MEMBER**

IN THE MATTER OF CYBERSPACE MULTIMEDIA LIMITED

In respect of Shraddha Stock Broking Pvt. Ltd.

(SEBI Registration No. INB 031018837)

Date of hearing: October 09, 2009

Appearances

For Noticees : Mr. Suresh Kumar Saraf, Director

**For SEBI : Mr. Lamber Singh, Manager
 Mr. Pradeep Kumar, Legal Officer**

ORDER

**UNDER REGULATION 28(2) OF THE SEBI (INTERMEDIARIES) REGULATIONS,
2008**

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') conducted an investigation into buying, selling and dealing in the scrip of Cyberspace Multimedia Ltd. (hereinafter referred to as 'Cyberspace') for the period September 18, 2000 to December 8, 2000, on the possibility of price manipulation in the scrip. During this period, the price of the scrip increased from Rs.8.00 on September 18, 2000 to Rs.60.00 on December 8, 2000. The scrip of the Cyberspace during the relevant period was listed on Bangalore Stock Exchange (hereinafter referred to as 'BgSE'), Bombay Stock Exchange (hereinafter referred to as 'BSE') and Calcutta Stock Exchange (hereinafter referred to as 'CSE').

2. The investigation *prima facie* revealed that persons connected with the company, its directors, major shareholders and their affiliates had tried to manipulate the price of the scrip. It was further revealed that the brokers of CSE were found trading on BSE through the brokers of BSE.
3. Shraddha Stock Broking Pvt. Ltd. (hereinafter referred to as 'noticee'), registered with SEBI as stock broker, bearing Registration No. INB 031018837, member, CSE was found trading through Motilal Oswal Securities Ltd. on BSE as a sub-broker. Noticee bought 4,29,435 shares and sold 1,45,747 shares for its clients and in self account on BSE through the BOLT terminal provided by Motilal Oswal Securities Ltd. Further, the noticee had a gross purchase of 14,76,876 shares and a gross sale of 10,72,569 shares on CSE.
4. Based on the findings of the investigations, SEBI vide order dated November 05, 2003, appointed an Enquiry Officer under Regulation 5(1) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as 'Enquiry Regulations'), to enquire into the alleged violation of the provisions of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 (hereinafter referred to as 'PFUTP Regulations') and Regulations 7 read with Clause A (1), (2), (3), (4) and (5) of the Code of Conduct specified under Schedule II of the SEBI (Stock Brokers and Sub-Broker) Regulation, 1992 (hereinafter referred to as 'Broker Regulations'). The Enquiry Officer submitted his report dated August 28, 2006 in terms of Regulation 13(1) of Enquiry Regulations recommending thereby a penalty of suspension of certificate of registration for a period of one month to noticee for violating the provisions of Section 12 of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as 'SEBI Act').
5. Subsequently, a Show Cause Notice (hereinafter referred to as 'SCN') dated September 05, 2006, under Regulation 13(2) of Enquiry Regulations was

issued by SEBI to the noticee, asking it to show cause as to why the appropriate penalty including penalty recommended by the Enquiry Officer should not be imposed. The noticee was advised to reply to the SCN, together with the documents that it may choose to rely upon in support of his reply within fifteen days of the receipt thereof. It was also informed that in case of failure, it would be presumed that it had no explanation to offer and SEBI shall be free to take such action in the manner as it deemed fit. A copy of the Enquiry Report was also forwarded to the noticee along with the said SCN.

6. The noticee replied to the SCN vide its letter dated October 14, 2006 and sought a personal hearing. Accordingly, Mr. Suresh Kumar Saraf, Director of noticee appeared before me on October 09, 2009, and reiterated the submissions made vide letter dated October 14, 2006, along with other submissions. The submission of noticee *inter alia* are as under:

- Factual matrix under which it acted as unregistered sub-broker have not been considered. It was under the impression that since they are already SEBI registered brokers and can start activities as a sub-broker after applying for registration. SEBI Circular No. Sub-Brok/Cir/02/2001 dated January 15, 2001 was issued to clear the confusion.
- Had obtained a no objection certificate from CSE to obtain BOLT from BSE on April 21, 1998. As soon as, when it came to know that it cannot undertake business as a sub-broker, it stopped acting as sub-broker since September 15, 2001. Had made an application through BSE on April 19, 2001 to get registered as sub-broker.
- Carried out the trades in consonance with applicable Rules and Regulations. Had executed proper KYC and obtained proper margins from all the clients before executing transaction on their behalf.

- Had acted in the capacity of unregistered sub-broker for a very short duration and same may not be viewed seriously as it was a technical lapse.
- Had acted as unregistered sub-broker only once.
- Relied upon the order of Hon'ble Supreme Court of India in the matters of *Hindustan Steel Vs. State of Orissa*¹ and *Ex-Naik Sardar Singh Vs. Union of India*²

7. I have carefully considered the Enquiry Report, the SCN issued to the noticee and the reply dated October 14, 2006. It is an admitted fact that the noticee had dealt as unregistered sub-broker. The noticee has contended that it had obtained a no objection certificate from CSE and had dealt as unregistered sub-broker under the bonafide impression that it can start activities as sub-broker after applying for registration as sub-broker. Further, it had stopped acting as sub-broker on coming to know that it cannot undertake business until registration.

8. I note that in terms of Section 12 of SEBI Act, *inter alia* no sub-broker shall buy, sell or deal in securities except under, and in accordance with the conditions of a certificate of registration obtained from SEBI. The requirement was also incorporated under the provisions of Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Rule, 1992 (since repealed). SEBI vide Circulars dated March 14, 1996 had advised the stock exchanges that:

“It is felt that a large number of sub-brokers still are not registered with SEBI and therefore carrying out their activities without any valid legal sanction. SEBI at its end has started returning all incomplete applications directly to the applicants. Those who were already in the business of sub-broking and had applied for registration before 21st May, 1992 are being advised to re-submit their applications complete in all respects within two months failing which it shall be construed that they

¹ AIR 1970SC 253

² (1991) 3 SCC 212

are acting as sub-brokers without holding certificates of registration in violation of section 12(1) of SEBI Act, 1992. The applicants who had applied after 21st May, 1992, are being advised to stop the business of sub-broking immediately which can be re-started after they are duly registered with SEBI."

Further, SEBI vide circular dated January 16, 1998, advised that the members of the stock exchanges who are acting as sub-brokers through the members of other exchanges should obtain certificate of registration from SEBI to act as a sub-broker. It is pertinent to note that, SEBI vide circular dated January 15, 2001 advised the stock exchanges to inform the stock brokers that their sub-brokers are permitted to start business only after clearance and receipt of registration certificate from SEBI. In view of these, the noticee was not supposed to act a sub-broker without obtaining registration from SEBI.

9. During the course of hearing, noticee admitted the violations committed by it and stated that the same were technical in nature. In view of the present facts and circumstances of the case, I have no hesitation to hold that the noticee had acted as unregistered sub-broker in violation of Section 12 of SEBI Act. As regards penalty, noticee has requested for a lenient and similar treatment as given by SEBI in other cases. In view of the above, I dispose of the present Enquiry proceedings as ordered herein below.
10. I note that pursuant to the notification of the SEBI (Intermediaries) Regulations, 2008, the Enquiry Regulations have been repealed and in terms of Regulation 38(2) of the SEBI (Intermediaries) Regulations, 2008, notwithstanding such repeal, any enquiry commenced under the Enquiry Regulations, shall be deemed to have been commenced under the corresponding provisions of SEBI (Intermediaries) Regulations, 2008.
11. Taking into consideration, the facts and circumstances of the case, I, in exercise of the powers conferred upon me in terms of Section 19 of the

Securities and Exchange Board of India Act, 1992 read with Regulation 28(2) of Securities and Exchange Board of India (Intermediaries) Regulations, 2008, hereby warn the noticee, Shraddha Stock Broking Pvt. Ltd., Member, Calcutta Stock Exchange (SEBI Registration No. INB 031018837) (PAN: AAECs 6307D), to be careful and cautious in the conduct of its business and to adhere to and comply with all the statutory provisions while carrying out its activities in the securities market.

DATE : DECEMBER 02, 2009
PLACE: MUMBAI

PRASHANT SARAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA