

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

IN THE MATTER OF TOP TELEMEDIA LIMITED

In respect of Mr. Piyush Jhaveri

ORDER

**Under Section 11 and 11B of the Securities and Exchange
Board of India Act, 1992**

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') conducted an investigation into the buying, selling or dealings in the scrip of Top Telemedia Ltd. (hereinafter referred to as 'TTL') for the period November 01, 2001 to April 29, 2002, *inter alia*, to ascertain whether there was any violation of the provisions of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 (hereinafter referred to as 'PFUTP Regulations'). During the period of investigation the scrip of TTL was listed on Bombay Stock Exchange (hereinafter referred to as 'BSE'), Ahmedabad Stock Exchange and Pune Stock Exchange. However, for the present proceedings the trading of only BSE has been considered.
2. The trading details of the persons who had traded in the scrip were collected and analyzed along with the data of the volumes contributed by the entities traded during the relevant period of time. During the investigation the scrip was traded in weekly as well as rolling segment. In weekly segment, the scrip opened at Re.1 on November 01, 2001 (with face value of Re.1 per share), touched Rs. 1.95 on November 27, 2001 and closed at Re.0.75 on December 28, 2001. From, November 01, 2001 and till December 28, 2001, the trading in the scrip was in both segments viz. weekly and rolling. After December 28, 2001 the trading in the scrip had started exclusively in the rolling segment. In the month of January, 2002, the shares of TTL were consolidated in the ratio of 10:1. In rolling segment, scrip opened at Re.0.95 (with face value of Re.1 per share) on November 01, 2001, touched Rs.18 (with face value of Rs.10

per share) on March 21, 2002 and closed at Rs.10.70 on April 29, 2002. The investigations *prima facie* revealed that the sales, net profit, total income of the company had reduced considerably for the year ended March, 2001, and quarter ended September, 2001. It was revealed that a group of clients and sub-broker had traded significantly and created large volumes in the scrip.

3. On completion of investigation, *inter alia* SEBI issued show cause notice dated June 05, 2008 (hereinafter referred to as 'SCN') to Mr. Piyush Jhaveri (hereinafter referred to as 'noticee') under Section 11B and 11(4) of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as 'SEBI Act') read with Regulation 11 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003. The SCN alleged that the noticee was involved in synchronized trading with other clients and had actively traded in the shares of TTL and created artificial volumes in the scrip. The SCN, therefore, alleged that the acts of the noticee were in violation of Regulations 4 (a),(b) and (d) of PFUTP Regulations read with Regulation 4 (1), 4 (2) (a), (b), and (g) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 2003. Accordingly, it called upon the noticee to show cause as to why suitable directions under Section 11B and 11(4) of SEBI Act read with Regulations 11 and 13 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 should not be issued against him.
4. Noticee vide his letter dated December 31, 2008 replied to the SCN and requested for a personal hearing. Accordingly, an opportunity of personal hearing was granted to the noticee before me on September 14, 2009. On the date fixed, noticee failed to appear inspite of due intimation. In the interest of justice, another opportunity of personal hearing was granted to the noticee on December 11, 2009, before me. This time again the noticee failed to turn up inspite of intimation. I note that sufficient opportunities of hearing have already been granted to the noticee, which he has failed to avail. Moreover, he has not requested for another opportunity of personal hearing before me.

In view of this, I am compelled to proceed with the matter *ex-parte*, on the basis of material available on record.

5. I have carefully considered the SCN, reply of the noticee and other material available on record. The main contentions raised by the noticee in brief are:

- a. In the present system no one is aware about the counterparty.
- b. Period of investigation and the price volume data furnished are not matching to his trades.
- c. Transactions starting from May 04, 2002, undertaken by him have no bearing on him as beyond the period of investigation.
- d. The entire basis of SCN is on false premise.
- e. There was no sudden increase in price/ volume of the shares and it can not be termed as manipulative.

6. I note that SCN has described the role and the transactions entered by the noticee clearly, along with supporting evidence of movement of shares. I note that noticee has raised a preliminary issue that the price volume data provided to him, showing the transactions entered by him, is starting from May 04, 2002 i.e. after the relevant period of investigation and hence, the entire basis of the SCN is on false premise that the transactions undertaken by him were responsible for price rise in the scrip. I have seen the price volume data and find that the data provided to him is correct and relevant to him. I note that the data provided is in the format of mm/dd/yyyy and it appears that the noticee has mis-interpreted the data. I note that the SCN at 'page 2' gives a table which itself provided a brief summary of trading in the scrip of TTL and the noticee if having some doubt with the annexed data then should have clarified from this table. However, the noticee has failed to corroborate the data provided for its trading details, which signifies that he agreed of entering the trades although he was not sure of the dates. The noticee has also argued and taken defense that the SCN is not clear as to the manner in which violation

has been committed. Further, he has argued that he was not aware of the counter-parties. I have seen the trading pattern of the noticee and the matching of his trades with others from the SCN and the negligible time difference in putting of the said orders. Looking at the consistency of these orders, I find no merit in the argument of noticee.

7. After having examined the above details, the issue arises for my consideration is whether the noticee indulged in reversal of trades and thereby created artificial volume in the scrip?
- a. I note that the noticee was trading through Shri Parshwa Finance, sub-broker of P. Suryakant Share & Stock Brokers Pvt. Ltd. during the relevant time. Further, I note from the investigation that the noticee has been shown as the proprietor of Shri Parshwa Finance who entered into reversal trades with M/s. Rajesh N. Jhaveri (sub-broker of ASE Capital Mkt. Ltd.) during the period April 05, 2002 to April 16, 2002. I have seen, that the proprietor of M/s. Rajesh N. Jhaveri is Mr. Gautam Jhaveri, who is the cousin brother of noticee. This brings out a clear relation between the noticee and the counter party.
 - b. I note that the noticee and the counterparties were found matching their buy and sell orders and reversing their position as detailed in the SCN. An analysis of trade order log reveals that the noticee had placed buy and sell orders with identical price and quantities, which were executed with the counterparties and had resulted in trades with negligible time difference.
 - c. For better understanding, an instance of such perfect matching may be discussed. For example on April 05, 2002, the noticee placed a buy order for 5,000 shares at 10:31:40 at the rate of Rs.16.30. At 10:31:42 M/s. Rajesh N. Jhaveri placed a sell order of 5,000 shares at the rate of Rs.16.30. It is worth considering that the trade was executed with time difference of merely 2 seconds and the identical price and quantity. Further, at 10:37:51 noticee placed a sell order for 5,000

shares at the rate of Rs.16.35. M/s. Rajesh N. Jhaveri placed a buy order of 5,000 shares at 10:38:07. I note that the trade was matched with time difference of just 16 seconds at the same price. I note that similar trading pattern was observed throughout the period i.e. April 5, 2002 to April 16, 2002 for the noticee and Shri Parshwa Finance. A summary of executed reversal of trades with M/s. Rajesh N. Jhaveri is given below:

Table A

Trade Date	Buy Client	Sell Clients				Consolidated circular Qty.	No. of trades	Day wise Qty.	%
		Piyush Jhaveri	Gautam Jhaveri	Shri Parshwa Finance (own)	M/s. Rajesh N. Jhaveri (Own)				
04/05/2002	Piyush Jhaveri				94,950	99,950	613	2,58,923	38.60
	Gautam Jhaveri				5,000				
	M/s Rajesh N. Jhaveri (own)	94,974	5,000						
04/08/2002	Piyush Jhaveri				99,550	99,550	490	2,54,189	39.16
	M/s Rajesh N. Jhaveri (own)	89,815	10,000						
04/09/2002	Piyush Jhaveri				84,736	84,475	803	2,27,287	37.17
	M/s Rajesh N. Jhaveri (own)	84,475							
04/10/2002	Shri Parshwa Finance Own				85,911	74,950	1,137	2,57,744	29.08
	M/s Rajesh N. Jhaveri (own)			74,950					
04/11/2002	Shri Parshwa Finance Own				79,800	78,780	1,183	2,87,745	27.38
	M/s Rajesh N. Jhaveri (own)			78,780					
04/12/2002	Shri Parshwa Finance Own				79,000	79,000	963	2,39,930	32.93
	M/s Rajesh N. Jhaveri (own)			79,000					
04/15/2002	Gautam Jhaveri				10,000	77,700	1,124	3,98,626	19.49
	Shri Parshwa Finance Own				69,871				
	M/s Rajesh N. Jhaveri (own)			77,700					
04/16/2002	Shri Parshwa Finance Own				84,000	84,000	1,965	2,98,225	28.17
	M/s Rajesh N. Jhaveri (own)			84,850					
Grand Total		2,69,264	15,000	3,95,280	6,92,818	6,80,576	8,278	22,22,669	30.62

- d. From table A above, it can be seen that the noticee has traded in huge volumes in the scrip of TTL. The details of the trades, shows that more than 98% of orders for these trades were placed within one minute which created artificial volume in the scrip. I note that execution of trades in identical fashion over a period of time between the same

parties indicate that the same were structured trades which are only possible if the trades are put in the system with some prior understanding. In such cases, prices and quantities are negotiated outside the system and orders are executed simultaneously. I note that the price and quantity was identical in the present case and were in synchronized nature. In light of the above discussion, I find that the noticee by his synchronized trades had created volumes in the scrip of TTL.

e. I find that synchronized deal per se is not illegal. On the other hand, the synchronized deals with fraudulent or deceptive intention to create misleading appearance of trading and to manipulate the volumes of the scrip, tampers the market equilibrium of stock exchange. Such acts are serious in nature and required to be viewed seriously. The trades entered by the noticee for identical price and quantities, placed within seconds of one another. Such an exact matching is an extremely unlikely event. Execution of number of synchronized trades for number of days with M/s. Rajesh N. Jhaveri, shows the manipulative intent of the noticee to create artificial volume in the scrip.

8. Further, as regards the contention of the noticee that he was not aware of counterparty is not acceptable as it is not possible that orders were matched between two parties for a number of days with number of trades in synchronized/ structured manner without having nexus between the parties. The said issue has already been discussed by the Hon'ble Securities Appellate Tribunal (hereinafter referred to as 'SAT') in Appeal Nos. 54 to 57 of 2002 in the case of Nirmal Bang Securities (P.) Ltd. Vs. SEBI. While examining the issue of synchronized trades, the Hon'ble SAT observed as under:

"BEB has been charged for synchronized deals with First Global. I have examined the data provided by the parties on this issue. I find

many transactions between BEB and FGSB. There are many instances of such transactions. I find the scrip, quantity and price for these orders had been synchronized by the counter party brokers. Such transactions undoubtedly create an artificial market to mislead the genuine investors. Synchronized trading is violative of all prudential and transparent norms of trading in securities. Synchronized trading on a large scale can create false volumes. The argument that the parties had no means of knowing whether any entity controlled by the client is simultaneously entering any contra order elsewhere for the reason that in the online trading system, confidentiality of counter parties is ensured, is untenable. It was submitted by the Appellants that it was not possible for the broker to know who the counter party broker is and that trades were not synchronized but it was only a coincidence in some cases. Theoretically this is OK. But when parties decide to synchronize the transaction the story is different. There are many transactions giving an impression that these were all synchronized, otherwise there was no possibility of such perfect matching of quantity price etc. As the Respondent rightly stated it is too much of a coincidence over too long a period in too many transactions when both parties to the transaction had entered buy and sell orders for the same quantity of shares almost simultaneously. The data furnished in the show cause notice certainly goes to prove the synchronized nature of the transaction which is in violation of regulation 4 of the FUTP Regulations. The facts on record categorically establish that BEB had indulged in synchronized trading in violation of regulation 47 of the FUTP Regulations. In a synchronized trading intention is implicit."

9. In view of the above stated facts, I find that the noticee had entered the impugned trades with a view to create misleading appearance of trading which tampers with price discovery mechanism of stock exchange and is against the concept of transparency. The synchronized and reversal trades entered into by the noticee facilitated the creation of artificial volumes and false market in scrip of TTL. This is likely to induce the innocent genuine investors to trade in the scrip. Further, it is established that the noticee had indulged in creating false or misleading appearance of trading on the securities market and dealt in securities, not intending to effect transfer of beneficial ownership but intending to operate only as a device to cause fluctuations in the price of the scrip and therefore is guilty of violating the provisions of Regulation 4 (a), (b) and (d) of PFUTP Regulations.

- 10.** In view of the above, I find the noticee guilty of violating provision of Regulation 4 (a), (b) and (d) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 1995 read with Regulation 4 (1), 4 (2) (a), (b), and (g) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 2003.
- 11.** Therefore, taking into consideration the facts and circumstances of the case, I, in exercise of the powers conferred upon me under Sections 19 of the SEBI Act read with Section 11 of SEBI Act, 1992 read with Regulation 11 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 read with Regulation 13 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003, do hereby restrain Mr. Piyush Jhaveri (PAN: AEFPJ 0864C) from buying, selling or dealing in securities market whatsoever or accessing the securities market, directly or indirectly, for a period of six months from the date of this order.
- 12.** This order shall be served on all recognized stock exchanges and depositories to ensure that the noticee is not allowed to undertake transactions as prohibited in Para 11 above.
- 13.** This order shall come into force with immediate effect.

DATE : 24.12.2009
PLACE: MUMBAI

PRASHANT SARAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA