

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 AHILYA COMMERCIAL PRIVATE LIMITED IN RESPECT OF ITS DEALINGS IN THE SHARES OF OFFSHORE FINVEST LIMITED

Date of hearing: July 2, 2010

Appearance:

For Ahilya Commercial Private Limited: Mr. Rajiv Choudhary, Compliance Officer

For the Securities and Exchange Board of India: Mr. Jayanta Jash, General Manager
Mr. Vijayakrishnan G., Deputy Legal Adviser

1. It was brought to the notice of the Securities and Exchange Board of India (hereinafter referred to as SEBI) that shares of some illiquid companies listed at the Calcutta Stock Exchange Limited (hereinafter referred to as CSE) were traded in a circuitous route among certain members of a group operating collusively and the same were later on sold at highly inflated prices during the period between January 1, 2004 and February 25, 2005 (hereinafter referred to as the investigation period). In view of the same, SEBI initiated investigation into the dealings in the shares of such companies which included Offshore Finvest Limited (hereinafter referred to as the company). The investigation conducted by SEBI in respect of the company *inter alia* observed that the share price of the company had witnessed a sharp rise between January 1, 2004 and February 25, 2005. The average price of the shares of the company was Rs.43/- on January 14, 2004 which went up to Rs.160/- on February 8, 2005. It

was noticed that the stock brokers viz. Mr. Rajendra Prasad Shah, M/s Prakash Nahata & Co. and Ahilya Commercial Private Limited (hereinafter referred to as the Broker) had traded substantially in the shares of the company and their cumulative trades accounted for 70% of the total volumes traded in the said shares at CSE during the investigation period. It was alleged that the transactions of the Broker were *inter alia* designed to manipulate the shares of the company and thereby *prima facie* contravening Regulation 4(2)(a), (e) and (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 for stock brokers under Schedule II of the Securities and Exchange Board of India (Stock Brokers and Sub-brokers) Regulations, 1992 (hereinafter referred to as the Broker Regulations). Thereafter, SEBI, vide order dated March 18, 2008 read with a subsequent order dated December 10, 2008 appointed an Enquiry Officer, under the provisions of the Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (since repealed) to enquire into the aforesaid alleged violations. The Enquiry Officer/Designated Authority (hereinafter referred to as the Enquiry Officer) submitted the Report dated November 30, 2009 recommending the suspension of certificate of registration of the Broker for a period of three weeks. Pursuant to the submission of the Enquiry Report, SEBI issued a notice dated December 9, 2009, to the Broker advising it to show cause as to why the penalty as recommended by the Enquiry Officer or as considered appropriate by SEBI should not be imposed against it. A copy of the Enquiry Report was also forwarded to the Broker. The Broker was also advised to inform SEBI, whether he required an opportunity of hearing in the matter. The Broker, vide letter dated December 10, 2009, *inter alia* denied its involvement in artificially inflating the price or creating false volumes and that it was merely acting on the instructions of its clients. It further stated that it did not share any relationship

with its clients, other than “Broker-Client Relationship” for earning brokerage. Thereafter, the Broker was given an opportunity of hearing on July 2, 2010 when its compliance officer, Mr. Rajiv Choudhary appeared and submitted that the trades of the Broker were done as per the instruction of its clients.

2. I have considered the Enquiry Report, reply of the Broker, the submissions made by the representative of the Broker as stated above and other material available on record. The increase in the share price of the company during the investigation period remains undisputed before me. The total traded volume in the shares of the company during the investigation period at CSE was 1,04,38,020 shares. Out of the same, the Broker had traded for 11,59,000 shares contributing 11.10% of the total volume at CSE. The trades of the Broker is given below:

No. of shares bought	% to Total Buy	No. of shares sold	% to Total Sell	Total no. of shares	% to Total Buy & Sell
5,86,900	11.25%	5,72,100	10.96%	11,59,000	11.10%

Majority of such trades were in the nature of cross deals, as given below:

	Cross and Matched transactions			
	Broker		M/s Prakash Nahata& Co	
	Qty	%	Qty	%
Broker	10,39,000	89.64	86,500	7.46

3. The details of the trades executed by the Broker in the shares of the company during the period of investigation were provided to it. The Broker had traded substantially in the shares of the company during the investigation period. Most of the trades of the Broker were in the nature of cross deals, as mentioned above. The Broker had placed orders on behalf of both the buyer and seller in his own terminals at the same price and quantity within a gap of few seconds. The Broker was a necessary party in such trades as both the orders were placed by it. The very fact that the Broker had traded substantially in the shares of the company which was otherwise illiquid would establish that it had indulged in an act which had created false and misleading appearance of

trading in the securities. From the facts and circumstances of the case, it is obvious that the object of the Broker was to manipulate the price and order matching mechanism. The share price of the company had also increased substantially during the trades of the Broker, as stated in the Enquiry Report. The trades of the Broker were substantial as compared to the total traded volume in the shares of the company during the period. Such details were also given in the Enquiry Report. As the Broker had not specifically controverted such transaction details, I do not consider it necessary to reproduce the same in this Order. The Enquiry Officer had given detailed findings in respect of the charges. Though, a copy of the Enquiry Report was provided to the Broker, the same remained undisputed before me. It is obvious that the trades of the Broker on both sides (buy and sell) contributed to the artificial price rise in the shares of the company. Needless to say, the trades of the Broker created misleading appearance of trading in the securities market. Further, it has to be inferred that the Broker had encouraged the clients to deal in the shares of the company solely with the object of enhancing its brokerage. Clearly the acts of the Broker were in contravention of Regulation 4(2)(a), (e) and (o) of the PFUTP Regulations.

4. In terms of the provisions of the Clauses A(1) to (4) of the Code of Conduct prescribed under the provisions of the Broker Regulations, a stock broker shall not *inter alia* create false market or indulge in any act detrimental to the investors' interest or which leads to the interference with the fair and smooth functioning of the securities market. It is also a requirement that a stock broker shall not indulge in manipulative transactions with a view to distort the market equilibrium. In the present case, the trades of the Broker (as explained in detail above) created a misleading appearance of trading in the shares of the company. It also manipulated the share price of the company by vitiating the price discovery mechanism in the securities market. It sufficiently establishes that the Broker was a party to the manipulation. Further, it has to be inferred

that the Broker had encouraged sales/purchases of the securities with the sole object of generating brokerage/commission. Thus, the violation of Clauses A(1) to (4) and B(4)(a) of the Code of Conduct in Schedule II of the Broker Regulations stands established. The submission of the Broker was that it had filed its reply before the Enquiry Officer. I note that the Enquiry Officer had considered the same and arrived at the findings therein. The Broker did not make any efforts to dispute the findings of the Enquiry Officer despite the opportunities afforded to it. In the facts and circumstances of the case, I am unable to disagree with the findings and recommendation of the Enquiry Officer and dispose of the present enquiry proceedings initiated against the Broker in the matter of Offshore Finvest Limited, as ordered herein below.

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, Ahilya Commercial Private Limited [Registration No. INB 031093439], Member, The Calcutta Stock Exchange Limited, for a period of three weeks.

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 8, 2010