

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

**IN THE MATTER OF MALVICA ENGINEERING LTD.**

**In respect of**

**M/s. Malvica Engineering Ltd. and Shri P.Y. Jhala**

**Date of hearing:** September 11, 2009

**Appearances**

**For Noticees:** None

**For SEBI:** Mr. Amol Hogade, Assistant General Manager  
Mr. Rajeev Rastogi, Legal Officer  
Ms. Vasudha Goenka, Legal Officer

**ORDER**

**Under Section 11, 11(4) and 11B of the Securities and Exchange Board of India Act, 1992 read with Regulation 11 of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 2003**

1. Securities and Exchange Board of India (hereinafter referred as 'SEBI') had conducted investigation into the buying, selling and dealing in the shares of Malvica Engineering Ltd. (hereinafter referred as 'MEL') for the period June 27, 2003 to November 24, 2003, *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, 2003 (hereinafter referred to as 'PFUTP Regulations'). During the period of investigations the scrip of MEL was listed on Bombay Stock Exchange (hereinafter referred to as 'BSE'), Ahmedabad Stock

Exchange (hereinafter referred to as 'ASE') and Vadodara Stock Exchange (hereinafter referred to as 'VSE').

2. The details of trading in the scrip during the relevant period of time were analyzed. The financial performance of the company was also examined. It was found that MEL had recorded net sales of Rs.110 lacs and incurred a loss of Rs.10 lacs for the financial year ended March 2002. For the following year, that is, the financial year ended March 2003 it showed net sales of Rs. 170.70 lacs and loss of Rs.2.80 lacs. During the year 2003-2004, the company showed sales of Rs.162 lacs and loss of Rs.103.7 lacs. Investigations further revealed that during the period June 27, 2003 to August 27, 2003, the scrip opened with a price of Rs. 3.90 on June 27, 2003 and closed at Rs. 15.62 on August 27, 2003 (hereinafter referred to as 'rise period'). This rise was followed by a fall in price to Rs. 5.10 till September 24, 2003 and thereafter further to Rs.2.70 on November 06, 2003 (hereinafter referred to as 'fall period'). During the rise period, the scrip was traded on 43 days for a total volume of 57,21,123 shares. During the fall period, the scrip was traded on 51 days for total volume of 15,20,486 shares.
3. Investigations further revealed that MEL allegedly published false and misleading information in the results for the quarter ending June 2003. Moreover, the company failed to disclose that the entire sale and profit during the quarter were of a non-recurring/ abnormal nature, as is the requirement under listing agreement. Furthermore, Shri PY Jhala, Managing Director of MEL, sold 1,75,000 shares when the price of the scrip rose following the publishing of the results for the quarter ended June 2003.
4. Accordingly, a notice dated July 02, 2006 (hereinafter referred to as 'SCN') was issued to MEL and Shri PY Jhala (hereinafter referred to as 'Noticees') alleging that the acts of the Noticees were in violation of the Regulation 3(b), 4(1) read with 4(2)(k) and (r) of the PFUTP Regulations. Accordingly, it called upon the noticees to show cause as to why suitable directions under Sections 11, 11(4) and 11B of SEBI

Act read with Regulation 11 of PFUTP Regulations including restraining them from accessing the capital market and prohibiting from buying, selling or dealing in securities in any manner should not be issued against them.

5. The SCNs were duly served on the Noticees. However, neither of the Noticees replied to the SCN. They were sent reminders, which were also duly served, but no reply was received by SEBI from the Noticees. Pursuant to this, in order to proceed with the matter an opportunity of personal hearing was granted to the Noticees before me on September 3, 2009. Hearing notices to these entities were delivered through the Vadodara Stock Exchange. However, the hearing was rescheduled for September 11, 2009. Notices regarding the revised schedule were returned undelivered. Hence, advertisements regarding the undelivered notices were published in Hindustan Times (National Daily) and Gujarat Samachar (Gujarati Daily) on November 14, 2009. The Noticees did not appear for the personal hearing. Further, they have not requested for another opportunity of hearing. In view of the same, I am compelled to proceed with the matter *ex-parte*, on the basis of material available on record, as against the Noticees, having complied with the principles of natural justice.
6. I have carefully considered the SCN and other material available on record.
7. I note that while for the quarter ended March 2003, the company had shown net sales of Rs.59.3 lacs and net profit of Rs.5.1 lacs, the un-audited results for the quarter ended June 2003 published by the company showed sharp increase in sales and profit. Sales rose to Rs.13.56 crore and net profit increased to Rs. 1.81 crore. The company also reported “Increasing demand of company products in power sector”, “Two years production booked in advance” and “Margins likely to be improved due to persisting demand and quality products”. However, in the subsequent quarters of September 2003 and December 2003, the company showed net sales of Rs.52.8 lacs with net profit of Rs.10.6 lacs and net sales of Rs.43 lacs with net profit of Rs.9.9 lacs indicating a sharp fall in the performance of the company. However, surprisingly, the

provisional results for the full year ended March 2004 showed net sales of Rs. 1.62 crore only and loss of Rs. 103.71 lacs.

8. After the publication of the aforesaid results and encouraging statements for the quarter ended June 2003, the volume and price of the scrip of MEL showed substantial increase.
9. I note that during investigation, the company was advised to offer comments on the encouraging results and the basis on which they had made the said promising statements. Shri P Y Jhala, Managing Director of the company, explained in his written statement dated September 20, 2004 that the statements given in the quarterly results viz. “Two years production booked in advance” was made as the company had running orders from Bharat Heavy Electricals Ltd. (hereinafter referred to as ‘BHEL’) and Asea Brown Boveri Ltd (hereinafter referred to as ‘ABB’) in hand. He further stated that the company had received purchase enquiries from the same companies. He also stated vide letter dated September 30, 2004 that the sales for the quarter April to June 2003 was shown as Rs. 13.5 crore as they had undertaken trading activity, that is, they had purchased steel and copper from the open market and sold to another company at a higher price. He further stated that the price of steel was rising and that Company wanted to take advantage of the same. He also stated that the entire trading transaction was cancelled, and as a result the sales in the subsequent quarters went back to normal, that is, the range before the said trading activity commenced. Thereafter the company stopped trading activity.
10. The question before me to consider is whether MEL and Shri PY Jhala made misleading statements in respect of activities of the company and whether Shri Jhala benefited from such statements as the price of the shares rose and he sold the shares to unwary counterparties.
11. The sale of Rs.13.56 crore and profit of Rs.1.81 crore in June is totally out of line. Any extraordinary non-recurring income is to be disclosed in terms of the listing

agreement. The Company clearly failed to do so. The Company's explanation that the transaction was cancelled subsequently makes its intention further suspect.

**12.** I further note that the company also stated in their letter that the company had good orders in hand based on verbal communication received from the customers but could not execute the orders due to lack of working capital. The documents submitted by the company show that the company had only 2 purchase orders dated February 19, 2004 and March 8, 2004 from BHEL for Rs. 26.94 lacs and Rs. 88.27 lacs. The company had received 2 purchase enquiries dated July 7, 2003 and March 10, 2004 from ABB and one purchase enquiry dated May 16, 2003 from Andrewyule & Company Ltd. Thus, I note that the company had received purchase enquiries from two companies but did not have any orders in hand while publishing the quarterly results for the quarter ended June 2003. Hence, I am of the view that the company published false and misleading information in the June quarter results and this induced others to trade in the scrip as reflected in the increase in price and volume of the scrip.

**13.** I further note that the shareholding pattern of Malvica Engineering Ltd., as displayed on the BSE website, showed that Shri P Y Jhala held 4,53,100 shares as on June 30, 2003 which reduced to 1,28,300 shares as on September 30, 2003. Thus, Shri PY Jhala sold 3,24,800 shares during the quarter July to September 2003. As per the details submitted by the broker Parikh and Company, Shri Jhala sold 1,75,000 shares during the rise period- 50,000 shares on August 20, 2003 at Rs. 8.70 and 1,25,000 shares on August 21, 2003 at Rs.10.53 when the price of the scrip rose following the publication of the quarterly results. During the investigation Shri PY Jhala did not offer any clarification regarding this reduction of his holding and he only reported the sale of 14,07,451 shares in the market during December 2003. Further, I note that while providing details of his transactions, Shri PY Jhala failed to mention the sale of these shares. Moreover, even when questioned, he did not provide any clarification despite a number of summons and reminders.

- 14.** I also note that during the investigation, on seeking information on trading details of the promoters /directors/group companies /associates in the scrip during the period April 01, 2003 to December 31, 2003, Shri PY Jhala appeared in person on September 20, 2004 but could not give details of transactions. Vide letter dated September 30, 2004 the company submitted details of only the number of shares dematerialized by Shri P Y Jhala instead of the trading details. After a number of reminders, the company, vide letter dated December 09, 2004 forwarded the contract notes for sale of 14,07,451 shares by Shri P Y Jhala in the market during December 2003 but remained silent on the sale transactions during the quarter July-September 2003.
- 15.** Shri PY Jhala during investigation was advised by SEBI vide summons dated December 17, 2004 to appear in person on December 24, 2004 and explain why the aforementioned transactions were not reflected in the details furnished earlier. Shri PY Jhala, however, did not appear before the investigating authority. In spite of a number of summons and reminders MEL and its managing director Shri PY Jhala failed to, *inter alia*, provide details of trades of promoters, directors, group companies and associates in the scrip of MEL, documents supporting sales turnover by the company for the quarter ended June 2003 and subsequent cancellation of orders. Thus, I am led to believe on the basis of shareholding pattern of MEL displayed on BSE website and details submitted by the broker that Shri Jhala sold at least 1,75,000 shares of MEL on August 20, 2003 and August 21, 2003 after there was a rise in the price of the shares following the June 2003 financial results and false and misleading statements made therein. There is apparently very strong possibility that the latter was done in order to artificially raise the price of MEL shares that would enable Shri PY Jhala to offload his shares.
- 16.** In view of the above, I find that the company Malvica Engineering Ltd and its Managing Director, Shri P Y Jhala made false and misleading statements regarding the performance of the company which led to a rise in the price of the scrip of the company. Further, Shri P Y Jhala offloaded shares of the company during this period.

The said acts are in violation of Regulation 3(b), 4(1) read with 4 (2) (k) and (r) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market), Regulations, 2003.

17. 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, 11(4) and 11B 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 the noticees Malvica Engineering Ltd and its Managing Director, Shri P Y Jhala from buying, selling or dealing in securities market whatsoever or accessing the securities market, directly or indirectly, for a period of two years from the date of this order.
18. This order shall be served on all recognized stock exchanges and depositories to ensure that the Noticees are not allowed to undertake transactions as prohibited in Para 17 above.
19. Further, the stock exchanges are hereby directed to permit the respective members dealing for the aforesaid two entities to square off their existing open positions, if any, at the earliest in the F&O segment. They must strictly ensure that no fresh positions are created for any of these two entities.
20. This order shall come into force with immediate effect.

**DATE: July 15, 2010**

**PLACE: MUMBAI**

**PRASHANT SARAN  
WHOLE TIME MEMBER  
SECURITIES AND EXCHANGE BOARD OF INDIA**