

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

IN THE MATTER OF ATN INTERNATIONAL LTD.

In respect of Bulls Inc.

Date of hearing: August 06, 2010

Appearances

**For Noticees: Mr. Prakash, Proprieter, Bulls Inc.
Mr. Manohar Dhake, Accountant
Mr. Ojas Shah, Trainee**

**For SEBI: Mr. G. Ramar, General Manager
Mr. Jagannath Das, Manager
Mr. Pradeep Kumar, Legal Officer**

ORDER

Under Regulation 28(2) read with Regulations 38 (2) of Securities and Exchange Board of India (Intermediaries) Regulations, 2008

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') conducted an investigation on receipt of information of delivery of fake shares of ATN International Ltd. (hereinafter referred to as 'ATN') in the market. The investigation was conducted for the period, May 19, 1999 to December 30, 1999, *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 ATN was listed on Bombay Stock Exchange (hereinafter referred to as 'BSE'), National Stock Exchange (hereinafter referred to as 'NSE'), Calcutta Stock Exchange, Ahmedabad Stock Exchange, Delhi Stock Exchange and Jaipur Stock Exchange.
2. Investigation revealed, significant increase in the price and volume of the scrip during the relevant period. At NSE, the price of the scrip increased from ₹2.50 as on May 19, 1999, reached at ₹88.05 as on December 24, 1999 to

₹63.15 on December 30, 1999. Similarly, the quantity traded also varied from a low of 300 shares as on July 01, 1999 to a high of 19,48,500 shares as on December 15, 1999.

3. During the course of investigation, it was *inter alia* revealed that Bulls Inc. (hereinafter referred to as 'noticee') registered with SEBI as sub broker had dealt in the scrip of ATN for its clients at NSE. At the relevant point of time the noticee was the sub-broker (bearing SEBI registration no. INS 230514015) of Joindre Capital Services Ltd., broker, NSE. At present, noticee is sub-broker to Dani Shares & Stock Pvt. Ltd., broker, BSE and bears registration no. INS 011160616. Noticee while trading for its clients namely Nisha Investments Pvt. Ltd. and Sainath Marketing Pvt. Ltd. introduced fake shares in the market without verifying the authenticity of these shares.
4. Based on findings of the investigation, SEBI initiated enquiry proceedings as against the noticee in terms of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as 'Enquiry Regulations'), by appointing an Enquiry Officer under Regulation 5(1) of Enquiry Regulations. SEBI appointed the Enquiry Officer, to enquire into the alleged violation of the provisions of Part a(iv) of SEBI Circular no. SMD-1/23341 dated November 18, 1993 and Clause A(2) of Regulation 15 of the Code of Conduct for sub brokers as specified under Schedule II of SEBI (Stock Broker and Sub Brokers) Regulations, 1992 (hereinafter referred to as 'Broker Regulations'). As the Enquiry Regulations were repealed with effect from the notification of SEBI (Intermediaries) Regulations, 2008, the Enquiry Officer/ Designated Authority (hereinafter referred to as the Enquiry Officer) submitted his Report dated February 26, 2010, in terms of Regulation 27 of SEBI (Intermediaries) Regulations, 2008 recommending thereby a penalty of prohibition to take up any new assignment for a period of two weeks for violating the provisions of Part a(iv) of SEBI Circular No. SMD-I/23341 dated November 18, 1993 and Clause A(2) of Regulation 15 of the Code of Conduct for sub brokers as specified under Schedule II of Broker Regulations.

5. Subsequently, a Show Cause Notice dated April 16, 2010 (hereinafter referred to as 'SCN'), under Regulation 28(1) of SEBI (Intermediaries) Regulations, 2008, was issued to 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 within 21 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 SCN.
6. The noticee replied to the SCN vide its letter dated June 24, 2010. Before proceeding further an opportunity of personal hearing was granted to the noticee on August 06, 2010. On this date Mr. Prakash, proprietor of noticee, Mr. Manohar Dhake, Accountant and Mr. Ojas Shah appeared before me and reiterated the submissions made vide their letter dated June 24, 2010. The noticee vide its letter dated August 09, 2010 filed its written submissions along with some documents, the same have been taken on record.
7. I have carefully considered the findings of investigation, Enquiry Report, SCN, reply and written submission of noticee and material available on record. The contention of the noticee in brief are as under:
 - Had paid all the dues and obligation to the main broker despite not having received from the clients till date.
 - Had suffered personal losses.
 - Had personally visited BSE and NSE to verify the correctness of the shares. However, the exchanges had not given anything in writing that the series of the shares were verified by them to be correct.
 - Had no manipulative intentions.
8. I note that the noticee has not challenged the findings of Enquiry Officer on merits and has only made a plea that he has exercised all due care while trading in the scrip. Considering all this, the issue arises for my consideration

is: Whether noticee has failed to exercise due skill, care and diligence while trading for its clients in the scrip of ATN and introduced fake shares in the market?

9. Whether noticee has failed to exercise due skill, care and diligence while trading for its clients in the scrip of ATN and introduced fake shares in the market?

- a. I note that the noticee during the relevant period had bought 1,39,100 shares and sold 2,97,100 shares of ATN, mainly on behalf of its two clients namely Nisha Investments Pvt. Ltd. and Sainath Marketing Pvt. Ltd. It is seen that noticee through its broker Joindre Capital Services Ltd. had delivered 57,400 shares of ATN to Premier Shares Ltd., member, NSE. Out of these 57,400 shares about 56,600 shares of ATN were adjudged as fake by the Registrar and Transfer Agents (hereinafter referred to as 'RTA').
- b. I note that the noticee had accepted the fact about the fake shares. However, it has been argued that it exercised all due skill, care and had properly verified the share certificates before introduction of these shares in the market. Noticee has submitted that it had personally approached NSE and BSE to get the series of the share certificate checked by them and after receiving the confirmation from the exchanges, it started selling the shares on behalf of its clients Nisha Investments Pvt. Ltd. and Sainath Marketing Pvt. Ltd. It is seen that no documentary evidence for the same has been produced by the noticee.
- c. From the documents submitted by the noticee, I observe that ATN by its own admission vide letter dated October 16, 1999 to NSE, submitted that the lapse of fake share has happened due to lack of integrated knowledge of share matters.
- d. It is seen from the Enquiry Report that the noticee had got some suspicion when the jumbo share certificate was splitted within a week's time. Nothing

has been brought on record to show that noticee had asked its clients about such splitting within a short time. Taking note of this, I am of the considered view that the noticee was on the right track but did not carry his due diligence to the logical end. Therefore, I do not consider this a fit case to impose the penalty as recommended by the Enquiry Officer. In the interest of justice and equity, I dispose of the present Enquiry proceedings as ordered herein below.

10. I note that pursuant to the notification of the Intermediaries Regulations, the Enquiry Regulations have been repealed and in terms of Regulation 38(2) of the Intermediaries Regulations, notwithstanding such repeal, any enquiry commenced under the Enquiry Regulations, shall be deemed to have been commenced under the corresponding provisions of Intermediaries Regulations.
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 Bulls Inc. to be more 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 : 26/OCT/2010
PLACE: MUMBAI

PRASHANT SARAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA