

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

IN THE MATTER OF ATN INTERNATIONAL LTD.

In respect of Premier Shares Ltd.

(SEBI Registration No. INB 230885730)

Date of hearing: July 23, 2010

Appearances

**For Noticees: Mr. Sunil Kumar Tibrewal, Senior Executive
Mr. Arvind Khemka, Director**

**For SEBI: Mr. G. Ramar, General Manager
Mr. N. Sunil, Assistant General Manager
Ms. Vasudha Goenka, 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, 2010 to ₹63.15 as

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 Premier Shares Ltd., Broker, NSE (hereinafter referred to as 'noticee'), registered with SEBI as stock broker bearing registration no. INB 230885730 had dealt in the scrip for its clients at NSE. The noticee was found to have bought 8,95,500 shares representing 3.1% of the total traded volume and sold 6,43,200 shares representing 2.22% of the total volume traded in the scrip of ATN. The major client of noticee was Deepmala Dealers Pvt. Ltd. (hereinafter referred to as 'Deepmala'). Further, the noticee was found to have executed fictitious/ matched/ structured deals for Deepmala and thereby aided and abetted it in creation of artificial volume in the scrip of ATN during the relevant period.
4. Based on the findings of investigation, SEBI initiated enquiry proceedings 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 Regulation 4(a), (b), (c) and (d) of PFUTP Regulations read with Regulation 4(2)(a), (b), (c) and (d) and 13 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 and Clause A(2) and (3) of Regulation 7 of the code of conduct for stock brokers as prescribed in Schedule II under SEBI (Stock Brokers 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 January 29, 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 Regulation 4(a), (b), (c) and (d) of PFUTP

Regulations and Clause A(2) and (3) of Regulation 7 of the code of conduct for stock brokers as prescribed in Schedule II under Broker Regulations.

5. Subsequently, a Show Cause Notice (hereinafter referred to as 'SCN') dated March 04, 2010, under Regulation 28(1) of the 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. As no reply was received from the noticee, reminders were issued to it. Noticee vide its letter dated June 30, 2010 replied to the SCN. Before proceeding further in the matter an opportunity of personal hearing was granted to the noticee on August 06, 2010. On this date Mr. Sunil Kumar Tibrewal, Senior Executive and Mr. Arvind Khemka, Director appeared before me and reiterated the submissions made vide its letter dated June 30, 2010. The contention of the noticee in brief are as under:
 - Were not concerned with price movement upto ₹64.55 as had traded on behalf of its client upto ₹9.20 except of four transactions ranging from ₹15 to ₹17.
 - Purchased only 3.1% (buy) and 2.22% (sale) volume of shares.
 - The volumes were not alarming.
 - Even after applying due diligence and prudence it was not possible to know that there were cross/ structured deals.
 - Had no relation with the counter party.
 - Trades were done in good faith and no unreasonable gains were made.
7. I have carefully considered the findings of investigation, Enquiry Report, SCN, reply of the noticee and the material available on record. I note from the

Enquiry Report that no evidence to show any link/ collusion between the noticee and the counter party brokers involved in the alleged fictitious/ matched/ structured trades has been brought on record. In absence of such link/ collusion, it is difficult to conclude that the noticee was aiding and abetting Deepmala in creation of artificial volumes in the scrip. In view of this the charges of entering fictitious/ matched/ structured trades by noticee cannot sustain with the material in hand.

8. However, I note that Deepmala was one of the major client of noticee. From the Enquiry Report it is seen that the contribution of Deepmala was more than 50% of the total volume traded by the noticee during the relevant period. Noticee had purchased 4,71,100 shares and sold 4,08,900 shares on behalf of Deepmala during the relevant period. A perusal of the tables as given in the Enquiry Report, I note that the client of noticee viz. Deepmala in most of the instances was present on both sides of the trade through two different brokers.
9. Considering the trading pattern of Deepmala in the scrip and the volume of shares traded by the noticee for its client, I am of the view that the noticee should have raised some suspicion on the trading pattern of its client for keeping such high positions in the scrip. I note that it was the responsibility of the broker to verify the transactions of its clients and to ensure that no malpractice is taking place on its terminals by exercising proper skill, care and diligence. Thus, I find that the noticee has failed to perform its duties as specified in Clause A(2) of Regulation 7 of the code of conduct for stock brokers as prescribed in Schedule II under Broker Regulations.
10. I note that the Enquiry Officer has recommended prohibition to take up any new assignment for a period of two weeks to noticee. Considering this and the violation found to have been committed by the noticee in the present proceedings, 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.

- 11.** 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.
- 12.** 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 Premier Shares Ltd. [SEBI Registration No. INB 230885730] 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 : 27/OCT/2010
PLACE: MUMBAI

PRASHANT SARAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA