

**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 CFL
SECURITIES LIMITED IN THE MATTER OF DCM SHRIRAM
CONSOLIDATED LIMITED**

1. An enquiry, vide Order dated August 16, 2004 read with a subsequent Order dated December 3, 2004 was initiated by the Securities and Exchange Board of India (hereinafter referred to as SEBI) under the Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (since rescinded) against the stock broker, CFL Securities Limited [trading member, National Stock Exchange of India Limited (hereinafter referred to as NSE)], into the alleged violations committed by the said stock broker while dealing in the shares of DCM Shriram Consolidated Limited (hereinafter referred to as the Company) for the period between March 12, 2001 and April 24, 2001. The Enquiry Officer thereafter submitted a Report dated January 19, 2005, finding that the stock broker had contravened Regulation 4(a),(b),(c) and (d) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 (hereinafter referred to as the PFUTP Regulations) and Clause A(1),(2),(3) and (5) of the Code of Conduct prescribed for stock brokers under the Securities and Exchange Board of India (Stock Brokers and Sub-brokers) Regulations, 1992 (hereinafter referred to as the Stock Brokers Regulations) and recommended that the certificate of registration of the stock broker be suspended for a period of one year. Thereafter, a notice

dated May 27, 2005, enclosing therewith a copy of the Enquiry Report, was issued to the stock broker, directing it to show cause as to why action as recommended by the Enquiry Officer should not be taken against it. The said notice also required the stock broker to explain why consequential action under the Securities and Exchange Board of India (Criteria for Fit and Proper Person) Regulations, 2004 should not be taken against it. In response to the said notice, the stock broker submitted its reply, vide letter dated June 20, 2005. While the instant proceeding was in progress, the stock broker filed an application dated August 13, 2008 for passing of a consent order in terms of SEBI Circular dated April 20, 2007. Pursuant to the rejection of the said application, the stock broker was granted opportunities of hearing on July 2, 2009 and on February 3, 2010, when Mr. Bhupen Dalal, Advocate appeared on behalf of the stock broker and made submissions. Mr. Milan B. Dalal, director of the stock broker was also present in the hearing. The learned advocate while making submissions, requested SEBI to dispose off the proceedings pending against the stock broker and its group entities. The learned advocate also undertook to file written submissions on behalf of the stock broker. Thereafter, the same was forwarded to SEBI, vide letter dated September 22, 2010. The submissions made by the stock broker are considered later in this Order.

2. I have considered the Enquiry Report, the reply dated June 20, 2005, oral submissions made during the hearing, written submissions dated September 22, 2010 and other material available on record. The following trades/transactions of the stock broker were noticed by the Enquiry Officer, in pages 12-18 of the Enquiry Report:

a. During settlement No. 16 (April 18, 19 and 24 of 2001), Tropical Securities and Investments Private Limited sold 75,000, 34,000 and 524 shares and the same were purchased by the stock broker in its own account. The shares purchased by the stock broker were sold by it in the same settlement (Settlement No. 16) as follows: On April 19, 2001, the stock broker sold 75,000

shares at ₹61/-. Out of the shares sold, 25,000 shares were purchased by a client, Ivory Securities Limited, trading through another stock broker, Fincap Portfolio Limited and 50,000 shares were purchased by another client Penwell Traders Limited, trading through another stock broker, Aman Portfolio Limited. Further, on April 23 and 24, 2001, the stock broker sold 55,000 shares at ₹ 60/-, which were purchased by Taurus Mutual Fund (for its scheme Libra Leap) acting through four different stock brokers.

b. It was also found that the shares of the Company were transferred from the stock broker to Taurus Mutual Fund through a client, Ivory Securities Limited.

Ivory Securities Limited had purchased, through Fincap Portfolio Limited, 19,970 shares at ₹54/- ₹ 55/- on March 21, 2001, 10,000 shares at ₹63/- on April 11, 2001 and 25,000 shares at ₹61/- ₹62/- on April 19, 2001. The respective selling clients for those purchases were HB Stock Holdings Limited (trading through the stock broker, HB Securities Limited), HB Portfolio Limited (through the stock broker, Birla Sun Life Securities Limited) and CFL Securities Limited (in its proprietary account). It was also found that Ivory Securities Limited sold those shares subsequently through Fincap Portfolio Limited in the following manner- 13,000 shares at ₹ 59.50/- on April 17, 2001; 19, 970 shares at ₹ 64/- on April 24, 2001 and 15,845 shares at ₹62/- on April 24, 2001. The respective buying clients were found to be Taurus Mutual Fund, Alaknanda Capital Services Private Limited (trading through Fincap Portfolio Limited) and Penwell Traders Limited (trading through Aman Portfolio Limited).

c. It was also noted that the shares of the Company had moved from the stock broker to Taurus Mutual Fund through Penwell Traders Limited.

Penwell Traders Limited (trading through Aman Portfolio Limited) had purchased 25,000 shares at ₹61/- on April 19, 2001 and 15,845 shares ₹ 62/- on April, 24, 2001. The respective selling clients for the said trades were the stock broker (in its own account) and Ivory Securities Limited (trading through Fincap Portfolio Limited). On April 24, 2001 (during settlement no. 16), Penwell Traders Limited (trading through Aman Portfolio Limited) had sold 41,100 shares of the company at ₹ 62/- and the same were purchased by Taurus Mutual Fund (trading through four stock brokers).

3. The Enquiry Officer had noticed that the stock broker had purchased the shares of the Company from Tropical Securities and Investments Private Limited and later on sold the same to Taurus Mutual Fund. Further, the stock broker was also found to have sold the shares to Ivory Securities Limited and Penwell Traders Limited, which were subsequently sold to the said mutual fund. The said report had also noted from the trade details provided in the show cause notice (issued to the stock broker in the instant proceeding by the Enquiry Officer) that wherever the stock broker was a counterparty stock broker, the buy orders and sell orders were placed almost at the same time and also the order price and quantity were also almost matching. Few such instances were mentioned in a table at pages 16-18 in the Enquiry Report. I have noted the aforesaid transactions mentioned in the Enquiry Report. In this regard, I note that vide an Order dated October 8, 2010, SEBI had disposed of the show cause notice dated August 19, 2004 issued to various entities including Ivory Securities Limited, Penwell Traders Limited, Alaknanda Capital Services Private Limited. The said Order had given benefit of doubt to the aforesaid entities in respect of the charge of contravening Regulation 4(a), (b), (c) and (d) of the PFUTP Regulations while dealing in the shares of the Company during the investigation period. It was observed in the said Order that the relation between the CFL group and the HB group was difficult to be established, for the reasons stated therein. Alaknanda Capital Services Private Limited and Ivory Securities Limited were grouped along with some other entities under the HB Group. The Order had also noted that no action was taken against most of the stock brokers involved in trades which had been alleged as structured/fictitious against the entities covered under the said Order. Besides, in two other earlier Orders of SEBI, it was observed that the stock brokers, Aman Portfolio Limited and Fincap Portfolio Limited were found not to have colluded with the other stock brokers and clients, while dealing in the shares of the Company. Further, it also noted that benefit of doubt was afforded

to the entities in respect of the allegation that their trades in the shares of the Company were in the nature of structured/fictitious. In view of the above, the stock broker cannot be guilty of executing structured deals. Therefore, in fairness of things, I would refrain from dealing with the transactions of the stock broker with the said entities, to whom benefit of doubt was afforded, in this Order. Thus, I would sift the transactions of the stock broker, its associate entities/group entities from the mass of transactions covering all the parties in the matter which are mentioned in the notice issued during the enquiry and in the enquiry report while considering the case. After doing so, the following transaction alone emerges for my consideration:

That the stock broker purchased 75,000 shares, 34,000 shares and 524 shares on April 18, 2001, April 19, 2001 and April 24, 2001 (all during Settlement no. 16), respectively. More particularly, the said shares were purchased from Tropical Securities and Investments Private Limited, admittedly an associate of the stock broker.

4. As regards the findings in the Enquiry Report, the stock broker has *inter alia* made the following submissions in its reply dated June 20, 2005:

- a. That the transactions in the shares of the Company were carried out on the "NEAT System" during the relevant time in the normal and ordinary course of business.
- b. That its transactions for the relevant period were only on few days and that too at the prevailing market rates and that it had not gained from those transactions except having created the liquidity by selling the shares which was its long holding stock required to tide over its financial tightness.
- c. That it bought and sold shares of the Company on three occasions in one settlement and that what happened thereafter was not in its knowledge.
- d. It denied the allegation that it was related to HB Group.

Further, in its written submissions dated September 22, 2010, the stock broker *inter alia* submitted that its “group” never defaulted on the stock exchange, or with stock brokers or clients, as the case may be, in each of the transactions except once when they went through heavy financial difficulties and defaulted to the stock exchange sometime in December 2001. According to it, the stock broker had resorted to borrowings and spot funding on the floor of the stock exchange during 2000-2001, solely for the purpose of meeting their pay in obligation to the respective stock exchanges. The stock broker also admitted that during the period, most of its transactions in various other scrips were also in the nature similar to that for the purposes of financing only. It further contended that

- a. none of the transactions executed by it was with the intention of artificially raising or depressing the price of securities and thereby inducing the sale or purchase of securities by any person, except there was high volume on that day.
- b. that its transactions were merely “spot funding” and that there was no motive or intention to gain out of those transactions and that inadvertently the same had resulted in excessive volumes on those particular days.
- c. The transactions did not result in the inflation or depression of the share price of the Company or cause fluctuations in the market price of securities due to the said transactions.

5. It is the submission of the stock broker that the impugned transactions were executed for “spot funding” for the purposes of tiding over the financial crisis. Therefore, the transactions executed by the stock broker in the shares of the Company during the investigation period were not for the genuine purposes of buy or sell and were done for a different purpose as admitted by the stock broker. Therefore, by indulging in such trades which are not genuine, the stock broker had executed trades that were fictitious. The stock broker has also admitted that his transactions inadvertently resulted in excessive volumes on

those particular days. It is also noted from the Enquiry Report that the share price of the Company had increased from ₹49.50/- on March 14, 2001 to ₹64.50/- on April 20, 2001 and closed at ₹59.75/- on April 24, 2001. As found earlier, the transactions of the stock broker had created artificial volumes in the shares of the Company during the relevant period and that it had executed the impugned trades for tiding over financial crisis. It is also noted that in the transactions for 1,09,524 shares on April 18, 19 & 24, 2001, the parties to the trades were the stock broker buying in its proprietary account from Tropical Securities and Investments Private Limited (as a client) which was selling through the stock broker, Rosy Blue Securities Limited. Since the stock broker and Tropical Securities and Investments Private Limited are admittedly associate entities and also noting the submission of the stock broker that it executed transactions in the nature of “spot funding”, for the purposes of meeting the pay-in obligation, it has to be inferred that the aforesaid transactions involved no transfer of actual beneficial ownership of shares so traded. The stock broker volunteered itself as one of the necessary parties to such fictitious. As stated above, the price of the shares of the Company had significantly moved up during the investigation period. In view of the above findings, the conduct of the stock broker is in contravention of Regulation 4(a), (b), (c) and (d) of the PFUTP Regulations. The stock broker by indulging in non-genuine transactions in the shares of the Company during the relevant period and by not maintaining high standards of integrity and fairness in the conduct of its business had contravened Clause A(1), (2) and (3) of the Code of Conduct for stock brokers in the Stock Brokers Regulations. Further, by not abiding with the statutory provisions in this regard, the stock broker has also contravened Clause A(5) of the Code of Conduct for stock brokers in the Stock Brokers Regulations. I note that the present enquiry proceeding has been initiated under the provisions of the Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations,

2002. The said Regulations was subsequently repealed with effect from the notification of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008 and therefore, this Order is being passed under the corresponding provisions of the Securities and Exchange Board of India (Intermediaries Regulations), 2008.

6. In view of the foregoing, I, in exercise of powers conferred upon me under Section 19 of the Securities and Exchange Board of India Act, 1992 read with Regulations 28(2) and 38(2) of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008, hereby suspend the certificate of registration of the stock broker, CFL Securities Limited (Registration No. INB230629433), member, National Stock Exchange of India Limited, for a period of three weeks.

7. 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: JANUARY 17, 2011