

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

IN THE MATTER OF SOFTRAK TECHNOLOGY EXPORTS LTD.

In respect of Ankit Jhaveri and Yogesh Bhavnagari

Date of hearing: December 16, 2010

Appearances:

For Noticees: Mr. Mayukh Pandya

For SEBI: Mr. Biswajit Choudhury, Deputy General Manager
Ms. Vasudha Goenka, Assistant Legal Adviser
Mr. Siddharth Dachalwal, Manager

ORDER

Under Sections 11 & 11B of Securities and Exchange Board of India Act, 1992 read with Regulation 11 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating To Securities Market) Regulations, 2003.

1. Securities and Exchange Board of India (hereinafter referred as 'SEBI') had conducted an investigation into the dealings in the shares of Softrak Technology Exports Ltd. (hereinafter referred as 'the company'/'STEL') for the period January 1, 2002 to July 31, 2002 (hereinafter referred to as the 'period of investigation'/'investigation period'), *inter alia*, to ascertain whether there had been any violation of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995. During the period of investigation, STEL was listed on the Bombay Stock Exchange (hereinafter referred to as 'BSE') and on the Ahmedabad Stock Exchange (hereinafter referred to as 'ASE').
2. Investigations, *inter alia*, revealed that STEL, which had a paid up capital of Rs.3,60,00,000 comprising 36 lakh shares, issued 3 crore additional shares on a preferential basis to certain entities, including several fictitious entities for non-cash considerations. These shares were issued by STEL to the shareholders of two companies, namely M/s. Cybersoft Infocomm Ltd. (hereinafter referred to as 'Cybersoft') and M/s. Pushpam Infotech Ltd (hereinafter referred to as 'Pushpam') on swap basis. The shares of STEL so allotted were fraudulently dematerialized using an in-principle listing approval from ASE. The Managing Director of STEL, Shri Sunil

Gaglani had represented the company before the exchanges for this purpose. Further, it was seen that immediately prior to allotment several fictitious demat accounts were opened using forged and fictitious documents. The shares allotted on a preferential basis were found to have been transferred, in some instances, to such fictitious accounts. Following this, the 3 crore unlisted shares issued on preferential basis were routed through various entities acting as conduits, including Ankit Jhaveri and Yogesh Bhavnagari (hereinafter referred to as 'Noticees'), and offloaded onto unsuspecting investors using the BSE platform, even though BSE had refused listing permission for these additional shares.

3. Accordingly, a notice dated January 1, 2009 (hereinafter referred to as 'SCN') was issued to Ankit Jhaveri and Yogesh Bhavnagari alleging that the acts of the noticees were in violation of Section 12A of the SEBI Act, 1992 and Regulation 3, 4 (b), 4(c) and 6 (a) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 (hereinafter referred to as 'PFUTP Regulations, 1995') read with Regulation 3 (a) to 3(d), 4(1) and 4(2)(a) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating To Securities Market) Regulations, 2003 (hereinafter referred to as 'PFUTP Regulations, 2003'). The SCN called upon the noticees to show cause as to why suitable directions under Sections 11 and 11B of the SEBI Act, 1992 read with Regulation 11 of the PFUTP Regulations, 2003 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.
4. The SCN was served on Ankit Jhaveri and Yogesh Bhavnagari. The noticees did not reply. A reminder vide letter dated April 21, 2009 was sent to the noticees to reply to the SCN. In the meanwhile, the noticees made an application to settle the proceedings initiated under the SCN. The applications of the noticees were dealt with in accordance with the SEBI Circular EFD/ED/Cir-1/2007 dated April 20, 2007 and rejected.
5. Subsequently, an opportunity of personal hearing was granted to Ankit Jhaveri and Yogesh Bhavnagari before me on August 26, 2010. The noticees, however, did not attend the scheduled hearing. Thereafter, a further opportunity of hearing was granted to the noticees. Accordingly, Shri Mayukh Pandya, the authorized representative of the noticees appeared before me and made submissions on December 16, 2010. The noticees were granted three weeks' time to file

written submissions upon request. Consequently, Ankit Jhaveri and Yogesh Bhavnagari, vide separate letters dated January 3, 2010 and December 28, 2010 filed written submissions. The noticees, *inter alia*, made the following submissions:

- i. The SCN does not clearly lay down the noticees' role in the alleged scheme of manipulation.
 - ii. The noticees played no part in the alleged share-swap acquisition of two unlisted companies by STEL within a gap of two months, unfair valuation of shares and swap ratio, preferential allotment of shares to fictitious entities or opening of the DP accounts
 - iii. There has been a failure on the part of the Company, the Exchanges and the Depository and innocent investors like the noticees should not be penalized for the same.
 - iv. Third party delivery was very common at the relevant time. Moreover, the shares were purchased off market from Rajesh Ranka and transferred to the account of M/s. Rajesh Jhaveri as they intended to sell the shares through the latter. This was done to save time and money. However, later the noticees decided to sell the shares through Park light Investments Pvt. Ltd.
 - v. The noticees had no reason to suspect any wrongdoing, and they were not aware of the listed capital of the company.
 - vi. There has been inordinate delay in the investigation due to which the noticees have been severely disadvantaged.
6. I have carefully considered the SCN and other material available on record. At the outset, I note that the proceedings as such do not suffer from great delay as contended by the noticees. I note that the transactions were carried out in January- July, 2002. Thereafter an investigation was conducted by SEBI. The SCN was sent on January 1, 2009. It is also pertinent to note that the proceedings had been kept in abeyance due to the application made by the noticees under the consent scheme. Further, the proceedings have been conducted after affording the noticees a fair opportunity of hearing during which they have duly participated and actively defended themselves. Thus, the principles of natural justice were duly complied with.
7. I note that the paid up capital of STEL as on January 1, 2002 was Rs.33,60,00,000/- (3,36,00,000 shares of Rs.10/-). The above capital of the company consisted of 3,00,00,000 shares allotted on

a preferential basis (swap for consideration other than cash) on two occasions. The details are mentioned below:

- i. First preferential issue: A resolution under Section 81(1A) of the Companies Act, 1956 was passed by the company on November 24, 2001, by which 1,00,00,000 equity shares were allotted to certain shareholders of Cybersoft on December 11, 2001.
- ii. Second preferential issue: A resolution under Section 81(1A) of the Companies Act, 1956 was passed by the company on January 31, 2002, by which 2,00,00,000 shares were allotted to certain shareholders of Pushpam on February 14, 2002.

However, these shares were not listed. Therefore, the listed capital of the company during the investigation period was just 36,00,000 shares.

8. I note that subsequent to the first preferential allotment STEL filed an application before BSE and ASE for the listing of 1,00,00,000 equity shares. The ASE gave an in principle approval for the same on December 20, 2001. In order to complete the listing formalities, the BSE sought certain additional information from STEL. In the meantime, NSDL informed BSE that the company had dematerialized its unlisted shares using the in-principle approval from ASE. Again, BSE advised the company to furnish the details of the dematerialized shares. However, the company did not furnish the information requested by the BSE. Following this, the BSE vide its letter dated December 28, 2002 issued a notice to the company to show cause as to why an action of withdrawing permission to the dealings in the company's securities on BSE should not be taken. STEL did not reply. Subsequently, BSE suspended trading in the securities of the company with effect from January 29, 2003. The listing of the preferential issue of the company of 1,00,00,000 equity shares of the company was rejected by the Listing Committee of the BSE on the above grounds.
9. Similarly, for the second preferential issue, STEL filed listing application with BSE on January 8, 2003. The BSE vide letter dated February 4, 2003, informed the company about the listing formalities to be complied with, for the second preferential issue. STEL did not reply to the same. The second lot of shares was also not listed as the company had not completed the listing formalities.

10. I observe that, during the investigation period, the price of the scrip increased from Rs. 1.80, the opening price on January 1, 2002 to a high of Rs. 2.30 on January 7, 2002 and then fell to Rs. 0.70 on January 23, 2002, which amounts to a fall of 69% in 13 trading days. The average volume of the shares traded during this period was 77176 shares. The price of the scrip decreased from Rs.0.70/- on April 3, 2002 to Rs.0.40/- on April 11, 2002, which is a 42.85% fall in 7 trading days. The average volumes of shares traded during this period were 241134 shares.
11. A chart showing the details of gross purchases and sales done by the major brokers and the clients who traded during the investigation period is given below:

Member Broker	Sub-Broker	Major Ultimate Client	Gross Purchase		Gross Sales	
			Shares	%	Shares	%
Park light Investments Pvt. Ltd.		Ankit Jhaveri*	285053	0.59	14927712	31.21
		Nrupesh C Shah*			1988023	4.13
		Yogesh Bhavnagari*			3454658	7.18
		Yash Corporation			274313	0.57
	Total trading by broker		296023	0.62%	20691706	43.00%
ASE Capital Markets	Vasudev Gordhandas Dapki	Rajesh N Jhaveri (R006)*			892000	1.85
	Jaswantlal Vadilal Shah	Saumil Bhavnagari (S11)*			2003700	4.16
	Rajesh Jhaveri	Nrupesh C Shah*	31928	0.07	49982	0.10
		Rajesh N Jhaveri (Gautam Jhaveri)	34948		38054	
	Total trading by broker		518930	1.08%	3305629	6.87%
P. Suryakant	Shree Parshwa Finance (Prop: Piyush Jhaveri)	Ashish P Shah	10000	0.02	260500	0.54
		Fenil M Shah	1004011	2.09	1004976	2.09
		Kishore Corporation*		0.00	1050000	2.18
		Trading account	1071504	2.23	1091952	2.27
		Nrupesh C Shah*	146314	0.30	812586	1.69
	Total trading by broker		2529550	5.26%	4452659	9.25%
ICICI Webtrade		Total 273 clients.	10827004	22.50%	6555277	13.62%
Total traded quantity			48116275	100%	48116275	100%

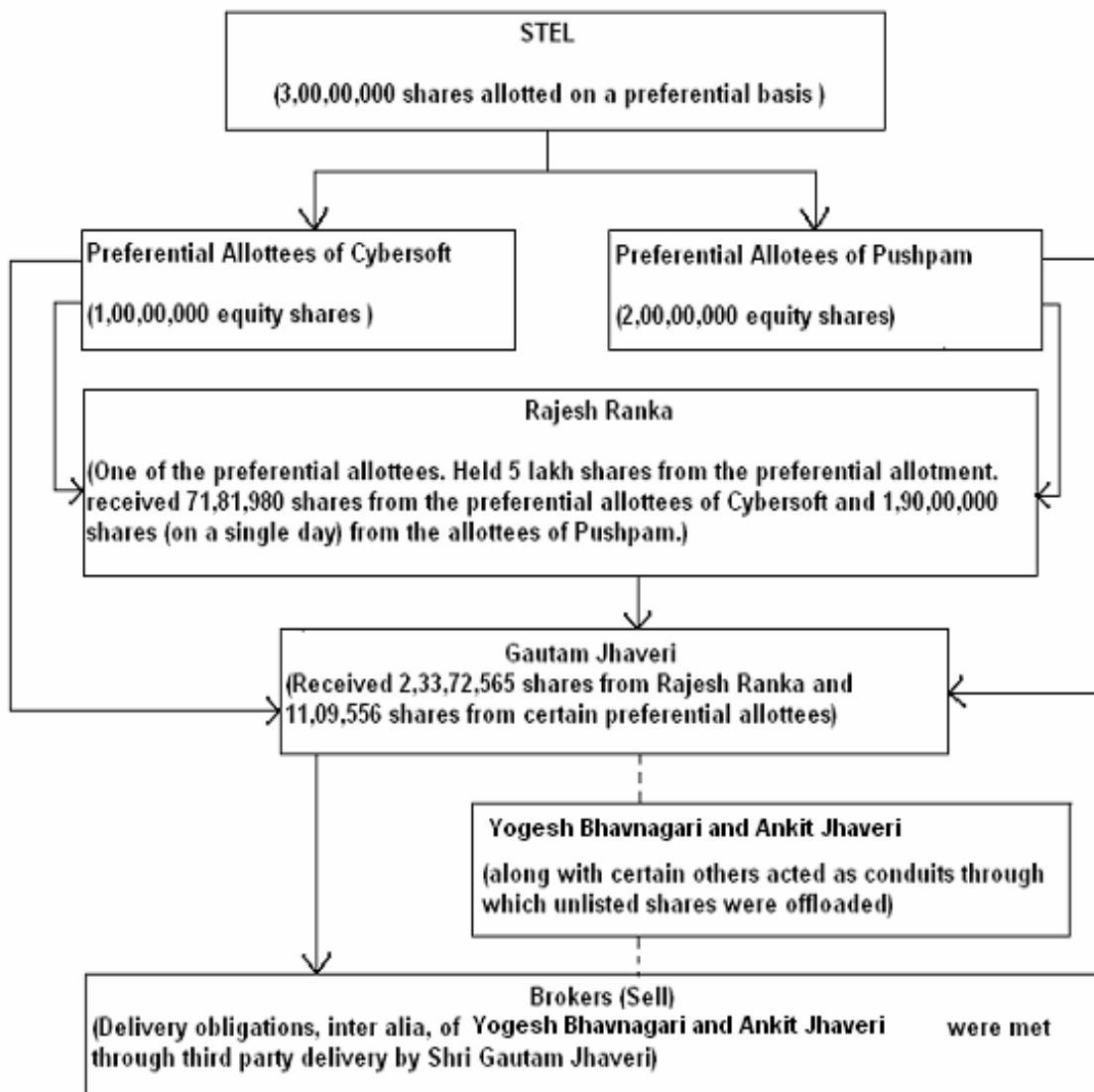
*Shares were delivered by Gautam Jhaveri to the broker/ sub broker on behalf of their clients.

*183957 shares were sold by Parklight Investment Pvt. Ltd. in the client code of Rajesh N Jhaveri but contract notes were issued in the name of Ankit Jhaveri

12. The counter party details of the brokers who had volumes of over 15% were analyzed. I observe that whereas the sell trades were concentrated among certain clients and brokers, the buy trades were scattered. Though the broker ICICI web trade had over 22.5% concentration on the buy side it is seen that the buying clients were scattered among 273 clients.

13. I further observe from the table above that, the major selling clients sold large numbers of shares, which were several times the total listed capital of the company. However, they had not made any major purchases in the scrip. One of the major sellers, Ankit Jhaveri had bought just 2.85 lakh shares whereas he sold around 1.47 crore. Similarly, another major client, Yogesh Bhavnagari, i.e. the other noticee also did not purchase any shares, whereas he was found to have sold 34,54,658 shares. It is interesting to note that only 36 lakh shares were listed in the exchanges during this period.
14. I note that the clients who were selling the shares on the exchange had sold more than the listed capital of the company, whereas their purchases were comparatively less. The demat accounts of major sellers, including that of the noticees, Ankit Jhaveri and Yogesh Bhavnagari were analyzed to find out the source of their acquisition. Upon analysis of the demat statements, it was revealed that neither had the noticees received any shares through off- market transfers, nor had they delivered any shares to their respective brokers. It is seen that the delivery obligations of the noticees were met through third party delivery by a certain Gautam Jhaveri (proprietor of M/s. Rajesh N Jhaveri). Gautam Jhaveri, in turn, received 2,33,72,565 shares from Rajesh Ranka (alias Rajesh Jain, one of the preferential allottees) and 11,09,556 shares from certain other preferential allottees during the investigation period. In this regard, the noticees have put forth the argument that the shares were purchased off market from Rajesh Ranka and transferred to the account of M/s. Rajesh Jhaveri as they intended to sell the shares through the latter. Their explanation was that this was done to save time and money. However, the noticees subsequently decided to sell the shares through Park light Investments Pvt. Ltd. I note that this argument is not supported by any reliable evidence and cannot be accepted. In fact, this argument seems to be a belated attempt to legitimize the acts of the noticees.
15. Thus, it appears that the noticees acted as conduits through which unlisted shares of STEL were offloaded into the market. The noticees have, in their replies, submitted that they played no part in the alleged share-swap acquisition of two unlisted companies by STEL within a gap of two months, preferential allotment of the shares to fictitious entities or opening of the DP accounts. This argument is without merit. The noticees were a part of the scheme/ arrangement devised

for off-loading 3 crore unlisted shares of STEL to unwary and unsuspecting investors. The movement of the unlisted shares can be traced as under.



16. Thus, I observe that whereas Ankit Jhaveri sold 1,49,27,712 shares of STEL, he purchased only 2,85,053 shares during the investigation period. Similarly, Yogesh Bhavnagari did not purchase any shares but had sold 34,54,658 shares of STEL (as evident from the table at paragraph 11). The listed capital of STEL during the investigation period was only 36 lakh shares. I have not received any plausible justification in this regard from the noticees. The noticees have pleaded that they were not aware of the listed capital of STEL and had no reason to suspect any wrongdoing, which is untenable. The number of shares sold by Yogesh Bhavnagari, is nearly

equivalent to the entire listed capital of STEL and the number of shares sold by Ankit Jhaveri is several times higher than the total listed capital of the company. The selling activity of the noticees do not seem to be genuine and the noticees seem to have acted as front entities or conduits for the release of unlisted shares of STEL into the market. I also note that the SCN clearly brings out this charge against the noticees, and therefore, the contention that the SCN does not clearly describe their role cannot be accepted.

17. I find from the above facts that the noticees aided the offloading of unlisted shares of STEL. The delivery obligations of the noticees were met by certain third parties who were involved in the scheme of manipulation in the scrip of Softrak Technology Exports Ltd. Therefore, Ankit Jhaveri [PAN: ACWPJ 6285C] and Yogesh Bhavnagari [PAN: AATPB 0088L] are in violation of Section 12A of SEBI Act, 1992 and Regulation 3, 4 (b), 4(c) and 6 (a) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 read with Regulation 3 (a) to 3(d), 4(1) and 4(2)(a) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating To Securities Market) Regulations, 2003.
18. Therefore, taking into consideration facts and circumstances of the case, I, in exercise of the powers conferred upon me under Sections 19 of the SEBI Act read with Sections 11(4) and 11B of SEBI Act, 1992 and Regulation 11 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003, restrain Yogesh Bhavnagari, and Ankit Jhaveri from buying, selling or dealing in securities and from associating with the securities market in any manner whatsoever for a period of 2 years.
19. 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 18 above.
20. This order shall come into force with immediate effect.

DATE :2/May/2011
PLACE: MUMBAI

PRASHANT SARAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA