

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

IN THE MATTER OF SAWACA COMMUNICATION LIMITED

In respect of Jyotish Bhogilal Stock Brokers Private Limited

**[SEBI Registration No.: INB 020916813
INS 010736432]**

Date of Hearing: December 16, 2010

Appearances

**For Noticee: Mr. Jyotish Bhogilal Shah, Managing Director
Mr. Krutik Jyotishbhai Shah**

**For SEBI: Mr. S. Madhusudhanan, Deputy General Manager
Mr. Siva Govindo Patra, Assistant General Manager
Mr. Pradeep Kumar, Assistant Legal Advisor**

ORDER

Under Regulation 28(2) read with Regulation 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 investigation into the dealings in the shares of Sawaca Communication Limited (hereinafter referred to as 'SCL') for the period of October 04, 1999 to December 30, 1999 (hereinafter referred to as the 'investigation period'). During the investigation period, the price of the scrip increased from ₹19.35 as on October 01, 1999 to ₹106 as on January 04, 2000 at the Bombay Stock Exchange (hereinafter referred to as 'BSE'). The price rise was accompanied by significant increase in the volumes in the scrip of SCL.
- 2.** Investigation, *inter alia* revealed that Jyotish Bhogilal Stock Brokers Private Limited (hereinafter referred to as the 'noticee'), member, Ahmedabad Stock Exchange (hereinafter referred to as the 'ASE') had acted as an unregistered sub-broker to Prabhudas Liladhar Private Limited (herein after referred to as

'PLPL') member, BSE while trading in the scrip of SCL. The noticee had traded mainly for Shree Parshwa Finance, who in turn traded on behalf of Mr. Mahendra A. Shah and his associates and created artificial appearance of trading in the scrip of SCL.

3. Based on the findings of the 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 the Enquiry Regulations. The Enquiry Officer enquired into the alleged violation of the provisions of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as 'SEBI Act'), SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 (hereinafter referred to as 'PFUTP Regulations') and the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 (hereinafter referred to as 'Broker Regulations'). The Enquiry Officer submitted his Report dated February 08, 2005, in terms of Regulation 13 (1) of the Enquiry Regulations, recommending a penalty of cancellation of the certificate of registration of the noticee as a sub-broker and warning to be careful in future as a broker of ASE, for violating the provisions of Section 12 of SEBI Act, Regulation 4 of the PFUTP Regulations and the Code of Conduct prescribed for the brokers under Schedule II read with Regulation 7 of the Broker Regulations.
4. Subsequently, a show cause notice (hereinafter referred to as 'SCN') dated March 30, 2005 under Regulation 13(2) of the Enquiry Regulations was issued to the noticee asking it to show cause as to why an appropriate action including the penalty that was recommended by the Enquiry Officer, should not be imposed. The noticee was advised to reply to the SCN, together with the documents that it may choose to rely upon in support of its reply within fifteen 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 that 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.

5. The noticee replied to the SCN vide its letter dated April 28, 2005. Before proceeding further, an opportunity of personal hearing was granted to the noticee on September 06, 2007. Another opportunity of personal hearing was granted to the noticee before me on December 16, 2010, in view of the change in the appropriate authority. On the date fixed for personal hearing, Mr. Jyotish Bhogilal Shah, Managing Director of the noticee and Mr. Krutik Jyotishbhai Shah appeared and sought 20 days' time to file written submissions. In the meantime, the noticee vide its various letters, dated December 20, 2010, May 24, 2011, June 01, 2011 and June 03, 2011 has sought for documents relied upon by SEBI, the Enquiry Report and other details. I note that the documents sought by the noticee from time to time have already been provided to the noticee, during the proceedings in the matter. During the personal hearing, the noticee had not raised any such requirement of additional documents and had requested for twenty days' time for filing written submissions. However, I note that he has not filed written submissions till date.
6. The noticee had also filed an application for the settlement of proceedings through a consent order. The application filed by the noticee was dealt in accordance with the SEBI Circular dated April 20, 2007. Subsequently, the proceedings initiated under the SCN were revived, as the application for consent was rejected by SEBI.
7. I have carefully considered the Enquiry Report, the SCN issued to the noticee and its reply. The submission of the noticee, in brief are:
 - PIPL has already discontinued its terminal since February 05, 2003.
 - It had about 700 clients in approximately 1,500 scrips, at the relevant point of time. It has not carried out any proprietary trading in the scrip of SCL. The trades in the scrip of SCL were executed on behalf of and pursuant to

instructions of the clients, in the normal course of its business and there was nothing amiss in the conduct of the client.

- There is no evidence that it had aided and abetted in the price manipulation of the scrip of SCL.
- It had no knowledge of the clients' intention of manipulating the price of the scrip.
- All documents that are relied upon by SEBI have not been supplied to it.

8. I note the submission of the noticee that it has not been supplied with various documents. I have seen that all the documents relied upon by SEBI have already been provided to the noticee. No document, which has not been provided to the noticee, is being relied upon by SEBI in the present proceedings. I note that the Enquiry Officer has found the noticee guilty of the violation of the Section 12 of the SEBI Act, Regulation 4 of the PFUTP Regulations and the Code of Conduct prescribed for brokers in Schedule II read with Regulation 7 of the Broker Regulations.

9. I note that the noticee had acted as an unregistered sub-broker of PIPL during the relevant point of time i.e., during October 04, 1999 to December 30, 1999, while dealing in the scrip of SCL. The noticee has submitted in its reply that PIPL has already discontinued its terminal since February 05, 2003.

It is seen that the noticee was a registered sub-broker of PIPL during the period of September 26, 2000 to June 18, 2005 i.e. after the relevant period in the present matter. I note that the certificate of the noticee as a sub-broker of PIPL was cancelled on June 18, 2005. I observe from the Enquiry Report that, the noticee had admitted the fact of acting as an unregistered sub-broker under the pretext that it was not aware of the requirement of registration as a sub-broker for trading at BSE. I do not agree with this defence of the noticee, as it was a registered broker at ASE and is expected to know the rules relating to the securities market, which were required to be complied by it. Having considered this, I conclude that the noticee had acted as an unregistered sub-broker at the relevant point of time.

10. I have seen the trading details of the noticee during the period of investigation in the scrip of SCL and note that it had mainly traded for Shreeparshva Finance, who in turn had traded on behalf of Mahendra A. Shah and purchased 2,14,600 shares and sold 4,29,000 shares. The settlement wise details of trades executed by the noticee in the scrip of SCL during the period of October 04, 1999 to December 30, 1999 is as under:

Dealing through PLPL for Shreeparshva Finance				
Settlement No.	Purchases	Sales	Gross	Net
29	0	1,300	1,300	-1,300
30	0	100	100	-100
31	200	87,200	87,400	-87,000
32	39,600	57,300	96,900	-17,700
33	800	7,100	7,900	-6,300
34	0	14,800	14,800	-14,800
35	0	5,000	5,000	-5,000
36	0	200	200	-200
37	25,700	28,700	54,400	-3000
38	47,200	57,000	1,04,200	-9800
39	12,500	42,100	54,600	-29,600
40	0	2,100	2,100	-2,100
41	0	16,500	16,500	-16,500
42	43,500	43,600	87,100	-100
43	45,100	66,800	1,11,900	-21,700
Total	2,14,600	4,29,800	6,44,400	-2,15,200

From the table above, I note that the noticee had contributed a total volume of 6,44,400 shares during the period of investigation, which constitutes about 7% of the total trading at BSE. I note that the noticee during the period of investigation had not traded in its own account. The noticee while trading for Shreeparshva Finance purchased 1,77,800 shares and sold 3,80,600 shares of SCL. From the available records, the trading pattern in the scrip is not clear and in absence of the material details such as order time, quantity, etc., I am of the considered view that the charge of violation of PFUTP Regulations is not established as against the noticee.

11. Considering the above discussion, I find the noticee guilty of violating the provisions of Section 12 of the SEBI Act. This leads to the conclusion that the noticee has failed to comply with its duties as a stock broker as specified

under the provisions of the Broker Regulations. Thus, I hold that the noticee has failed to exercise due skill, care and diligence as specified in Regulation 7 read with Clause A (2) and (5) of the Code of Conduct as specified in Schedule II of the Broker Regulation. I note that the certificate of registration of the noticee as a sub-broker has already been cancelled on June 18, 2005. Therefore, I hereby dispose of the present Enquiry proceedings initiated against the noticee as under:

12. I note that pursuant to the notification of the SEBI (Intermediaries) Regulations, 2008, the Enquiry Regulations have been repealed in terms of Regulation 38(2) of the SEBI (Intermediaries) Regulations, 2008. Notwithstanding such repeal, any enquiry commenced under the Enquiry Regulations, shall be deemed to have been commenced under the corresponding provisions of SEBI (Intermediaries) Regulations, 2008.
13. Accordingly, 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 the Securities and Exchange Board of India (Intermediaries) Regulations, 2008, hereby warn the noticee, Jyotish Bhogilal Stock Brokers Private Limited, member, Ahmedabad Stock Exchange (SEBI Registration no. INB 020916813) [PAN: AAACJ 5486G] to be careful and cautious in the conduct of its business in future and to comply with all the statutory provisions while carrying out its activities in the securities market.

DATE : 19/OCT/2011
PLACE: MUMBAI

PRASHANT SARAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA