

March 9, 2017

To,

The General Manager
(Listing & Corporate Relations)
BSE Limited
Phiroze Jeejeebhoy Towers,
Dalal Street, Fort,
Mumbai - 400 001

The Listing Department
National Stock Exchange of India Limited
Exchange Plaza, 5th Floor,
Plot No:- C/1, G Block,
Bandra Kurla Complex,
Mumbai- 400 051

BSE Scrip Code:- 531892

NSE Symbol:- KHANDSE

Dear Sir/Madam,

Re: Intimation under Regulation 30 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

Sub: Intimation of Order dated March 08, 2017 passed by Securities Appellate Tribunal in SAT Appeal No. 283/2015 - Khandwala Securities Limited v/s. Securities and Exchange Board of India

1. This is to inform you that Securities Appellate Tribunal (SAT) has pronounced the captioned order on Wednesday, March 8, 2017 and dismissed the appeal filed by the Company challenging the SEBI order dated May 13, 2015, vide which SEBI Whole Time Member had suspended the Certificate of Registration of the Company as a Stock Broker at National Stock Exchange of India Limited (SEBI Registration No. INB230600030) for a period of one month. The copy of the SAT order dated March 8, 2017 is herewith attached for your reference.
2. We would also like to inform you that SAT has granted a stay of four weeks on operation of the Order so as enable the Company to challenge the SAT order before the Hon'ble Supreme Court of India. We are in the process of reviewing the SAT order and will be shortly filing the appeal before the Hon'ble Supreme Court.
3. This is for your information, records and compliance under Regulation 30 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.
4. We shall keep the Stock Exchange fully informed about the further developments in the matter.

For Khandwala Securities Limited



Abhishek Joshi
Company Secretary & Compliance Officer

Encl: as above

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Order Reserved on: 1.2.2017
Date of Decision : 8.3.2017

Appeal No.283 of 2015

Khandwala Securities Ltd.
Vikas Building, Ground Floor,
Green Street, Fort, Mumbai – 400023.

...Appellant

Versus

The Securities and Exchange Board of India,
SEBI Bhavan, Plot No. C-4A, G-Block,
Bandra-Kurla Complex, Bandra (East),
Mumbai – 400 051.

...Respondent

Mr. P.N. Modi, Senior Advocate with Mr. Vinay Chauhan and Mr. Neville Lashkari,
Mr. Ayush Agarwal and Mr. K.C. Jacob, Advocates i/b. Corporate Law Chambers
for the Appellant.

Mr. Kumar Desai, Advocate with Mr. Saurabh Bachhawat and Mr. Vivek Rana,
Advocate i/b. K. Ashar & Co. for the Respondent.

CORAM : Justice J.P. Devadhar, Presiding Officer
Dr. C.K.G. Nair, Member

Per : Dr. C.K.G. Nair

1. The present appeal is filed by M/s. Khandwala Securities Limited aggrieved by the impugned order dated May 13, 2015 of the Whole Time Member of Securities and Exchange Board of India ('SEBI' for short). By the said order the certificate of registration of the appellant as a stock broker of the National Stock Exchange Ltd. ('NSE' for short) has been suspended for a period of one month for violating certain provisions of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 ('PFUTP Regulations 1995' for short) read with Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market)

Regulations, 2003 ('PFUTP Regulations 2003' for short) and certain clauses relating to the Code of Conduct under Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992 ('Stock Brokers Regulations' for short).

2. The facts relating to the matter are as follows:

a) SEBI conducted investigation on trading in the shares of M/s. Shree Rama Multi-Tech Ltd., ('SRMTL' for short) for the period June 2000 to September 2000. This investigation revealed that M/s. Khandwala Finance Limited alongwith M/s. Jayantilal Khandwala & Sons Pvt. Ltd. and a few clients had indulged in cross deals and synchronised trading and placed buy and sell orders far away from the last traded prices thereby creating artificial volumes in the shares of SRMTL. During this period Khandwala Finance Limited was a member of NSE while M/s. Jayantilal Khandwala & Sons Pvt. Ltd. was a broker in the Bombay Stock Exchange ('BSE' for short). With effect from April 1, 2002 Khandwala Finance Ltd. merged with the appellant Khandwala Securities Ltd. through an approved merger scheme whereby the liabilities of Khandwala Finance Ltd. was also taken over by Khandwala Securities Ltd.

b) The appellant received a show cause notice dated January 27, 2004 directing to show cause as to why action should not be taken against the appellant for the alleged violations of dealing in the scrip of SRMTL during June, 2000 to September, 2000 under the provisions of the Securities and Exchange Board of India Act, 1992 ('SEBI Act' for short) and SEBI (PFUTP) Regulations. Show cause notice also contained the findings of the investigation report as well as statements made by Shri Rajnish Rangari, authorised representative of the appellant who appeared before the investigating officer of SEBI in the matter. The appellant replied to the show cause notice on March 8, 2004. On August 30, 2006 the appellant received another show cause notice

alongwith a copy of the enquiry report issued under the SEBI (Procedure for Holding Enquiry and Imposing Penalty) Regulations, 2002 whereby the enquiry officer had recommended a major penalty of suspending the certificate of registration granted to the appellant for a period of 2 years. The appellant replied to the show cause notice on October 17, 2006.

c) On May 13, 2015 the impugned order was passed by the Whole Time Member of SEBI suspending the certificate of registration of the appellant as a stock broker in the NSE for a period of one month for violation of Regulation 3, 4(a) and (c) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 read with SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 and Clause A(1), (2), (3), (4) and (5) of the Code of Conduct specified in Schedule II read with regulation 7 of the Stock Brokers Regulations.

d. Relying heavily on enquiry report the impugned order has held the following.

- i) The appellant had placed orders in the exchange trading system at prices far away from the ruling price knowing that these orders will not be accepted with the intention of creating artificial depth in the market.
- ii) Clients of the appellant, with the involvement of the appellant, had repeatedly executed cross deals in the scrip of SRMTL. The appellant's connection to SRMTL was evident based on short term loan of Rs.1 crore given by SRMTL during the investigation period.
- iii) The clients of the appellant placed repeated buy orders at higher price than the prevailing market price sweeping the pending sale orders.

iv) The clients of the appellant, through the appellant, were involved in offloading large quantities of shares of UTI at an artificially raised price in a synchronised manner with a premeditated understanding. The appellant and its connected entity M/s. Jayantilal Khandwala & Sons Pvt. Ltd. acting in concert adopted similar trading pattern at NSE and BSE respectively, for the common clients for buying the shares and offloading the same to UTI.

v) The appellant allowed one of its clients to trade in large quantities without collecting the dues and thereby exposed itself to huge risk.

vi) The appellant allowed some of its clients to trade before signing the broker client agreement.

3. Before we proceed further the relevant regulations are reproduced for ease of reference:

“PFUTP REGULATIONS, 1995

Prohibition against market manipulation.

4. No person shall –

- (a) effect, take part in, or enter into, either directly or indirectly, transactions in securities, with the intention of artificially raising or depressing the prices of securities and thereby inducing the sale or purchase of securities by any person;
- (b) indulge in any act, which is calculated to create a false or misleading appearance of trading in the securities market;
- (c) indulge in any act which results in reflection of prices of securities based on transactions that are not genuine trade transactions;
- (d) enter into purchase or sale of any securities, not intended to effect transfer of beneficial ownership but intended to operate only as a device to inflate, depress or cause fluctuations in the market price of securities

“CODE OF CONDUCT UNDER THE STOCK BROKERS REGULATIONS

A. General

- (1) Integrity: A stock-broker, shall maintain high standards of integrity, promptitude and fairness in the conduct of all his business.
- (2) Exercise of due skill and care: A stock-broker shall act with due skill, care and diligence in the conduct of all his business.

(3) Manipulation: A stock-broker shall not indulge in manipulative, fraudulent or deceptive transactions or schemes or spread rumours with a view to distorting market equilibrium or making personal gains.

(4) Malpractices: A stock-broker shall not create false market either singly or in concert with others or indulge in any act detrimental to the investors' interest or which leads to interference with the fair and smooth functioning of the market. A stock-broker shall not involve himself in excessive speculative business in the market beyond reasonable levels not commensurate with his financial soundness.

(5) Compliance with statutory requirements: A stock-broker shall abide by all the provisions of the Act and the rules, regulations issued by the Government, the Board and the Stock Exchange from time to time as may be applicable to him.”

4. We have heard the rival contentions made by the learned counsel.

5. Shri P.N. Modi, learned senior counsel for the appellant argued as follows:

i) The impugned order dated May 13, 2015 was issued by SEBI for an alleged offence committed during June, 2000 to September, 2000 i.e. after a period of almost 15 years.

ii) The first show cause notice was issued on June 27, 2004 and the second show cause notice along with the enquiry report was issued on August 25, 2006. Therefore the impugned order was issued 11 years from the issue of the first show cause notice and almost 9 years from the date of the enquiry report. As such on the grounds of natural justice the impugned order deserved to be quashed and set aside.

iii) The impugned order mentions 204 instances of cross deals. However, these data were not provided to the appellant despite asking for it.

iv) Further, citing the SEBI communication to all stock exchanges dated September 14, 1999 clarifying its earlier circulars issued in 1997, 1998 and 1999 regarding negotiated deals and cross deals, it was argued that cross deals are not bad in law. To quote from the said circular “All negotiated deals

(including cross deals) shall not be permitted in the manner prescribed in circulars mentioned above (i.e. earlier circulars referred to) and all such deals shall be executed only on the screens of the exchanges in the price and order matching mechanism of the exchanges just like any other normal trade.” Accordingly, unlike in the past where negotiated deals and cross deals were allowed outside the exchange trading platform after September 14, 1999 such deals also have to be executed through the exchange trading platform. As such even if cross deals were entered into by the appellant there was no violation of law, since the alleged offences were during June-September, 2000, and trades were executed on the exchange platform.

v) The impugned order has held that the research report prepared by the appellant had only made ‘buy’ recommendation of the SRMTL shares but did not advice “sell” but the clients have still sold the shares. It was argued that ‘buy’ recommendation is not a recommendation to hold the shares forever. Different clients would sell their shares at a price and time of their choice depending on their own expectations and funding/finance requirement etc.

vi) On the charge that the appellant’s clients placed orders at far away prices from those of the prevailing market prices it was argued that the price at which orders were placed were within the applicable range and when large quantities are to be sold/bought quoting such high/low price is a usual trading practice. Nothing more has to be read into such trading practices particularly in the present context with all buying clients paid for and took delivery of the shares and selling clients gave delivery and took the money and therefore all transactions were legal and not manipulative.

vii) On the issue of synchronised trading with UTI it was argued that UTI was not a client of the appellant and no information relating to UTI entering the

market was available to the appellant. Without such information no synchronised trading was possible. It was also argued that neither UTI nor its broker was charged with any violation though the clients of the appellant were penalised by separate orders. Synchronised deals cannot be entered into from one side just like two hands are needed to clap. On the contention that unique client code was not given while placing the orders by the appellant it was argued that the requirement of giving unique client code was mandated only from October, 2002; not during the investigation period of June to September, 2000 in the instant matter. Therefore no violation is maintainable on this regard.

ix) Regarding the charge of creating artificial depth by placing 24 orders with quantities in the range of 25000 to 75000 it was argued that these are all cash market trades and 24 orders were placed over a period of 5 months within the applicable circuit filter and in several instances price variation (from the last traded price) was NIL or very insignificant and in some cases there was no LTP; there was no objection raised by either NSE or SEBI at that time; the trading screen shows only "the best 5 orders" and therefore even if a far away price is placed in the system it will not be shown on the screen and since the orders never fructified and neither the price nor the volume were impacted no market manipulation charge is maintainable.

x) On allowing certain clients to trade even before signing the member client agreement the senior counsel argued that it was a technical lapse happened due to misplacing of these documents by the clients and may be condoned. Further for the same oversight/lapse through an adjudication proceedings SEBI had imposed a penalty of Rs.50,000/- on October 29, 2004 which has already been paid by appellant, though in similar cases vide orders dated 13.1.2006 on Liquid Investments and Financial Investment Services

(India) Pvt. Ltd. and 30.12.2005 on Tower Capital and Securities Pvt. Ltd. relating to non-signing of broker-client agreements prior to the initial date of trading only a warning was given by SEBI.

xi) No undue exposure was made by the appellant because one of his clients paid up part of her obligation after a few days since this particular client (Mrs. Asha Patel) has been with the appellant for a very long period of time and her financial condition has been very strong as is evident from the bank account details produced before this Tribunal. She had even traded Rs.60 crore worth of securities in certain financial years and as such payment due of a crore or two for a few days is not a matter of concern or undue risk from the point of view of the broker. It was also emphasised that during the time of the impugned matter settlement was on T + 5 basis unlike the current T + 2 period.

xii) On the issue of short term loan of Rs.1 crore received from SRMTL it was argued that it was only a loan for tiding over a temporary liquidity position which was duly repaid with interest and the appellant produced audited accounts and letter as evidence for repayment stating SEBI never sought for any further document in this regard. Since such temporary bridge loan was a normal business practice nothing much needs to be read on this transaction.

6. Shri Kumar Desai, learned counsel for the respondent, while reiterating the contentions in the impugned order argued that while cross deals may not be bad in law once placed on the trading platform of the exchanges it should not be done with the intention to manipulate the market. In the instant case, placing considerable number of orders at prices very far from the ruling market price/last traded prices is with a clear intention of creating artificial depth in the scrip of the SRMTL and is clearly a PFUTP violation.

7. It was further argued by the learned counsel for SEBI that the prices at which orders were placed by the appellant were not just marginally different from the last traded price but substantially different from the last traded price as given in the show cause notice. Select instances are reproduced in the table below :

Order Date	Order Time	Order No.	TM Code	Client Code	Nature of order (B/S.)	Order quantity	Order Price	Previous Trade Price
05/09/2000	11:39:29	200009050386371	6000	KFL	B	75000	68.50	78.20
07/07/2000	14:09:12	200007070569804	6000	CLI	B	60000	57.90	66.1
20/06/2000	9:59:57	200006200031349	6000	BAL	B	50000	60.00	65
20/06/2000	14:56:49	200006200753934	6000	BAL	B	50000	61.00	67.3
21/06/2000	10:23:04	200006210155841	6000	CLI	B	50000	63.90	70
23/06/2000	10:08:27	200006230073164	6000	BAL	B	50000	63.00	67.95
05/07/2000	11:06:24	200007050311016	6000	CLI	B	50000	56.90	63.1
05/09/2000	14:58:58	200009050799874	6000	CLI	B	50000	69.00	79.05
08/08/2000	13:09:47	200008080565080	6764*	6153	S	30000	73.80	68
13/09/2000	14:53:03	200009130915792	8155**	4611	S	30000	92.75	80
11/09/2000	11:04:22	200009110352669	6000	CLI	S	25000	96.00	89
11/09/2000	11:04:38	200009110353702	6000	CLI	S	25000	95.90	89
12/09/2000	13:39:57	200009120667729	6000	CLI	S	25000	94.40	92
18/09/2000	11:16:02	200009180332810	6000	CLI	S	25000	89.10	80

B = Buy ; S = Sell

*6764 Sunidhi Cons. The role explained in following paragraphs

**8155 is not appearing in the top traded TM's list compared to KFL

8. Though as argued by the learned senior counsel for the appellant in some of the instances the price differential between the order price and the last traded price may not be substantial, the examples cited in the above table indicate substantial variation. Further, even if the order prices are within the range of the circuit filters and not necessarily visible on the trading screen, as argued, no rationale is forthcoming in explaining such orders at far away prices particularly emanating from the regular clients who deal with securities market on a continuous and regular basis. When large quantities are traded, price variation in decimal points also are factored in by such clients. Therefore the argument that placing buy orders at lower than last traded price or sell orders at higher than last traded price is a normal trade is valid only when the lower than and higher than prices are very close to the last traded price. However, in the instant matter the substantial deviation between the order price and last traded

price juxtaposed alongwith other factors indicate an intention to manipulate the market. Further, the argument made by the appellant that no details were given on cross deals is only technical since the appellant did not dispute the cross deals in their replies. The responsibility of the appellant relating to the deeds of the former subsidiary Khandwala Finance Ltd has been settled both in terms of the undertaking given by the appellant to SEBI on March 8, 2002 as noted and upheld by the Order of this Tribunal dated 7.9.2012 in another appeal by the appellant. Argument of the appellant that not signing the broker client agreement was a small omission on account of misplacing certain documents cannot be accepted, because, perusal of the documents show that the time gap between the date from which the clients started trading and the date of the broker client agreement is substantial that is between 42 to 61 days.

9. All the entities who are involved in the instant matter namely Jayantilal Khandwala & Sons Pvt. Ltd. and the 4 common clients had been penalised by SEBI through separate proceedings. In the former case, order dated 17.9.2012 passed by SEBI suspending the license of the party therein was not appealed against and in the latter case vide order dated 31.7.2007 this Tribunal upheld the orders passed by SEBI. Therefore, in all these matters the orders passed by SEBI have attained finality. As such same/similar charges against the appellant in the instant matter have been already proved and substantiated. On synchronised dealings with the UTI orders it is admitted before the investigating officer that the appellant was aware of the existence of a buyer for 2 lakh shares of SRMTL at a higher price than the price expected by two of their clients. The authorised representative of the appellant had admitted before the investigating officer of SEBI that "there was a buyer for 200000 shares of SRMTL at a higher price than the price expected by two of our clients". Accordingly, the appellant entered into a sell order of Rs.2.05 lakhs at the same rate of Rs.82.50 at 12:58:16 one second before the UTI order for buying 2 lakh shares was placed by

their broker on 15.9.2000. The charge is against the appellant in executing the trade in a synchronised fashion and the charge is not against the UTI or broker who placed a normal order in the market. As such taking against UTI or its broker does not arise.

10. Counsel for the respondent relied on the following orders to further support their contentions of manipulation in trading and action taken by SEBI in respect of the entities in the present appeal. SEBI order dated 6.6.2008 in respect of SRMTL and its directors for violation of PFUTP Regulations and restrained them from dealing in securities market for 5 years. The appellant herein acted as the lead manager to the public issue of SRMTL. Jayantilal Khandwala & Sons Pvt. Ltd. was suspended for a period of one month vide SEBI order dated September 7, 2012.

11. The counsel for SEBI relied on the Order of this Tribunal dated 28.11.2016 in respect of Magnum Equity Broking Ltd.; Appeal no.393 of 2015 decided on 28.11.2016, relating to synchronised trading holding the broker responsible for enabling the synchronised trades carried out by its clients. He also cited the Order of the Hon'ble Supreme Court in respect of Kishore R. Ajmera, Civil Appeals No.2818 of 2008 with Nos.8769 of 2012, 6719 of 2013, 252 of 2014 decided on February 23, 2016 [(2016) 6 SCC 368] regarding the degree of evidence needed for upholding PFUTP charges stating that in such cases the totality of the circumstances needs to be relied on as direct evidence may not be forthcoming.

12. We have carefully considered the rival submissions made by the learned counsel for both the parties. We do not find merit with the argument of the senior counsel for the appellant that large number of cross deals made through the appellants by his clients were just normal trades of buying and selling in the securities market and as a broker he only placed orders in the trading system and obtained the brokerage. Data given in para 7 clearly show that orders were placed at prices far away from the prevailing market price and that too in many instances. While the

order price may be within the circuit filter range, the intention behind placing such orders at far away prices is not normal. Similarly it is an admitted fact that the appellant was aware of the impending order of the UTI as recorded by the investigating officer of SEBI. We also note that the cross deals were all very substantial ranging from 25000 to 75000, while the synchronised deals with the UTI orders were for 2 lakh shares. Even if some of the orders placed by the clients did not fructify because they were at far away prices very fact that orders were placed at far away prices is sufficient to give a false picture to the investors in the scrip. Therefore the argument of the appellant that non- fructified orders do not impact the market and as long as the orders are within the range of the circuit filters there is no abnormality in placing the orders cannot be accepted. Where the orders are found to have been placed at far away prices to manipulate the market then it would amount to violating the PFUTP Regulations. In the instant case, inference drawn by the WTM of SEBI that placing high quantity orders repeatedly at prices far away from the market prices constituted violation of PFUTP Regulations cannot be faulted. Above inference is further fortified by the fact that there were synchronised trading of large quantities. We also note that the enquiry officer had recommended suspension of the licence of the appellant for a period of 2 years while the WTM of SEBI has ordered suspension of certificate for a period of only one month.

13. Counsel for the appellant sought to distinguish the decision of this Tribunal in the case of Magnum Equity Broking Ltd.(supra) on ground that in that case the clients indulged in synchronised trades and were related entities where as in the present case no such relationship is established or even alleged. Similarly, it is contended that the decision of the Apex Court in case of Kishore R. Ajmera (supra) has no relevance to the present case as that order deals with synchronised and structured deals while the dispute in the present case relates mainly on cross deals which are not illegal perse. We do not agree with these contentions as the basic thrust of the order in Mangnum is

that the broker is also liable for the PFUTP violations of its clients as in the present appeal; relationship between the clients in Magnum is only incidental. The Apex Court order on Ajmera (supra) deals with a host of situations whereby the role of the broker/sub-broker in exercising due diligence under Code of Conduct and in partaking or enabling PFUTP violations in the form of synchronised/structured/cross deals are covered. The conclusion therein that the totality of the circumstances have to be taken into account in proving such violations as in such cases direct evidence may not be forthcoming is relevant in the present appeal also.

14. For all the above we do not find any reason to interfere with the impugned order. Appeal is dismissed with no order as to costs.

15. After the judgement was pronounced, counsel for the appellant sought continuation of stay for a further period of 4 weeks so as enable the appellants to move the Apex Court. In the facts and circumstances of the case SEBI is directed not to enforce the impugned order dated 13.5.2015 for a period of 4 weeks from today.

Sd/-
Justice J.P. Devadhar
Presiding Officer

Sd/-
Dr. C.K.G.Nair
Member

8.3.2017
Prepared and compared by
RHN