

**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, IN THE MATTER OF RASHMI GEM STOCKS & SHARES PRIVATE LIMITED, MEMBER, BANGALORE STOCK EXCHANGE LIMITED**

Date of the hearing: June 19, 2009

Appearance of the parties:

For Rashmi Gem Stocks            }  
& Shares Private Limited        }            Mr. Venkatesh N. Murthy, Director

For Securities and Exchange Board of India: Mr. A. Sunil Kumar, General Manager  
Mr. K. Saravanan, Deputy General Manager  
Mr. T. Vinay Rajneesh, Legal Officer  
Mr. N. K. Pruthviraj, Legal Officer

1. The Securities and Exchange Board of India (hereinafter referred to as SEBI) vide letter dated March 26, 2003 had appointed M/s. Varma & Varma, Chartered Accountants, to conduct an inspection of the books of accounts and other documents of Rashmi Gem Stocks & Shares Private Limited (hereinafter referred to as the stock broker) for the period between April 2001 and April 2003. The stock broker is registered with SEBI and is a member of the Bangalore Stock Exchange Limited (hereinafter referred to as BgSE). The inspection conducted by M/s. Varma & Varma had observed certain lapses/discrepancies on the part of the stock broker while dealing in the securities market in its capacity as a stock broker. The copy of the said inspection report was provided to the stock broker by SEBI, vide letter dated August 17, 2004. Thereafter, SEBI vide order dated December 16, 2003 read

with subsequent orders dated December 20, 2005, July 19, 2007 and December 10, 2008, appointed an Enquiry Officer/Designated Authority (hereinafter referred to as the Enquiry Officer) under the provisions of Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as Enquiry Regulations) and the Securities and Exchange Board of India (Intermediaries) Regulations, 2008 (hereinafter referred to as the Intermediaries Regulations) to conduct an enquiry into the alleged violations of the stock broker, observed during the inspection. The Enquiry Regulations was repealed by the Intermediaries Regulations and anything done and any action taken under the Enquiry Regulations were saved and were deemed to have been done or taken or commenced under the corresponding provisions of the Intermediaries Regulations.

2. The Designated Authority, after conducting the enquiry in terms of the Intermediaries Regulations, after considering the material available on record and also the submissions made by the stock broker, found the stock broker guilty of having contravened the provisions of Clause B (2) of the Code of Conduct as specified in Schedule II read with Rule 7 of Securities and Exchange Board of India (Stock Brokers and Sub-brokers) Regulations, 1992, Rule 4(e) of Securities and Exchange Board of India (Stock Broker & Sub-brokers) Rules, 1992 (now rescinded) and the SEBI Circular ref. SMD/POLICY/CIRCULAR 3/97 dated March 31, 1997 and recommended that the stock broker be issued a 'warning'. With his finding and recommendation, the Designated Authority submitted his report dated March 19, 2009.

3. Thereafter, a notice dated April 03, 2009 was issued to the stock broker advising it to show cause as to why action as recommended by the Enquiry Officer should not be taken against it. A copy of the report was also forwarded to the stock broker along with the said show cause notice. The stock broker,

vide its letter dated April 17, 2009, replied to the show cause notice, *inter alia* stating that the irregularities outlined in the report dated March 19, 2009 are procedural in nature and no disproportionate gain or unfair advantage had accrued to it and requested that it be exonerated from the 'show cause notice'. Subsequently, an opportunity of hearing was granted to the stock broker on June 19, 2009, when Mr. Venkatesh N. Murthy, Director and Authorised Representative, appeared on behalf of the stock broker and made his submissions.

4. I have perused the Enquiry Report, the show cause notice issued to the stock broker, the reply and the oral submissions made during the personal hearing and other material on record. The charges arising out of the inspection were the following:

- a) Client Agreement Forms – In respect of 4 clients of the stock broker, it was found that the stock broker had not given satisfactory reasons for entering into the 'member-client agreement' when there were no dealing in the BgSE for the last two years (as of 2003) and that the agreements were not obtained on stamp paper.
- b) Unique Client Code – the stock broker had not obtained the relevant details (Permanent Account Number, Passport Number, Driving Licence Number) for mapping the orders placed and executed, which was in violation of SEBI Circular ref. SMDRP/POLICY/CIR-39/2001 dated July 18, 2001. The said deficiency was to be regularized by the stock broker at the earliest.
- c) Non-issuance of contract notes to clients – the inspection found that the counter foils of the contract notes did not contain the acknowledgment by clients and instances of the same were given in the inspection report.
- d) Dealing with unregistered sub-brokers – the stock broker had two sub-brokers

(M/s. Sarayu & Co. and M/s. Jasstock Investment Co.) who were also sub-brokers (unregistered) in the National Stock Exchange of India Limited (NSE). Dealing with unregistered sub-brokers was violative of Rule 3 of Stock Brokers Rules read with SEBI circular ref. SMD/POLICY/CIR-3/98 dated January 16, 1998.

- e) Non-redressal of investors' complaints - it was observed that several complaints were received against M/s. Satisha & Co. (sub broker) who was affiliated with the stock broker.

5. I find that the stock broker had submitted before the Enquiry Officer that the irregularities found in the second inspection (for the period April 2001-April 2003) were more or less same to the first inspection. It may be noted that the books of accounts and other documents of the stock broker were subject to inspection for the period 2000-2001, 2001-2002 and April 01, 2002 - June 19, 2002. As observed by the Enquiry Officer, except the finding on 'non-redressal of investors' complaints', all other findings are different, except that there is overlapping of periods.

6. With regard to the charge of non-issuance of contract notes, the Enquiry Officer had found that the stock broker had not corroborated its contention that the contract notes were sent by post, by any postal dispatch records. The Enquiry officer had also mentioned that only eight such instances were noticed in the inspection report. In the absence of any supporting documents, it has to be inferred that the stock broker had not issued contract notes as is prescribed under Clause B (2) of the Code of Conduct for stock brokers under the Stock Brokers Regulation which mandates that *"A stock broker shall issue without delay to his client or client of the sub-broker, as the case may be, a contract note for all transactions in the form specified by the stock exchange."*

7. In respect of the charge of dealing with unregistered sub-brokers, the Enquiry Officer had observed that the stock broker in its submissions had accepted that it was dealing with unregistered sub-brokers and that the stock broker has terminated all the 'sub-broker agreements'. I also note that the stock broker had submitted that since it was on the verge of closing sub-brokership and no dealings were taking place on the floor of the BgSE, those transactions were executed in order to enable its clients to close out their positions, and that subsequently it had terminated their sub-broker agreements. The stock broker has, thus, contravened the provisions of SEBI Circular ref. SMD/POLICY/CIRCULAR-3/97 dated March 31, 1997.

8. In respect of the charge of non-redressal of investors' complaints, I find as per the inspection report that several complaints were received against M/s. Satisha & Co., sub-broker, affiliated with the stock broker. The BgSE had categorized the pending complaints into three categories viz. Category I– complaints pertaining to transactions which have been executed by Satisha & Co. through the stock broker in BgSE, to be settled by the stock broker, Category II– complaints pertaining to transactions that have been executed by Satisha & Co., as a client through the stock broker in NSE and Category III – complaints pertaining to transactions that are not traceable in the books of accounts of the stock broker. With regard to the complaints in Category I, out of 10 complaints, 3 complaints were pending. Out of the three complaints, the BgSE had dismissed the complaint of M/s. A M Associates. The remaining two complaints pertained to Mr. Nagendra and Mr. Yogiraj. The Enquiry Officer had mentioned that the stock broker had submitted that despite repeated and sustained efforts, the said investors were not able to offer explanations to various discrepancies/contradictions in their claim statement nor had they produced proper documentary proofs in support of their claims. The stock broker submitted that there were certain discrepancies in respect of the two complaints and had requested BgSE to arrange a meeting with the

complainants and the same was arranged by the stock exchange. The stock broker, then, drew my attention to the minutes of the said meeting held in BgSE, attended by Mr. Nagendra and Mr. Yogiraj, the stock broker and the officials of BgSE. In the meeting, it was divulged by the complainants that their claim be treated as one. On a specific question as to whether they had recovered by any other means, Mr. Nagendra had submitted that they have acquired the house of Mr. Satisha (of M/s. Satisha & Co.) towards settlement of their dues. The same is also mentioned in Annexure II of the inspection report. The stock broker had reiterated its contention that it sought the complainants to address various issues but they had failed to 'revert' back. Thus, the stock broker denied any liability or delivery obligation in respect of the 700 shares (of L&T) which was the subject matter of the complaints. The stock broker had submitted that 'nothing could be done' as they had 'not come back'. Considering the circumstances and the submissions, I am inclined to give the stock broker the 'benefit of doubt' in respect of the charge of non-redressal of the two investor complaints.

9. With regard to the discrepancies observed in the client registration forms and unique client codes, the Enquiry Officer was inclined to accept the submissions made by the stock broker. I have noted the submission made by the stock broker that it had obtained the client registration forms from the clients before exploring the possibilities of any trade on the floor of the BgSE and therefore the other formalities like entering into member-client agreement on stamp papers, did not arise and that if, any further transactions had taken place on BgSE, it would have complied with. In this regard, I find no reason to differ with the Enquiry Officer. During the course of the hearing, the stock broker submitted that it is in the market for the past 10 years and without receiving even one complaint, prior and after the said inspection. Therefore, considering the case in its totality, I am of the considered opinion that the present matter be disposed of as ordered herein below.

10. In view of the foregoing, I, in exercise of the powers conferred upon me under 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, dispose of the instant proceeding against Rashmi Gem Stocks & Shares Private Limited, member, Bangalore Stock Exchange Limited, advising the said stock broker to strictly adhere to the Regulations and Circulars that regulate its function in the securities market as a registered intermediary of the Securities and Exchange Board of India.

**DR. K. M. ABRAHAM**  
**WHOLE TIME MEMBER**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**

**PLACE: MUMBAI**

**DATE: JUNE 25, 2009**