WTM/TCN/ 24 / IVD/AUG/08

SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: Dr. T.C.NAIR, WHOLE TIME MEMBER

IN THE MATTER OF SHRI KAMLESH M. SHAH AND SHRI MITESH S. SHAH IN THE SCRIP OF M/S. OJAS TECHNOCHEM PRODUCTS LIMITED

ORDER

UNDER SECTION 11B READ WITH SECTION 11(4) (b) OF SECURITIES AND EXCHANGE BOARD OF INDIA, ACT, 1992

1. Securities and Exchange Board of India (hereinafter referred to as "SEBI") noticed substantial increase in the volume and price of the shares of Ojas Technochem Products Limited (hereinafter referred to as "OTPL") at the Bombay Stock Exchange Ltd. (hereinafter referred to as "BSE") during the period November 1999 to February 2000 (between settlement numbers 37 to 46). It was noticed that the volume of the shares of OTPL had increased from 27,500 shares on November 1, 1999 to 33,13,100 shares on February 9, 2000 and the increase in the price of the shares of OTPL during the corresponding period was fromRs. 3.55 to Rs. 23.60. It was noticed that the price of the shares of OTPL had sharply increased (from Rs. 9/- to Rs.18.85) between settlement numbers 44 and 46 (January 17, 2000 to February 4, 2000). The shares of OTPL were also listed on the Vadodara Stock Exchange Ltd. (hereinafter referred to as "VSE"), Ahmedabad Stock Exchange Ltd.

(hereinafter referred to as "ASE"). In view of the unusual price/ volume increase as stated above, SEBI conducted investigations to find out as to whether there was any manipulation in respect of the said price/volume increase in the shares of OTPL and look into the role of various entities/persons, if any, including the promoters/ directors of OTPL in respect of the said increase.

2. The investigations revealed that M/s. Dilip C. Bagri, member of BSE, has dealt in the scrip of OTPL during November 1999 to March 2000 for its clients Shri Mitesh S. Shah and Shri Kamlesh Shah, wherein the transactions were in the nature of jobbing. It was further found that these two clients have traded substantially in the scrip and most of the trades have been squared off in the same settlement. In the relevant period the sell and buy (square off) by these two clients i.e. Shri Mitesh Shah and Shri Kamlesh Shah has been to the tune of 14,64,400 shares (8,33,400 by Shri Mitesh Shah and 6,31,000 by Shri Kamlesh Shah). Shri Kamlesh Shah is the brother-in-law of Shri Mitesh Shah. Investigation revealed that no delivery was given and taken by them and their trading has resulted in creation of artificial volume.

3. Shri Dilip C. Bagri, proprietor of M/s. Dilip C. Bagri had submitted during the investigation that his clients, Shri Mitesh Shah and Shri Kamlesh Shah, were dealing in the other scrips also, and submitted a list of those scrips. It was observed from the list that similar transactions have been carried out by Shri Mitesh Shah and Shri Kamlesh Shah in other scrips also.

4. Shri Mitesh Shah stated that he has traded only with M/s. Dilip C. Bagri and not with any other broker. He also stated that Shri Kamlesh Shah, another client of M/s. Dilip C. Bagri who has traded substantially, is his brother-in-law. He had also submitted that due to the heavy volume in the scrip of OTPL during the period in which he dealt in the shares, he could carry out jobbing transactions.

5. Know Your Client forms of Shri Mitesh Shah and Shri Kamlesh Shah revealed that they had an annual income of Rs.1,50,000 and Rs. 40,000 respectively. During the period of November 1999 to March 2000, these clients had a total trading of 14,64,400 shares of OTPL. Even if an average price of Rs. 15/- is considered it will amount to total trades to the tune of approximately Rs. 2.20 crore on one side only, which means that more than Rs. 50 lakh trading per month. These transactions in addition to those carried out by these clients in other scrips would clearly amount to trading beyond their means.

6. It has also been noted in certain settlements specially in settlement No. 37, 38 & 39 & 40/1999, the volume generated by these clients was substantial in comparison to that in the scrip which is explained below:

Sett. No.	**Trade by Mitesh Shah (Buy + Sell)**	**Trade by Kamlesh Shah (Buy + Sell)**	**Total of these two entities**	**Total volume in the settlement**	**%**
37	419600	111400	531000	5686600	9.34
38	219200	174800	394000	5820000	6.77
39	112000	206400	318400	1712900	4.54
40	82600	138400	221000	4237300	5.22

7. Investigation revealed that Mitesh Shah and Shri Kamlesh Shah have created artificial volume which was beyond their means. Circumstances strongly suggest that the trading by these two clients have been at the behest of other entities involved in the manipulation of the scrip. Apart from this, the volume created by these two clients of M/s. Dilip C. Bagri has helped the promoters/directors and related entities to offload their holdings at a high price to innocent investors.

8. In view of the above investigation findings, Shri Kamlesh Shah and Shri Mitesh Shah were charged for violating the provisions of Regulation 4 (b) & (d) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 (hereinafter referred to as 'PFUTP Regulations').

9. Pursuant to aforesaid findings in the investigation, a show cause notice dated September 30, 2004 was issued to Shri Kamlesh Shah and Shri Mitesh Shah asking them to show cause as to why suitable directions including directions debarring/prohibiting them from buying and selling in securities for a specified period under section 11B and 11(4) of the SEBI Act, 1992 read with Regulations 11 and 13 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003, should not be issued for violating the provisions of Regulation 4 (b) and (d) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995. It was also mentioned that if they failed to submit any reply within the stipulated period of 21 days, then it would be presumed that they had

no explanations to give in the matter and SEBI would be constrained to pass such orders specified in terms of the aforesaid Act and Regulations. The documents relied upon in support of the allegations contained in the show cause notice were also annexed with the notice.

10. A reply to the show cause notice dated October 15, 2004 was received from Shri Kamlesh Shah whereby he had submitted that he had a net worth of about fifteen lakh. The dealings in the scrip of OTPL were done to take advantage of the market fluctuations for a profit when there were volumes. The trades in the scrip were carried out on the basis of newspaper reports and were independent of the trades carried out by Shri Mitesh Shah, who was Shri Kamlesh Shah's brother-in-law. Thus, there was no fraud or mischief intended while trading in the scrip of OTPL.

11. Shri Mitesh Shah replied to the show cause notice vide letter dated October 18, 2004 and submitted that he had a net worth of about twenty five lakh. The dealings in the scrip of OTPL were done to take advantage of the market fluctuations for a profit when there were volumes. The trades in the scrip were carried out on the basis of newspaper reports and were independent of the trades carried out by Shri Kamlesh Shah, who was Shri Mitesh Shah's brother-in-law. Thus, there was no fraud or mischief intended while trading in the scrip of OTPL.

12. I note that an opportunity of hearing was granted to Shri Kamlesh Shah and Shri Mitesh Shah before the then WTM on February 16, 2005

wherein they had appeared and made the submissions. Since the then WTM demitted the office, the case has been put up before me. Accordingly, an opportunity of hearing was granted to Shri Kamlesh Shah and Shri Mitesh Shah before me on April 15, 2008. However, I note that neither the noticees nor any representative attended the hearing.

13. I have considered the findings of the investigation, submissions of Kamlesh Shah and Mitesh Shah in response to the show cause notice dated September 30, 2004. I have also verified the copies of the income tax returns of Kamlesh Shah and Mitesh Shah for the assessment year 2000-2001 submitted by them.

The questions that arise for consideration are:

a. Whether Kamlesh Shah and Mitesh Shah have traded in the scrip of OTPL with a view to manipulate the price of OTPL?
b. If so, whether they created artificial volume in the scrip beyond their means?
c. Whether these trades were done in collusion with each other and with the other entities involved in the manipulation of the scrip?
d. Whether they have traded in the scrip of OTPL beyond their means?

14. From the trading patterns of Shri Kamlesh Shah and Shri Mitesh Shah I find that though their gross trading position in the scrip of OTPL was to

the tune of 14,64,400 shares, their trades were mostly squaring off transactions intended at taking advantage of the intra-day price

movements in the scrip and making a profit from the same. The submissions made by them also have been to that effect, without any motive to influence the price of the scrip of OTPL. Further, I note from the show cause notice that they have not been the price movers in the scrip i.e. not entered into opening trades to influence prices. Thus, it can be concluded that the transactions have not been entered into with a view to manipulate the price in this scrip of OTPL. Hence I am inclined to accept the view of the clients that their trades were carried out to take advantage of the intra day price movement and not to manipulate the price of OTPL.

15. The financial capabilities of Shri Kamlesh Shah and Shri Mitesh Shah as observed from the Know Your Client form shows that they have a net income of Rs. 40,000 and Rs. 1,50,000 respectively. The total trading in the scrip of OTPL by these clients taking an average price of Rs. 15/- per share and a volume of 14,64,400 amounts to Rs. 2.20 crore or a monthly trading value of Rs. 50 lakh during the period of investigation. Shri Kamlesh Shah and Shri Mitesh Shah have in their written submissions, stated that their net worth is actually fifteen lakh and twenty five lakh respectively. The income tax returns that has been filed by them for the assessment year 2000-01 shows a net income of Rs. 1,14,190 and Rs. 5,49,220 respectively. As Shri Kamlesh Shah and Shri Mitesh Shah had a networth of fifteen lakh and twenty five lakh respectively, as per their submissions, it would be difficult to construe

conclusively that their trading in the scrip of OTPL was beyond their means.

16. As has been stated by the clients, there has not been any nexus between them and the promoters/directors of OTPL or with the broker (M/s. Dilip C. Bagri – except that of a broker- client) and with any of the persons involved in the price manipulation of the scrip of OTPL. Also, there has been no collusive behaviour of the clients with the other parties involved in the price manipulation, in anyway. I also observe that the show cause notice does not dwell on the collusion, if any, between these clients and other related persons. In fact the clients have deposed that they are not related to the promoters/directors of the company. Thus, there appears to be no collusion/nexus and I am inclined to consider these transactions in isolation and thus absolve the clients from any charge with respect to collusion.

17. In view of the above, I feel there is no case for price manipulation and artificial volume creation in the scrip of OTPL by Kamlesh Shah and Mitesh Shah. Thus, there has been no violation of Regulation 4(b) and (d) of PFUTP Regulations by them.

18. In view of the above, in exercise of the powers conferred upon me by virtue of Section 19 of the Securities And Exchange Board of India Act, 1992 read with section 11B and 11(4) of the Securities And Exchange Board of India Act, 1992 read with Regulations 11 and 13 of SEBI Securities Exchange Board of India (Prohibition of Fraudulent and

Unfair Trade Practices Rel`ating to Securities Market) Regulations, 2003, I hereby dispose of the show cause notice issued to Shri Kamlesh M. Shah, and Shri Mitesh S. Shah without any directions.

Date : 07.08.2008 **T.C.NAIR**

Place : Mumbai **WHOLE TIME MEMBER**

SECURITIES AND EXCHANGE BOARD OF INDIA